



CIVIL RIGHTS AND EDUCATION
FUNDING IN KANSAS
A Brief from the Kansas Advisory Committee

September 2019

Key Findings

- The Kansas Constitution contains language that creates educational obligations for the legislature to the children of the state.
- Kansas courts have repeatedly found that the state legislature is underfunding schools.
- Twenty-five percent of Kansas students are struggling (not at proficient levels of achievement) with math and reading, including half of the state's African-American students, one-third of Hispanic students, and one-third of students from low-income families.
- Based on the State's education funding scheme, school resources available to children vary and are dependent on where they live.
- The Kansas Supreme Court has held that the State has a responsibility to help fix student achievement gaps, and defined equity as "reasonably equal access to substantially similar equal educational opportunity through similar tax effort."
- Studies commissioned by the Kansas Legislature indicate the state needs to increase education funding. One study estimates by nearly 44%, requiring an investment of as much as \$2 billion over the next five years (2019-2025).
- The State's proposed amount of \$522 million in additional spending was rejected by the Kansas Supreme Court as inadequate.
- The State must present a plan by June 30, 2019, to satisfy its obligation to fund an adequate and equitable education plan for the state.

Advisory Committees to the U.S. Commission on Civil Rights

By law, the U.S. Commission on Civil Rights has established an advisory Committee in each of the 50 states and the District of Columbia. These Committees are composed of state/district citizens who serve without compensation; they are tasked with advising the Commission of civil rights issues in their states/district that are within the Commission's jurisdiction. Committees are authorized to advise the Commission in writing of any knowledge or information they have of any alleged deprivation of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, national origin, or in the administration of justice; advise the Commission on matters of their state or district's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to Committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states/district.

**Kansas Advisory Committee to the
U.S. Commission on Civil Rights**

The Kansas Advisory Committee to the U.S. Commission on Civil Rights submits this report regarding civil rights and education funding in Kansas, and the potential disparate impact in access to education on the basis of race, color, age, religion, or disability. The Committee submits this report as part of its responsibility to study and report on civil rights issues in the state of Kansas. The contents of this report are primarily based on testimony the Committee heard during telephonic public hearings held on February 22, 2018, March 5, 2018, March 22, 2018, April 13, 2018, and May 2, 2018.

This report details civil rights concerns relating to school funding in the State of Kansas, and its impact on disparities in educational outcomes on the basis of race, color, sex, national origin, or disability status. The Committee examined the extent to which specific school funding formulas contribute to disparities in student achievement, as well as alternative practices with the demonstrated potential to address such concerns.

**Kansas Advisory Committee to the
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Executive Summary

Jurisdiction

The U.S. Commission on Civil Rights (Commission) is an independent, bipartisan agency established by Congress and directed to study and collect information relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, national origin, or in the administration of justice. The Commission has established advisory committees in each of the 50 states and the District of Columbia. These Advisory Committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction.

The Kansas Advisory Committee ("Committee") seeks to examine barriers to equal access to educational opportunity in the State which may have a discriminatory impact on students on the basis of race, color, disability status, national origin, and/or sex. In particular, the Committee will focus on the impact of the state's educational funding allocations on educational access in the state. A number of federal laws prohibit discrimination in educational institutions including:

- Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, sex, religion, or national origin, including in institutions of public education.¹
- Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any federally funded education program or activity.²
- The Equal Educational Opportunity Act of 1974 prohibits deliberate segregation in schools on the basis of race, color, and national origin.³
- The Individuals with Disabilities Education Act (IDEA) requires state and local education agencies to "provide a free and appropriate public education to children with disabilities."⁴
- The Americans with Disabilities Act (ADA) prohibits discrimination against individuals with disabilities in any places of public accommodations, including public and private schools and daycare centers.⁵
- The 14th Amendment of the United States Constitution prohibits any state from denying "to any person within its jurisdiction the equal protection of the laws."⁶

¹ 42 U.S.C. § 2000(d) (2012).

² 20 U.S.C. § § 1681-1688(a) (2012).

³ 20 U.S.C. § 1703 (2012).

⁴ 20 U.S.C. § 1400(d)(1)(A) (2012).

⁵ 42 U.S.C. § 12101 (2012).

⁶ U.S. CONST. amend. XIV, § 1.

The Committee examined the extent to which these protections, as currently applied in practice, are sufficient to address concerns regarding equal access to educational opportunity on the basis of race, color, sex, disability status, and national origin, particularly as it relates to state educational financing.

Background

Education laws in the U.S. vary significantly by state, all states have at least some compulsory education requirements (though the age range in which students are required to attend school or the equivalent).⁷ All states also require public schools to admit students within a defined age range free of charge (though the age range for free education varies by state).⁸ In Kansas, education is compulsory from ages 7-18,⁹ and must be offered for free to children over the age of 5.¹⁰ Federal law, as outlined above, requires that public education in each state be provided in a manner that is free from discrimination on the basis of race, color, sex, religion, national origin, or disability status.

Despite these protections, significant disparities persist in educational access and outcomes across the country, and Kansas is no exception.¹¹ *Gannon v. State* (“*Gannon V*”) is the latest in a series of law suits challenging both the adequacy and the equity of the State’s educational finance system.¹² Article VI of the Kansas Constitution requires the state legislature to “make suitable provision for finance of the educational interest of the State.”¹³ In *Gannon V*, the Kansas Supreme Court ruled that such financial suitability, or “adequacy” is satisfied when all public education students can be reasonably calculated to meet or exceed the standards set out in *Rose v. Council for Better Education, Inc.*¹⁴ These standards include:

1. Sufficient oral and written communication skills,

⁷ Stephanie Aragon, “ECS 50-State Reviews: Free and Compulsory School Age Requirements,” *Education Commission of the States*, May 2015, : <http://www.ecs.org/clearinghouse/01/18/68/11868.pdf> (last accessed Feb. 2, 2017) [hereafter ECS 50-State Reviews, 2015].

⁸ *Ibid.*

⁹ KAN. STAT. ANN. § 72-3120 (2017).

¹⁰ KAN. CONST. art. VI, § 6(b).

¹¹ “Racial and Ethnic Achievement Gaps,” *Stanford CEPA: The Educational Opportunity Monitoring Project*, <http://cepa.stanford.edu/educational-opportunity-monitoring-project/achievement-gaps/race/#first> (last accessed Feb. 2, 2017) [hereafter *Racial and Ethnic Achievement Gaps*, Stanford University].

¹² *Gannon v. State*, 306 Kan. 1170 (Kan. 2017) (*Gannon V*).

¹³ KAN. CONST. art. VI, § 6(b).

¹⁴ *See Gannon*, 306 Kan. at 1182; *see also Rose v. Council for Better Educ. Inc.*, 790 S.W.2d 186, 212 (Ky. 1989).

2. Knowledge of economic, social and political systems,
3. Understanding of government processes;
4. Self-Knowledge and knowledge of one's mental and physical wellness;
5. Grounding in the arts;
6. Training or preparation for advancing training in either academic or vocational fields;
7. Academic or vocational skills that enable favorable competition in academics or the job market.¹⁵

During earlier litigation, the Kansas Supreme Court held that school funding must be applied in an equitable manner, such that all children have “reasonably equal access to substantially similar educational opportunity through similar tax effort.”¹⁶

In part as a result of the *Gannon* litigation, school financing in Kansas has undergone several changes since 2010, bringing it into and out of compliance with the state's constitutional requirements regarding equity and adequacy.¹⁷ Most recently, during a special session in June of 2016, the legislature passed House Bill 2001,¹⁸ which revived and fully funded a previous funding formula for supplemental general state aid to districts. This act brought the legislature into compliance with the state's educational financial equity requirement.¹⁹ However, challenges regarding the adequacy of the state's education funding remain. In March of 2017, the Kansas Supreme Court found the State's funding formula to be unconstitutional for its failure to provide adequate education to approximately one-fourth of its students, primarily those from “harder-to-educate” groups.²⁰ The Kansas Supreme Court further found that “substantial competent evidence” indicates a direct correlation between student funding and achievement.²¹ The Kansas Supreme Court gave the legislature until June 30, 2017, to remedy its educational funding formula, to bring it into compliance with constitutional requirements regarding adequacy.²²

The disparate impact theory of discrimination states that a demonstration of overt

¹⁵ See *Rose*, 790 S.W.2d at 212.

¹⁶ *Gannon v. State*, 298 Kan. 1107, 1175 (Kan. 2014) (*Gannon I*).

¹⁷ See *Gannon*, 298 Kan. at 1177-78; compare KAN. STAT. ANN. § 72-8801 (2013) with KAN. STAT. ANN. 2012 § 72-8801 (2012).

¹⁸ Kan. HB 2001, § 2(a) (2016)

¹⁹ *Id.*

²⁰ *Gannon v. State*, 305 Kan. 850, 889 (Kan. 2017) (*Gannon IV*).

²¹ *Id.* at 868.

²² *Id.* at 918.

discrimination or discriminatory intent is unnecessary to demonstrate the occurrence or effect of discrimination. Instead, disparate impact may often refer to “facially neutral” policies, practices, or procedures that have the *impact* of discrimination, where such practice “lacks a substantial legitimate justification.”²³ According to the U.S. Department of Justice, “Courts have often found Title VI disparate impact violations in cases where recipients utilize policies or practices that result in the provision of fewer services or benefits, or inferior services or benefits, to members of a protected group.”²⁴

As the state legislature seeks to develop a school funding structure which both adequately and equitably supports public education in the State, the Committee examined the impact of school financing in Kansas on disparities in access to high quality education and related educational outcomes on the basis of race, color, sex, national origin, or disability status,.

Recent Kansas School-Funding Litigation

1992 – The Kansas legislature enacted the School District Finance and Quality Performance Act (School District Finance Act) in response to several school finance lawsuits that had been consolidated as *Mock v. State*.²⁵

1994 – In a ruling on actions consolidated as *Unified School District No. 229 v. State*, the Supreme Court upheld the constitutionality of the School District Finance Act as originally enacted and implemented.²⁶

1999 - *Montoy v. Kansas* challenged the constitutionality of the Kansas statutory scheme for funding the public schools.²⁷ The plaintiffs in the case argued that the cumulative result of societal and legislative changes is a financing formula which does not make suitable provision for finance of public schools, leaving them inadequately funded.²⁸

2005 – *Montoy* is settled when a spending plan was approved by the Court with \$287 million

²³ “Title IX Legal Manual,” U.S. Dep’t of Justice, <https://www.justice.gov/crt/title-ix#2.%C2%A0%20Disparate%20Impact> (last accessed Feb. 2, 2019). [hereinafter *Title IX Legal Manual*, Section IV(A)(2)].

²⁴ *Ibid.*

²⁵ *Mock v. State*, No. 91-CV-1009, slip op. at *1 (D. Kan. Oct. 14, 1991.).

²⁶ *Unified Sch. Dist. No. 229 v. State*, 256 Kan. 232, 237-38 (Kan. 1994).

²⁷ *Montoy v. State*, 275 Kan. 145, 149 (Kan. 2003).

²⁸ *Id.* at 154.

additional school funding.²⁹

2008 – The State discontinues funding the schools at *Montoy* agreed-upon levels.³⁰

2010 – *Gannon v. State* was filed; the trial was held before a three-judge panel.³¹

2013 - The panel ruled that K-12 funding was constitutionally inadequate and inequitable. The decision was appealed by the State.³²

3-7-14 *Gannon I*, the Supreme Court of Kansas affirmed the panel’s ruling regarding equity, but it determined the panel applied the incorrect standard for adequacy and remanded the adequacy portion of the case to the panel with instructions for a new standard, based on the *Rose* capacities.

³³

2014 - 2014 Senate Sub. For HB 2506³⁴ – added \$109.3 million for Local Option Budget State Aid and \$25.2 million for Capital Outlay State Aid. Based on estimates at that time, it was believed these amounts fully funded the statutory formulas in question. Fully funding these formulas has been described as a “safe harbor” by the Supreme Court. The bill modified a statutory section related to educational capacities to bring it full in line with the *Rose* capacities.

2014 - The three-judge panel determined 2014 Sub. For HB 2506 created substantial compliance for equity issues but did not dismiss the issue.³⁵

Fall 2014 – Consensus School Finance Estimates indicated the amounts approved for Local Option Budget State Aid and Capital Outlay State Aid were \$54.1 million less than required to fully fund the formulas, due to increases in utilization by school districts and changes to district assessed valuations.³⁶

Dec. 2014 the three-judge panel determined – applying the new adequacy standard – that the school finance system was constitutionally inadequate.

2015 – 2015 House Sub. For SB 7,³⁷ The Classroom Learning Assuring Student Success Act (CLASS) repealed the School District Finance Act and replaced it with block grants (which were

²⁹ *Montoy v. State*, 112 P.3d 923, 940 (Kan. 2005).

³⁰ *Gannon v. State*, 319 P.3d 1196, 1206 (Kan. 2014).

³¹ *Gannon v. State*, No. 10-C-1569, 2013 WL 146092 (Kan. Dist. Ct. 2013).

³² *Id.*

³³ *Gannon*, 298 Kan. at 1108 (Kan. 2014) (citing *Rose v. Council for Better Educ., Inc.*, 790 S.W.2d. 186, 193 (Ky. 1989)).

³⁴ See Appendix B.

³⁵ *Gannon v. State*, 368 P.3d 1024, 1028 (Kan. 2016).

³⁶ *Id.* at 1034.

³⁷ See Appendix C.

based on FY 2015 aid amounts, with limited modifications) for FY 2016 and FY 2017. Local Option Budget and Capital Outlay State Aid were included within block grants and would not change in FY 2016 or FY 2017.³⁸

June 26, 2015 – the three-judge panel determined House Sub. For SB 7 was constitutionally inadequate and inequitable.³⁹

June 30, 2015 – the Supreme Court stayed the panel’s ruling and split the case into equity and adequacy. The equity portion of the case was scheduled, and the adequacy portion was stayed pending resolution of equity.

Feb.11, 2016 - *Gannon II* – The Supreme Court held that House Sub. For SB 7 failed to cure the inequalities identified in *Gannon I*⁴⁰ The Court retained jurisdiction and gave a deadline of June 30, 2016, to remedy the equity issues.⁴¹

2016 - 2016 Senate Sub. For HB 2655⁴² –reinstated the Capital Outlay State Aid formula in effect prior to the adoption of the new formula in 2015 House Sub. For SB 7. The bill instituted a version of the same Capital Outlay State Aid formula to be used for Local Option Budget State Aid. The bill included a new category of aid – School District Equalization Aid – that functioned as a hold harmless if the combined effect of the other equalization changes resulted in less state aid to a school district.

May 27, 2016 - *Gannon III*⁴³ – The Kansas Supreme Court held in *Gannon III* that 2016 Senate Sub. For HB 2655 cured the inequalities related to capital outlay but failed to cure the inequities related to Local Option Budget. The Kansas Supreme Court also held that the hold harmless aid, while mitigating inequities present in the 2016 Senate Sub. For HB 2655 Local Option Budget State Aid approach, did not resolve those inequities. The June 30, 2016, deadline to resolve equity issues remained.

June 24, 2016 – A Special Session of the Legislature was convened. 2016 Special Session Sub. For HB 2001⁴⁴ bill reinstated the Local Option Budget State Aid formula in effect prior to the

³⁸ Montoy v. State, 282 Kan. 9, 24-25 (2006).

³⁹ *Gannon v. State*, 303 Kan. 689, 696 (2016)

⁴⁰ *Gannon*, 303 Kan. at 713 (Kan. 2016) (*Gannon II*).

⁴¹ *Id.* at 743-44.

⁴² See Appendix D.

⁴³ *Gannon v. State*, 304 Kan. 490, 372 P.3d 1181 (2016) (*Gannon III*).

⁴⁴ See Appendix E.

enactment of 2015 House Sub. For SB 7. The bill repealed the hold harmless aid from the 2016 Senate Sub. For HB 2655.

June 28, 2016 – The Kansas Supreme Court ruled 2016 Special Session Sub. For HB 2001 cured the remaining equity issues.

March 2, 2017 – *Gannon IV*⁴⁵ – The Kansas Supreme Court ruled the school finance system was constitutionally inadequate. The Kansas Supreme Court restated its definition of adequate to be “reasonably calculated to have all Kansas public education students meet or exceed the *Rose* standards.” The Kansas Supreme Court ruled the finance system was inadequate as a matter of structure and as implemented. The Kansas Supreme Court set a deadline of June 30, 2017, for the State to demonstrate compliance with the constitutional adequacy standard.

2017 – The 2017 SB 19 Kansas School Equity and Enhancement Act⁴⁶ provided appropriation for the Kansas Department of Education. Set base aid for student excellence (BASE) at \$4,006 for FY 2018, \$4,128 for FY 2019, and to increase with inflation thereafter. The bill also made various additional changes to education and school finance policy.

Oct. 2, 2017 – *Gannon V*⁴⁷ - The Kansas Supreme Court ruled that the school finance system provided by 2017 SB 19 is constitutionally inadequate and inequitable. The Kansas Supreme Court set a deadline of June 30, 2018, for the State to demonstrate compliance with the constitutional adequacy and equity standards.

2018 – The legislature commissioned a cost study to estimate the costs associated with reaching certain performance outcomes (graduation rate and test proficiency) established by Kansas’ Every Student Succeeds Act (ESSA) plan submitted by the Kansas Department of Education to the United States Department of Education. The study produced three compensatory support scenarios. Scenario (1) would require an increase of \$1.786 billion, Scenario (2) would require an increase of \$12.067 billion, and Scenario (3) which basically was no compensatory support, would require \$451 million annually.

2018 – 2018 Substitute for Senate Bill 423 (S.B. 423)⁴⁸ and 2018 House Substitute for Senate Bill 61 (S.B. 61)⁴⁹ were passed by the legislature and signed by the governor. The State borrowed from

⁴⁵ *Gannon*, 306 Kan. at 1170. at.

⁴⁶ See Appendix F.

⁴⁷ *Gannon*, 306 Kan. at 1170.

⁴⁸ See Appendix G.

⁴⁹ See Appendix H.

the Kansas Supreme Court’s analysis and concluded:

1. Because the panel ruled the State’s K-12 education funding reached constitutional adequacy within several years after *Montoy IV*; and
2. Because the panel’s determination of adequacy was based upon the formula’s funding increases after the decisions in *Montoy II, III, and IV*;
3. Then the State’s return to the basic formula of that time – and its resultant funding (plus accounting for inflation) – should again produce a constitutionally adequate level of funding.

The State raised education funding to at least levels as to be firmly anchored in “*Montoy* safe harbor.” The State generated a total target additional aid (extra funding needed) of \$522,224,721, over 5 years.

6-25-18 – *Gannon VI* – The Supreme Court of Kansas ruled that the State has shown its proposed remedy, under the present circumstances, complies with the equity requirements of article VI by eliminating the different procedures for certain school districts to raise their minimum Local Option Budget that the Court held inequitable in *Gannon V*.⁵⁰

The Kansas Supreme Court ruled that S.B. 423 and S.B. 61 can go into temporary effect, however, the Kansas Supreme Court held that the resultant funding is still short of reaching the State’s *Montoy* safe harbor.⁵¹ The court said adjustments needed to be made to account for inflation and disagreed with the State’s sum of \$522 million owed.⁵²

The Kansas Supreme Court acknowledged that on its face, the plan would uphold the status quo, but reasoned the status quo being upheld would be the legislatively devised finance system that led to the dismissal of *Montoy IV*.⁵³ The Kansas Supreme Court also noted that the State has taken steps to address subgroups of underperforming students.⁵⁴

The Kansas Supreme Court held that by timely making financial adjustments in response to the plan’s identified problems and its accompanying calculations – and then by completing the plan –

⁵⁰ *Gannon v. State*, 308 Kan. 372, 394 (Kan. 2018) (*Gannon VI*).

⁵¹ *Id.* at 384.

⁵² *Id.* at 387-88.

⁵³ *Id.* at 390.

⁵⁴ *Id.*

the State can bring the system into constitutional compliance.⁵⁵ The Kansas Supreme Court retained jurisdiction and stayed the ruling until June 30, 2019, to allow the legislature to address the adequacy problems.⁵⁶

⁵⁵ *Id.* at 384.

⁵⁶ *Id.* at 400.

Overview of Testimony

In considering this study the Committee sought balanced and diverse input from involved stakeholders representing all relevant perspectives. During each of the hearings, The Committee invited testimony from academic experts, current and former legislators, state and local education officials, and community advocates.⁵⁷ All invited parties who were unable to participate were offered the opportunity to submit written testimony offering their perspective on the civil rights concerns in question. During the five telephonic hearings, the Committee was able to achieve reasonably diverse and inclusive participation from each of the aforementioned parties. The Committee acknowledges the perspectives that follow.

Findings

, The Kansas Advisory Committee submits the following findings and recommendations to the Commission regarding the civil rights implications of school funding in Kansas.⁵⁸ These findings and recommendations are intended to inform the Commission of the themes from the Committee's inquiry. In recognition of the vast case history, and national attention to the topic of school funding, in lieu of providing a detailed discussion of each finding presented, the Committee offers a general outline of the testimony received at the hearings in early 2018.

The following results from the testimony received and reflect the views of the cited panelists. While each assertion was not independently verified by the Committee, panelists were chosen to testify due to their expertise, professional experience, academic work and credentials, and firsthand knowledge of the topic at hand.

1. The State has an obligation to the children of Kansas.

The leverage that schools use to challenge K-12 funding in the Kansas Supreme Court rests with the provisions related to the state's duties regarding education in the Kansas Constitution.

Testimony received by the Committee includes the following:

- a. Article 6, Section 6 of the Kansas Constitution obligates the state legislature to ensure a level of education funding that is both adequate and equitable.⁵⁹

⁵⁷ The complete list of panelists can be found in Appendix A.

⁵⁸ 45 C.F.R. § 703.2 (2018).

⁵⁹ Kan. CONST., art. 6, § 6.; Sen. Anthony Hensley, testimony, *Hearing Before the Kansas Advisory Committee*,

- b. The language of Article 6 both empowers and obligates the legislature to make suitable provisions for finance of the educational interests of the state.⁶⁰
- c. The rights of school children developed through the Kansas Constitution. Article 6, Section 1 and Article 6 Section 6 are the focal points. Section 1 calls for educational, intellectual, vocational, and scientific improvement. Section 6 provides the legislature should make suitable provision for finance. Section 6 has been interpreted by the courts to mean it is the duty of the legislature to provide adequate and equitable funding to all Kansas kids.⁶¹
- d. When the Kansas Supreme Court starts thinking about adequacy in terms of school finance, the metric they are using is the *Rose* standard from a court case in Kentucky.⁶² In *Rose*, they Court came up with these seven competencies: communication, citizenship, knowledge of government processes, mental and physical wellbeing, arts and culture, and then college and career readiness.⁶³
- e. The Kansas Supreme Court defined adequacy by incorporating the *Rose* standards, the basic idea is that the education should prepare students for a vocation or enable them to compete in the workforce in the 21st Century. As relayed by a panelist, the DUTY, defined by the Court, was to every child to have that educational opportunity.⁶⁴
- f. How is the State measuring that outcome?
 - i. Social and emotional growth
 - ii. Kindergarten readiness
 - iii. Individual plans of study
 - iv. High School Graduation rates
 - v. Post-secondary completion rates.⁶⁵

telephonic hearing, Mar. 22, 2018, transcript, p.3 (hereafter cited as *Hearing 3 transcript*).

⁶⁰ Kan. CONST., art. 6, § 6.

⁶¹ Kan. CONST., art. 6, § 1 & 6. Alan Rupe, testimony, *Hearing Before the Kansas Advisory Committee*, telephonic hearing, May 2, 2018, transcript, p3 (hereafter cited as *Hearing 5 transcript*).

⁶² *Rose*, 790 S.W.2d at 212.

⁶³ *Id.*; see also C. Patrick Woods, testimony, *Hearing Before the Kansas Advisory Committee*, telephonic hearing, April 13, 2018, transcript, p.4 (hereafter cited as *Hearing 4 transcript*).

⁶⁴ Rupe Testimony, *Hearing 5 Transcript*, p.3.

⁶⁵ Watson, Testimony, *Hearing 5 Transcript*, p.15.

2. Education funding is inadequate.

The Supreme Court held that the State had not met its burden of showing that Kansas School Equity and Enhancement Act met the adequacy and equity requirements of Article 6 of the Kansas Constitution. The Kansas Supreme Court stayed its mandate until June 30, 2018, to give the State ample time to satisfactorily demonstrate that its additional remedial legislation brought the K-12 public education financing system into constitutional compliance. The Kansas Supreme Court held that the State has corrected the *Gannon V* constitutional infirmities and created no others. The State has not met the adequacy requirement in Article 6, and the Kansas Supreme Court retained jurisdiction until June 30, 2019, or until further order. Testimony received by the Committee includes the following:

- a. Dr. Tiffany Anderson presented testimony that in all six Gannon decisions, the Kansas Supreme Court has held that educational funding is inadequate.⁶⁶
- b. To determine compliance with the adequacy requirement in Article 6 of the Kansas Constitution, Kansas courts apply the test from *Rose v. Council for Better Educ. Inc.*, which establishes minimum standards for providing adequate education.⁶⁷
- c. The adequacy requirement is met when the public education financing system for grades K-12, through structure and implementation, is reasonably calculated to have all Kansas public education students meet or exceed the standards set out in *Rose*.⁶⁸
- d. The base aid in Kansas is underfunded by approximately \$2,000 for fiscal year 2018. In combination with reduced federal funds, such as the Title programs, has in our opinion a larger negative impact on schoolchildren in higher poverty districts like the Topeka Public Schools.⁶⁹
- e. The problem historically has been the legislature's failure to full fund the formula.⁷⁰
- f. In December 2014, the trial court determined that a trial was not necessary, too additional information and ruled that the funding formula did not achieve adequacy.⁷¹

⁶⁶ Dr. Tiffany Anderson, testimony, *Hearing Before the Kansas Advisory Committee*, telephonic hearing, Feb. 22, 2018, transcript, p.3 (hereafter cited as *Hearing 1 transcript*).

⁶⁷ *Rose*, 790 S.W. 2d at 212.

⁶⁸ *Gannon v. State*, 298 Kan. 1107, 1108 (Kan. 2014).

⁶⁹ Anderson Testimony, *Hearing 1 Transcript*, p.6.

⁷⁰ Hensley Testimony, *Hearing 3 Transcript*, p.4.

⁷¹ Rupe Testimony, *Hearing 5 Transcript*, p.1.

- g. Spending more money will not improve learning outcomes or job skills without significant changes in how that money is spent, plus more parental and community hands-on support for teachers.⁷²
- h. The Kansas School Funding formula right now was done in 1992. It's unconstitutional in the very simple sense that it still relies on a Local Option Budget, which is based on the ad valorem tax at the local level. There is major disparity between the poorest districts and the richest in the state. More importantly, the Base State Aid Per Pupil, which is the foundation upon which every other weight is measured, is actually assuming that every child costs the same to educate.⁷³
- i. The state funding formula added to base state aid per pupil for extraordinary expenses, such as at-risk students, English Language Learners, student transportation, low enrollment school districts, high enrollment school districts, vocational education, and more. Since then, we added to the funding formula is funding for pre-K at-risk students, mentoring, and special education.⁷⁴
- j. The 1992 formula was repealed in 2015 and replaced with a temporary block grant plan. It resulted in inadequacy and inequity to districts already reeling from decimated state revenues due to massive income tax cuts.⁷⁵
- k. The Kansas Supreme Court also recognized that the legislative cuts to school funding in recent years has resulted in cuts to critical services essential in providing equal educational opportunity.⁷⁶
- l. In 2017, the legislature added nearly \$200 million to school funding, and another \$100 million for the 2018-2019 school year. And in 2018, the legislature is debating what is the right amount to return to a constitutionally adequate funding level.⁷⁷
- m. The study by Dr. Lori Taylor found that just to maintain the current levels of proficiency and progress would cost \$451 million new dollars.⁷⁸

⁷² Chappell, Testimony, *Hearing 2 Transcript*, p.6.

⁷³ *Ibid.*, 17.

⁷⁴ Sen. Hensley Testimony, *Hearing 3 Transcript*, p. 4.

⁷⁵ *Ibid.*, 4-5.

⁷⁶ *Ibid.*, 5.

⁷⁷ *Ibid.*, 6.

⁷⁸ Woods Testimony, *Hearing 4 Testimony*, p.8.

- n. Money matters. Dr. Taylor found a statistically significant and positive relationship between educational outcomes and school district spending in Kansas. A 1 percent increase in normal curve equivalent scores (the growth of student performance on the state standardized test from one year to the next) is associated with a 5 percent increase in cost.⁷⁹
- o. The level of spending required to achieve a 95 percent graduation rate involve recurring costs of about 10 percent above what was spent in 2016-2017.⁸⁰
- p. Achieving similar outcomes for student achievement will require very dissimilar levels of funding. Low-income students require additional funding.⁸¹

3. Student Achievement.

When the Kansas Supreme Court struck down existing funding levels as unconstitutional in March 2017, the justices emphasized the State’s responsibility to help fix student achievement. The Kansas courts have found that the State is not only failing to provide about a quarter of all its public-school K-12 students with basic math and reading skills but is also leaving behind significant groups of harder – to – educate students. Testimony received by the committee includes the following:

- a. The five-year average for high school graduation in Kansas is 85 percent. The Post-Secondary Effective Rate (Freshman cohort groups from high school are tracked through two years post high school, measured as a percentage of students that graduated high school and attended post-secondary training) in Kansas from 2011 to 2015 was 44 percent. From an economic standpoint, to fulfill needed jobs, that number has to be between 72-75 percent.⁸²
- b. The goals on the State ESSA plan (the federal Every Student Succeeds Act) are 95 percent graduation rates, grade-level assessments at the 90th percentile, students at college readiness according to state assessments.⁸³
- c. Topeka Public Schools minority students are graduating at a far lower rate than their

⁷⁹ Taylor Testimony, *Hearing 5 Transcript*, p.8.

⁸⁰ *Ibid.*, 10.

⁸¹ *Ibid.*

⁸² Watson Testimony, *Hearing 5 Transcript*, p.16.

⁸³ Woods Testimony, *Hearing 3 transcript*, p.8.

peers in other districts in Kansas.⁸⁴

- d. In Lawrence, Kansas 51 percent of white students score 22 or better on the ACT as opposed to 33 percent of African-Americans.⁸⁵
- e. When we look at our high school graduation rates over the last two years, overall, we have improved by 0.9 percent. But when you look at the sub-groups, African-Americans, Hispanics, and kids of poverty, they actually have decreased every single year over the last five years.⁸⁶
- f. There has been no student achievement increase in the last 20 years, and no significant improvements since 2002 on the ACT.⁸⁷
- g. Unfortunately, only 6 percent of the Gordon Park students are proficient in math, and only 12 percent in reading.⁸⁸
- h. In the period 2010-2012 (when there were cuts to education funding) the percentage of all students meeting performance standards increased by .4 percent. In the Montoy years, when the legislature fully funded education to the level that the court dictated, the percentage of all students meeting performance standards increased by 5.4 percent.⁸⁹
- i. The State itself attributes significantly decreased rates of improvement on assessments to staff and budget cuts taking place in Kansas in 2010.⁹⁰
- j. For years, students that were found to be proficient in the state of Kansas typically under-scored those students on a national scale.⁹¹

4. Funding Affects Achievement.

- a. The 2006 legislative post-audit found an almost 1:1 relationship between spending and district performance outcomes.⁹²

⁸⁴ Anderson Testimony, *Hearing 1 Transcript*, p.5.

⁸⁵ Stubblefield Testimony, *Hearing 1 Transcript*, p.10.

⁸⁶ Davis Testimony *Hearing 1 Transcript*, p.12.

⁸⁷ Chappell Testimony, *Hearing 2 Transcript*, p.6 and 9.

⁸⁸ *Ibid.*, 7.

⁸⁹ Rupe Testimony, *Hearing 5 Transcript*, p.5.

⁹⁰ *Ibid.*

⁹¹ Monk-Morgan Testimony, *Hearing 5 Transcript*, p.12.

⁹² Dr. John Schrock, testimony, *Hearing Before the Kansas Advisory Committee*, telephonic hearing, Mar. 5, 2018, transcript, p.5 (hereafter cited as *Hearing 2 transcript*). See also, Hensley Testimony, *Hearing 3 Transcript*, p.10.

- b. Dr. Taylor's (school finance consultant) study specifically states a one percent increase in academic performance is associated with a five percent increase in cost. Her study concluded that the legislature needs to invest between \$1.7 and \$2 billion to fulfill the constitutional requirements under the *Gannon* lawsuit.⁹³
- c. There is a direct correlation, a direct effect, and it is determinative that finance has on achievement and access to educational opportunity.⁹⁴
- d. The *Gannon* panel found that money does make a difference when it is invested in the classroom. Cost studies commissioned by the state find a strong association between increase in spending and performance.⁹⁵
- e. The Kansas Supreme Court noted that the data provided showed that Kansas was closing the student achievement gap until about the 2011-2012 school year. Funding increases following the *Montoy* lawsuit were having a positive impact, and our own legislative post-auditors verified the positive relationship between increased funding and student achievement.⁹⁶
- f. Sen. Hensley believes the proof that we have in Kansas that money [for education] does matter, and if we put it into at risk and into English Language Learners, we can absolutely address the achievement gap in a significant way.⁹⁷
- g. Dr. Taylor's study, which is a brand-new study and not a compilation of past studies, shows that a one percent increase in academic performance requires a five percent increase in cost.⁹⁸
- h. Educational funding impacts educational outcomes in Kansas, once the inefficiencies and cost factors are taken into account.⁹⁹

⁹³ Hensley Testimony, *Hearing 3 Transcript*, p.6.

⁹⁴ Woods Testimony, *Hearing 4 Transcript*, p. 8.

⁹⁵ Rupe Testimony, *Hearing 5 Transcript*, p.5.

⁹⁶ Hensley Testimony, *Hearing 3 Transcript*, p.5.

⁹⁷ *Ibid.*, 10.

⁹⁸ Moss Testimony, *Hearing 3 Transcript*, p.13.

⁹⁹ Taylor Testimony, *Hearing 5 Transcript*, p.10.

5. At-Risk Students.

The Kansas Supreme Court noted that 15,000 of the state's African-American students, or half of all African-American public school students in Kansas, are not proficient in reading and math.¹⁰⁰ It further noted that about 33,000 Hispanic students, or more than a third of that student population in Kansas, are not proficient in reading and math.¹⁰¹ Using this data, the Kansas Supreme Court concluded that the state's public education financing system, through its structure and implementation, is not reasonably calculated to have all Kansas public education students meet or exceed the minimum constitutional standards of adequacy.¹⁰² Testimony received by the Committee includes the following:

- a. At stake is the achievement gap. When you have subgroups performing poorly, given the existing funding, it clearly indicates a problem in providing each child with the opportunity to achieve those *Rose* standards.¹⁰³
- b. Sen. Hensley testified that the Kansas Supreme Court noted that Kansas has a problem currently with achievement gaps between white, African American, Latinx, ELL, disabled students, and students on free and reduced lunch. They found that proficiency rates for these subgroups, which make up nearly one-fourth of all public-school students, must be improved.¹⁰⁴
- c. Schools with more children in poverty, or higher student enrollment, have lower student achievement.¹⁰⁵
- d. The higher-minority, high-poverty districts really are adversely impacted in a more significant way as a result of the funding level that is currently allocated.¹⁰⁶
- e. Studies have shown that at-risk students are the ones that most benefit from early intervention programs and innovative teaching techniques, which are often the first to be cut when budget issues arise.¹⁰⁷

¹⁰⁰ *Gannon v. State*, 390 P. 3d 461, 469 (2017)

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ Rupe Testimony, *Hearing 5 Transcript*, p.5.

¹⁰⁴ Sen. Hensley Testimony, *Hearing 3 Transcript*, p.5.

¹⁰⁵ Anderson Testimony, *Hearing 1 Transcript*, p.4.

¹⁰⁶ *Ibid.*, 3.

¹⁰⁷ *Ibid.*, 4.

- f. Kids from poverty come to us with some deficiencies. To make sure that those kids have the same opportunities, that they can have the outcome of high school graduation, and be college and career ready, it takes additional funding.¹⁰⁸
- g. Dr. Terrell Davis said in Wichita, there are social-emotional traumatic situations. “We’ve got 1,100 foster care kids who are walking the hallways. Of that, we have 300 or more severe, tier 3 type students who have real traumatic backgrounds. When those kids are coming to our schools unannounced from the foster care system, we have to not only teach our teachers how to reach those kids, but also how to bridge the gap in terms of those kids who are coming to you with trauma backgrounds and high ACE scores.”¹⁰⁹
- h. Dr. Davis also said “the funding mechanism we have in Kansas currently is not allowing us the proper funds to bridge the gap from where those kids are, to where those kids need to be. The funding system should really address at-risk kids to make sure we have the additional funding at the proper levels to really impact those kids’ education, so that we can level the playing field for those students.”¹¹⁰
- i. The consensus in the literature is that it costs more to serve students who are economically disadvantaged, ELLs, and special education students. There is no consensus, however, as to how much more it costs.¹¹¹
- j. Low-income students are nearly 90 percent more expensive to reach their targets, double the current weighting. ELL (English Language Learner) students are nearly 20 percent more expensive.¹¹²
- k. Patrick Woods said in his testimony “you have to give thought to how finance affects the pathways that we are able to craft for the children of Kansas. When you think about the achievement gap, access to early childhood education, and the ACT prep courses, those things are critical. They are part of what we say every student is supposed to do,

¹⁰⁸ Davis Testimony, *Hearing 1 Transcript*, p. 11.

¹⁰⁹ *Ibid.*, 16.

¹¹⁰ *Ibid.*, 12.

¹¹¹ Taylor Testimony, *Hearing 5 Transcript*, p.6.

¹¹² Woods Testimony, *Hearing 4 Transcript*, p.8.

that is going to be how we measure adequacy.”¹¹³

- l. Without significant state intervention, there are going to be students who have access to some services and some students who don't. When districts lose access to state aid because they don't have strong property tax bases, they can't provide services. Hispanic and African American students are the ones who are going to face the most barriers if there isn't significant state intervention in terms of finance.¹¹⁴
- m. Dr. Taylor noted “when you look at the literature on the resources that are needed in the classroom, there is a strong consensus on student poverty, ELL, and special education status as being strong drivers of need. If those needs are not met, you would have lower expectations for student performance.”¹¹⁵
- n. The Kansas City district is 45 percent ELL with over 70 languages spoken. The district has a 14 percent special education population. Ninety percent of the district qualifies for free lunch.¹¹⁶
- o. Early childhood experiences are critical for students in poverty. They require necessary funding in order to be sufficient and adequate for students.¹¹⁷
- p. Early childhood education is our best tool to eliminate the achievement gap. Learning opportunities start before a kid even gets to kindergarten.¹¹⁸
- q. The ELL student has to learn content and language at the same time. That is a unique need that requires additional resources.¹¹⁹
- r. The State used to reimburse teachers when they added an ELL certification to their license, but that is no longer in place. We are not able to financially recognize or support teachers who need to add that certification so that they can better serve that population.¹²⁰
- s. Special Education has become the greatest field of teacher shortage. This has resulted

¹¹³ Ibid., 10.

¹¹⁴ Ibid.

¹¹⁵ Taylor Testimony, *Hearing 5 Transcript*, p. 21.

¹¹⁶ Strickland Testimony, *Hearing 1 Transcript*, p. 7.

¹¹⁷ Ibid., 8.

¹¹⁸ Woods Testimony, *Hearing 4 Transcript*, p.9.

¹¹⁹ Ibid.

¹²⁰ Strickland Testimony, *Hearing 1 Transcript*, p.17.

in the need for waivers, which will continue into the foreseeable future. Disabled students can be at a great disadvantage.¹²¹

- t. Eighty-five percent of young people who have not demonstrated proficiency in reading end up in the court system.¹²²

6. Resources Vary.

Local tax wealth varies. In the context of the State's school finance formula, there are wealthier districts and poorer districts, meaning districts with more taxable property and those with less. As an example, one district may have a large tax base where a single mill of property tax generates more than \$300,000 because of business or industry in its district. Rural districts and small towns may generate only a tenth that amount at a similar tax rate. The state tries to even the playing field through extra state aid to districts with weaker local tax bases. The *Gannon* lawsuit partly revolves around the extent to which the state needs to do that. Testimony received by the Committee includes the following:

- a. If we don't have a funding formula that recognizes the need for equitable disbursement of funds, what you create is a scenario where communities, and typically disadvantaged communities, will not have equal access to resources.¹²³
- b. If Kansas City and Topeka do not have access to funds that allow for them to pay their staff competitive wages, well then, they do not have access to the highest quality teachers. Without that access, you just perpetuate the inequality that many underserved populations have been exposed to for so many years.¹²⁴
- c. The faculty in affluent schools have, on average, more master's degrees, and even doctorates. The curriculum is richer, with more advanced courses and educational choices beyond the core. Sometimes the equipment matches what is found in Kansas community colleges and universities.¹²⁵
- d. In smaller rural schools, the teaching staff will have fewer with master's degrees, and the turnover is becoming very great. Many have only one science teacher with

¹²¹ Schrock Testimony, *Hearing 2 Transcript*, p.3.

¹²² Monk-Morgan Testimony, *Hearing 5 Transcript*, p.11.

¹²³ Strickland Testimony, *Hearing 1 Transcript*, p.9.

¹²⁴ Ibid.

¹²⁵ Schrock Testimony, *Hearing 2 Transcript*, p.3.

equipment that goes back decades. No amount of funding to these small schools can attract ELL and special education teachers when there are not enough state-wide already.¹²⁶

- e. Due to economies of scale, fixed and variable costs in the small schools are much higher than they are for urban schools like in Wichita or Kansas City.¹²⁷
- f. Larger more affluent schools pay higher salaries and continue to pull from the inadequate pool of licensed personnel. With a growing shortage of teachers, this leaves small rural districts with unqualified or underqualified teachers.¹²⁸
- g. Patrick Woods asserted some districts pay more than 50% more to attract similar teachers. He said, “My urban district is surrounded by three or four suburban districts, I can tell you that is definitely true.”¹²⁹
- h. Another big driver or difference in cost are differences in input prices. Hiring costs for teachers in Kansas are not uniform. Some areas of the state have labor costs that are substantially higher than other areas of the state.¹³⁰
- i. Another driver are economies of scale. The per-pupil cost of operating a small district is much higher than the per-pupil cost of operating a larger one, because the small districts can’t take advantage of economies of scale. This is important in the Kansas context because the lack of population density in much of rural Kansas means that you have to have more geographically dispersed schools.¹³¹

¹²⁶ Ibid., 3, 5.

¹²⁷ Chappell Testimony, *Hearing 2 Transcript*, p. 17.

¹²⁸ Schrock Testimony, *Hearing 2 Transcript*, p.4.

¹²⁹ Woods Testimony, *Hearing 4 Transcript*, p.8.

¹³⁰ Taylor Testimony, *Hearing 5 Transcript*, p.6.

¹³¹ Ibid.

Recommendations

School finance has been a hotly contested topic in the state of Kansas since the 1970's. The current iteration of litigation is manifested in the *Gannon* cases. Thousands of hours have been invested in research, legislation, and litigation. The Kansas Advisory Committee hopes that the testimony, most of which came from experts in their fields, will add some value to what constitutes an adequately funded education in the State.

1. The Kansas Advisory Committee asks the U.S. Commission on Civil Rights to forward a copy of this report to the Kansas Legislature and the Governor of Kansas with the recommendation that the report be used in consideration of equitable school finance in Kansas.

**Kansas Advisory Committee to the
United States Commission on Civil Rights**



U. S. Commission on Civil Rights Contact

USCCR Contact	Advisory Committee Management Unit U.S. Commission on Civil Rights 230 S. Dearborn, Suite 2120 Chicago IL, 60604 (312) 353-8311
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This report is the work of the Kansas Advisory Committee to the U.S. Commission on Civil Rights. The brief, which may rely on studies and data generated by third parties, is not subject to an independent review by Commission staff. State Advisory Committee reports to the Commission are wholly independent and reviewed by Commission staff only for legal and procedural compliance with Commission policies and procedures. State Advisory Committee reports are not subject to Commission approval, fact-checking, or policy changes. The views expressed in this brief and the findings and recommendations contained herein are those of a majority of the Kansas State Advisory Committee members and do not necessarily represent the views of the Commission or its individual members, nor do they represent the policies of the U.S. Government. For more information, please contact the Regional Programs Coordination Unit.

Appendix A: Panelists

<u>Name</u>	<u>Title</u>	<u>Organization</u>
Dr. Tiffany Anderson	Administrator	Topeka Public Schools
Dr. Walt Chappell	President	Education Management Consultants
Dr. Terrell Davis	Exec. Dir. Of Pub. Affairs	Wichita Public Schools
Senator Anthony Hensley	Senator	Kansas State Senate
Valencia Monk-Morgan	Assistant Dean	Wichita State University
Wade Moore	Founder/Dean	Urban Preparatory Academy
Ann Moss	Mtg Participant	State Board of Education
Dr. Emily Rauscher	Dept. of Sociology	University of Kansas
Alan Rupe, Esq.	Attorney	Plaintiffs Attorney, <i>Gannon v. State</i>
Dr. Benjamin Scafidi	Dir. Of Ed. Economics	Kennesaw State University
Dr. John R. Schrock	Frmr. Professor	Emporia State University
Dr. Jason Strickland	Asst. Superintendent	Kansas City Public School System
Dr. Ana Stubblefield	Deputy Superintendent	Lawrence Public School System
Dr. Lori Taylor	School Finance Consultant	Texas A&M University
Dave Trabert	President	Kansas Policy Institute
Dr. Randy Watson	Kansas Comm. Of Education	Kansas Department of Education
C. Patrick Woods	Pres. Elect	Kansas Association of School Boards

Appendix: B

Kansas 2014 Senate Sub. For House Bill 2506

Higher Education—Appropriations, Sale of Property, Midwestern Higher Education Compact, and Performance-Based Funding; K-12 Education—Appropriations and School Finance, Adoption of Rose Capacities, Student Performance and Efficiency Commission, Alternative Teacher Licensure, Kansas Tort Claims Act, Public Innovative District Ceiling Increase, Virtual Schools and Programs, Uniform Financial Accounting and Reporting Act, Due Process Rights of Teachers, and Tax Credit for Low Income Students Scholarship Program Act; Senate Sub. for HB 2506

Senate Sub. for HB 2506 makes appropriations for both K-12 and higher education. The bill also makes a number of policy revisions, mostly for K-12 education, which are described below.

Higher Education

Appropriations

The bill adds \$169,698, all from the State General Fund (SGF), for the Municipal University Operating Grant in FY 2014 and FY 2015. The bill adds \$17.4 million, all from the SGF, although there is shift of approximately \$18.0 million from special revenue funds to SGF for FY 2015. The bill restores funding of \$2.1 million SGF for the tiered technical formula to community and technical colleges; adds \$1.9 million SGF for the GED accelerator program; adds \$316,853 for the KAMS Summer Academy; and adds \$500,000 SGF for training and equipment for Wichita State University. The bill deletes funding for longevity in those universities that will have no classified employees after July 1, 2014, and the Governor's 1.5 percent salary pay increase for classified employees in the Board of Regents for FY 2015.

The bill also adds bonding authority to Fort Hays State University for the construction of a new Weist Hall; for Kansas State University chiller plant expansion; and for the University of Kansas (KU) Earth, Energy, Environment Center; and additional bonding authority, in the amount of \$25.0 million for FY 2015, to the KU Medical Center for the health education building.

Sale of Property

The bill authorizes the Kansas Board of Regents, on behalf of Emporia State University (ESU), to sell or exchange with the ESU Foundation certain real estate commonly known as Emporia State University Apartments. The bill allows for an exchange of the apartments with land the ESU Foundation is acquiring closer to the campus than the apartments' current location. The bill also authorizes KU and the KU Endowment Association to exchange two parcels of property. The parcels have been appraised, and the boundaries have been defined such that the two parcels are equal in value.

Midwestern Higher Education Compact

The bill repeals the expiration provision of the Midwestern Higher Education Compact Act.

Performance-Based Funding

The bill provides payments by the Board of Regents to postsecondary educational institutions that have provided any of the following to an individual enrolled in the institution: receipt of a GED credential while enrolled in an eligible career technical education (CTE) program; receipt of a CTE credential; or enrollment in an eligible CTE program.

K-12 Education

Appropriations

The bill appropriates an additional \$109.3 million for Supplemental General State Aid (local option budget equalization aid) and makes a revenue transfer of \$25.2 million to the Capital Outlay Fund from the SGF. Changes in the school finance formula, described below, result in a decrease in various weightings taking affect beginning in FY 2015 and thereafter, unless otherwise noted below.

Policy Statement

The bill states the purpose and intention of the Legislature is to provide a K-12 funding system that provides students with the seven “Rose” capacities. [Note: These capacities, originally set out in *Rose v. Council for Better Education, Inc.*, 790 S.W.2d 186 (Ky. 1989), were held by the Kansas Supreme Court in *Gannon v. State of Kansas* to be the standards against which to evaluate the adequacy of the K-12 funding system.] The bill requires the funding system to be sufficiently flexible for the Legislature to consider and use financing methods from all available resources, such as the following:

- Federal funding to school districts or schools;
- State moneys appropriated for the improvement of public education. The bill includes a list of examples of such state funding sources;
- Any provision authorizing local tax levies for school funding purposes; or
- Any transfer of funds or appropriations from one object or fund to another approved for the purpose of funding public schools.

Phase-Out of the School Facilities Weighting

The bill limits use of the school facilities weighting to only those districts that have adopted a local option budget (LOB) of at least 25 percent of the amount of state financial aid and for which the contractual bond obligations incurred by the district were approved by voters on or before July 1, 2014.

Elimination of the Nonproficient Pupil Weighting

The bill eliminates the weighting for pupils not eligible for the federal free lunch program but who scored below proficiency or failed to meet the standards established by the State Board on either the mathematics or reading state assessments in the preceding school year.

Change in Definition of At-Risk Pupil

The bill excludes from the definition of at-risk pupil any pupil enrolled less than full time in grades 1 through 12 or any student over 19 years of age. However, these provisions would not apply for any student who has an individualized education program (IEP).

LOB Authority Expansion; Election Requirement

With regard to the LOB, the bill:

- Amends the statutory Base State Aid Per Pupil (BSAPP) used in calculating the LOB from \$4,433 to \$4,490 for school years 2014-2015 and 2015-2016 (The current BSAPP of \$4,433 for LOB calculation purposes is extended until June 30, 2017.);
- Excludes virtual school state aid from the amount of state financial aid used in calculating the LOB;
- For school year 2014-2015, allows any school district that has adopted an LOB in excess of 30 percent on or before June 30, 2014, to adopt a second resolution in an amount not to exceed 2 percent. This resolution will expire on June 30, 2015, at which time a mail ballot election will be required to exceed an LOB of 30 percent; and
- Authorizes USD 207, Ft. Leavenworth, to adopt an LOB in excess of 30 percent with a resolution, subject to protest petition.

K-12 Student Performance and Efficiency Commission

The bill establishes the K-12 Student Performance and Efficiency Commission, charged with studying and making recommendations to the Legislature regarding opportunities to make more efficient use of taxpayer money and, in particular, study the following areas:

- Opportunities for school districts to be operated in a cost-effective manner;
- Variances in per-pupil and administrative expenditures among districts with comparable enrollment, demographics, and statewide assessment outcomes;
- Opportunities for implementing recommendations made by any efficiency task forces established by the Governor prior to July 1, 2014;
- Administrative functions that may be shared between school districts; and
- Expenditures not directly or sufficiently related to the goal of providing every child with the *Rose* capacities.

The bill sets forth the composition of the Commission, which will have nine voting and five nonvoting, *ex officio*, members. Procedural, staffing, reimbursement, and vacancy provisions also are included in the bill. The Commission's authority expires January 12, 2015.

The bill requires the Commission to submit a report to the Legislature before January 9, 2015, with any findings and recommendations including those for any legislation. The bill further requires that identical bills be introduced in the two chambers during the 2015 Legislative Session.

Alternative Teacher Licensure

The bill requires a specific group of prospective teachers be exempted from the requirement to complete a teacher preparation program prior to licensure if the licensure applicant satisfies one of the following conditions:

- The applicant holds a valid teaching license from another jurisdiction and has obtained the required scores on the test series required by the State Board of Education (State Board) for licensure;
- The applicant has obtained an industry-recognized technical profession certificate, has at least five years of work experience in that profession, and has secured a commitment to be hired to teach a related course from a local school district board; or
- The applicant has obtained at least a bachelor's degree in science, technology, engineering, mathematics, finance or accounting; has at least five years of work experience in the subject matter area; and has secured a commitment to be hired to teach a related course from a local school district board.

Such licensure applicant would be authorized to teach only in the subject or subjects specified on the face of the license. The bill authorizes the State Board to adopt rules and regulations necessary to carry out the provisions of this section.

Notice Regarding Protections under the Kansas Tort Claims Act

The bill requires each school district to provide to each employed teacher a written notice of protections afforded under the Kansas Tort Claims Act. The bill specifies the information that must be included in the notice.

Codification of Rose Capacities

The bill revises a statute pertaining to subjects and areas of instruction (KSA 2013 Supp. 72-1127) to eliminate a set of goals similar, but not identical, to the *Rose* capacities, and replace these goals with the exact language of the *Rose* capacities. The revised language states the Board must design subjects and areas of instruction to achieve the goal established by the Legislature of providing every child with at least the following capacities:

- Sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization;
- Sufficient knowledge of economic, social, and political systems to enable the student to make informed choices;
- Sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation;
- Sufficient self-knowledge and knowledge of his or her mental and physical wellness;
- Sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage;
- Sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and
- Sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market.

Public Innovative District Ceiling Increase

The bill increases the maximum percentage of Kansas school districts that may operate as Public Innovative Districts from 10 percent to 20 percent. The bill authorizes the additional 10 percent of school districts to operate as Public Innovative Districts, if the school district operates a school within its district that is deemed to be either a Title I Focus School or a Title I Priority School pursuant to the Elementary and Secondary Education Act Flexibility Waiver for Kansas. Any such request for approval must be reviewed by the Coalition Board.

Change in Statutory BSAPP and Formula Definitions

The bill changes the statutory BSAPP from \$4,492 to an amount appropriated by the Legislature in a fiscal year for a designated school year. The amount must be at least \$3,838.

Requirement to Study Virtual Schools and Programs

The bill requires the Legislative Division of Post Audit to conduct a performance audit of virtual schools and programs as well as their funding.

Renewal of Capital Outlay Authority

The bill provides a school district with the authority to renew its capital outlay tax levy prior to the expiration of its existing capital outlay levy.

Kansas Uniform Financial Accounting and Reporting Act Changes

The bill amends the definition of “budget summary” to be a one-page summary. Additionally, the bill requires publications of the financial accounting information already required to be collected to be made available to the public at every board of education meeting at which the district’s budget or other school finance matters are discussed.

Due Process Rights of Teachers—Changes in Definition of “Teacher”

The bill amends the law concerning due process procedures for the termination of a teacher contract. In the act governing due process procedures, the bill strikes from the definition of “teacher” any professional employee who is required to hold a certificate to teach in any school district. Instead, the bill defines “teacher” as any teacher or instructor in any technical college, the Institute of Technology at Washburn University, or community college. “Teacher” does not include any persons employed in an administrative capacity by any technical college, community college, or the Institute of Technology at Washburn University.

However, for the purposes of the section in that act governing the renewal of a teacher’s contract absent written notice to terminate the contract, “teacher” includes any professional employee who is required to hold a certificate to teach in any school district. (This narrowing of the definition of “teacher” for the act as a whole makes the due process procedures inapplicable to such professional employees, as outlined above.)

The bill makes technical amendments to conform with that change and strikes provisions exempting certain teachers from due process procedures and concerning plans of assistance for teachers who have completed at least three years of employment. The bill also amends provisions of the law concerning the mentor teacher program to revise the definitions of “probationary teacher” to mean a certificated teacher who has completed less than three consecutive school years of employment in the school district.

Tax Credit for Low Income Students Scholarship Program Act

The bill creates the Tax Credit for Low Income Students Scholarship Program Act (Act), to provide eligible students with scholarships to pay all or a portion of tuition to attend a qualified school in Kansas.

Scholarship Eligibility

An “eligible student” is a child who qualifies as an at-risk pupil (eligible for free lunch under the National School Lunch Act) and:

- Attends a school that would qualify as either a Title I Focus School or a Title I Priority School; or
- Received an educational scholarship under this program and has not graduated from high school or reached 21 years of age.

Eligible students will be required to reside in Kansas while receiving a scholarship and be enrolled in a public school in the year prior to receiving the scholarship or be eligible to be enrolled in a public school, if under the age of six.

Tax Credits

The scholarship will be financed via a tax credit against corporate income and premium (insurance companies) or privilege (financial institutions) tax liability beginning with tax year 2014 in an amount equal to 70 percent of the amount contributed for scholarships. The credit will be claimed and deducted from the taxpayer’s tax liability during the tax year in which the contribution was made. However, if the credit would exceed the donor’s tax liability for a particular year, the excess amount can be carried over in future years until the total credit was used. The total amounts of credits allowed in each tax year will not exceed \$10.0 million. The bill requires the Secretary of Revenue to adopt rules and regulations regarding filing of documents that support the amount of credit.

Scholarship Granting Organizations

The bill creates scholarship granting organizations (SGOs) to administer the Act. The bill requires SGOs to provide verification to the Secretary of Revenue of the SGOs’ federal income tax exemption via section 501(c)(3) of the federal Internal Revenue Code. Further, the bill requires SGOs to disburse not less than 90 percent of the contributions received within a 36-month time period in educational scholarships not to exceed \$8,000 per eligible student. Allocation of the tax credits will be determined by the SGO in consultation with the Secretary of Revenue. The bill requires the State Board to adopt rules and regulations to implement provisions regarding Board certification that the scholarship granting organization is in substantial compliance with the program.

Applications for a scholarship will be made to the SGO, which must verify students meet the eligibility criteria of the Act and report which eligibility criteria the student met to the State

Board of Education by June 1 of each year. Other information required to be reported to the State Board includes name and address of the SGO and of each scholarship recipient and the total number and amount of contributions and scholarships received and awarded during a 12-month period.

Each SGO is required to have its accounts examined and audited by a certified public accountant annually. An SGO having contributions in excess of \$50,000 during a school year must provide to the State Board a surety bond or financial information demonstrating an ability to pay an amount equal to contributions received. An SGO will be responsible for ensuring schools receiving scholarships comply with the Corporate Education Tax Credit Program requirements.

Finally, an SGO is prohibited from providing an eligible student with a scholarship funded by a student's relative or accepting a contribution directed toward a specific student.

Qualified Schools

The bill provides eligible students with an opportunity to attend qualified schools chosen by their parents. "Qualified school" is defined as any nonpublic school providing education to elementary and secondary students. The school must notify the State Board of its intention to participate in the scholarship program.

Appendix: C

Kansas 2015 House Sub. For Senate Bill 7

K-12 Education Provisions; House Sub. for SB 7

House Sub. for SB 7 makes appropriations for K-12 education for fiscal years (FYs) 2015, 2016, and 2017. The bill also repeals the existing school finance formula—the School District Finance and Quality Performance Act—and creates the Classroom Learning Assuring Student Success (CLASS) Act, the new school finance formula. The bill also authorizes the Board of Education to promulgate rules and regulations to administer the CLASS Act.

Appropriations

Highlights of the appropriations portion of the bill follow.

For FY 2015 (school year 2014-15), the bill adds \$27,346,783 in General State Aid, \$1,803,566 in Supplemental General State Aid (Local Option Budget [LOB] State Aid), and an amount not to exceed \$2,202,500 for the Capital Outlay State Aid demand transfer, all from the State General Fund (SGF). In addition, the bill transfers \$4.0 million from the SGF to a newly created special revenue fund called the School District Extraordinary Need Fund.

For FY 2016 (school year 2015-16), the bill appropriates \$2,751,326,659 from the SGF as a block grant to school districts. (Components of the block grant are described below.) A demand transfer from the SGF to the School District Extraordinary Need Fund will be made in an amount not to exceed \$12,292,000. An SGF appropriation of \$500,000 will be made to the Information Technology Education Opportunities Account (extension of a program to pay for credentialing high school students in information technology fields, funded previously in the Board of Regents' budget).

For FY 2017 (school year 2016-17), the bill appropriates \$2,757,446,624 from the SGF as a block grant to school districts. A demand transfer from the SGF to the School District Extraordinary Need Fund will be made in an amount not to exceed \$17,521,425. An SGF appropriation of \$500,000 will be made to the Information Technology Education Opportunities Account.

The operating budget for the Department of Education also is included in the bill.

Components of the Block Grant for FYs 2016 and 2017

The block grant includes:

- General State Aid school districts are entitled to receive for school year 2014-15, as adjusted by virtual school aid calculations (described below) and a 0.4 percent reduction for an Extraordinary Need Fund;
- Supplemental general state aid and capital outlay state aid as adjusted in 2014-15 (adjustment described below);

- Virtual state aid as recalculated for FYs 2016 and 2017 (described below);
- Amounts attributable to the tax proceeds collected by school districts for the ancillary school facilities tax levy, the cost of living tax levy, and the declining enrollment tax levy; and
- KPERS employer obligations, as certified by KPERS.

General state aid for school year 2014-15 is adjusted to account for consolidated school districts. Adjustments also are made in all school years to ensure districts eligible for the new facilities weighting will receive that weighting as outlined in former law.

General state aid will be disbursed to districts in the same manner as in former law.

Special education funding is not included in the block grant, but is a separate appropriation in the bill.

Extraordinary Need Fund

For FYs 2016 and 2017, 0.4 percent of general state aid will be transferred to the Extraordinary Need Fund. Any unencumbered funds remaining in this Fund at the end of the fiscal year will be transferred back to the SGF. Districts can apply to the State Finance Council for payments from this Fund. In reviewing a district's application for payment from the Fund, the Finance Council will consider:

- Any extraordinary increase in enrollment;
- Any extraordinary decrease in the district's assessed valuation; and
- Any other unforeseen acts or circumstances substantially impacting a district's general fund.

Recalculation of Supplemental General State Aid (LOB State Aid)

LOB State Aid is recalculated based on quintiles below the 81.2 percentile of school districts' assessed valuation per pupil (AVPP) in school year 2014-15 and capped at that amount for subsequent school years with gradations as follows based on AVPP, beginning with the districts with the lowest AVPP. (Each quintile equals about 46 school districts.)

- Lowest quintile – 97 percent of LOB State Aid;
- Second lowest quintile – 95 percent of LOB State Aid;
- Middle quintile – 92 percent of LOB State Aid;

- Second highest quintile – 82 percent of LOB State Aid; and
- Highest quintile – 72 percent of LOB State Aid.

Districts continue to be authorized to adopt a LOB and levy a property tax in an amount not to exceed the LOB of the district in school year 2014-15, unless the district approves a higher amount for school year 2015-16, prior to July 1, 2015.

Recalculation of Capital Outlay State Aid

The state aid percentage begins at 75 percent for the district with the lowest AVPP and decreases by 1 percent for each \$1,000 incremental increase in AVPP.

Bond and Interest State Aid

The bill amends the calculation of state aid for general obligation bonds approved for issuance at an election held on or after July 1, 2015, using the same formula as the amended Capital Outlay State Aid formula.

Virtual State Aid

In school year 2014-15, there is no change in the calculation of Virtual State Aid.

In school year 2015-16, funding for full-time equivalent students will be calculated at \$5,000 per student; part-time students, \$4,045 per student; and students 19 and older, \$933 per 1-hour credit course successfully completed in the school year.

In school year 2016-17, funding for full-time equivalent students will be calculated at \$5,600 per student; part-time students, \$1,700 per student; and students 19 and older, \$933 per 1-hour credit course successfully completed in the school year.

Special Levies

Districts are authorized to impose special local tax levies (for ancillary facilities, cost of living, and declining enrollment), if the district levied such tax in school year 2014-15 or if the district is qualified to levy such tax.

Fund Flexibility

Districts have fund flexibility at the district level; that is, funds can be transferred to the general fund of the district with no cap on the amount of the transfer. Excluded from this flexibility are three funds: bond and interest, special education, and the special retirement contributions fund.

Other Provisions

The bill uses the assessed valuation per pupil for school year 2015-16 (instead of the 2014-15 school year) for the purpose of determining Supplemental General State Aid (LOB State Aid) for any district if the district has a total assessed valuation for school year 2015-16 less than the assessed valuation in the 2014-15 school year; the difference in assessed valuation between the 2014-15 school year and 2015-16 is greater than 25 percent; and having such reduction be the direct result of the classification of tangible personal property by 2014 legislation changing the tax classification of commercial and industrial machinery used directly in the manufacture of cement, lime, or similar products. (KSA 2014 Supp. 79-507)

Effective Dates

The bill took effect upon publication in the *Kansas Register* with the exceptions noted above. Establishment of the Extraordinary Need Fund, amendments to the LOB equalization formula, capital outlay state aid, approval for LOB authority, and fund flexibility provisions are effective for school year 2014-15.

The provisions of the bill will expire on June 30, 2017.

Appendix: D

Kansas 2016 Senate Sub. For House Bill 2655

School Finance; Senate Sub. for HB 2655

Senate Sub. for HB 2655 amends statutes relating to school finance. Specifically, the bill alters statutory formulas for providing Supplemental General State Aid and Capital Outlay State Aid for FY 2017; amends law related to the School District Extraordinary Need Fund (Extraordinary Need Fund); provides for School District Equalization State Aid; changes a non-severability provision to a severability provision; and amends law related to ancillary school facilities state aid. The bill makes necessary appropriations for the statutory changes in the bill.

Appropriations

The bill appropriates \$367,582,721 for Supplemental General State Aid, \$50,780,296 for Capital Outlay State Aid, and \$61,792,947 for School District Equalization State Aid. The bill also changes the appropriation for the Extraordinary Need Fund from \$17,521,425 to \$15,167,962, and lapses \$477,802,500 from the block grants to unified school districts for fiscal year 2017.

The bill also provides that, if the appropriated amounts for Supplemental General State Aid or Capital Outlay State Aid are not sufficient to fund the statutory requirements for those two categories of aid, the amount of money necessary to satisfy such statutory requirements shall be transferred out of the Extraordinary Need Fund.

Supplemental General State Aid

The formula replaces the amount of Supplemental General State Aid provided by House Sub. for SB 7 enacted in 2015 with a new formula for determining the amount of Supplemental General State Aid. Under the new formula, a school district's Supplemental General State Aid is determined by multiplying the school district's local option budget by an equalization factor. The equalization factor is determined by arranging the assessed valuation per pupil (AVPP) of all school districts from largest to smallest, rounding the AVPPs to the nearest \$1,000 and identifying the median. The equalization factor of the median is 25 percent. For every \$1,000 a school district's AVPP is above the median, the school district's equalization factor is reduced from 25 percent by 1 percent and for every \$1,000 a school district's AVPP is below the median, the school district's equalization factor is increased from 25 percent by 1 percent.

Capital Outlay State Aid

The bill reinstates the Capital Outlay State Aid formula that was in effect prior to the enactment of 2015 House Sub. for SB 7.

Extraordinary Need Fund

The bill also gives the State Board of Education (Board) the authority to review and decide upon school district applications for funds from the Extraordinary Need Fund. (Prior law gave the State Finance Council authority to review and act upon such applications.) Whether a school district has reasonably equal access to substantially similar educational opportunity

through similar tax effort is added as a factor the Board is required to consider in evaluating an application for funds from the Extraordinary Need Fund.

School District Equalization State Aid

The bill provides funds to school districts if the changes to Supplemental General State Aid or Capital Outlay State Aid in the bill resulted in the school districts being entitled to less state aid than under prior law.

Severability

The bill changes the non-severability provision in KSA 2015 Supp. 72-6481 to a provision specifically allowing the provisions of the Classroom Learning Assuring Student Success (CLASS) Act, included in 2015 House Sub. for SB 7, to be severed and for the provisions of the bill to be severed.

Ancillary School Facilities

The bill also amends statutes related to the authority of a school district to levy a tax for the purpose of financing the costs incurred that are directly attributable to ancillary school facilities. The bill allows the levying of the tax for the operation of a school facility whose construction was financed by the issuance of bonds approved for issuance at an election held on or before June 30, 2016.

Appendix: E

Kansas 2016 Special Session Sub. For House Bill 2001

REVISED
SPECIAL SESSION OF 2016

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE
BILL NO. 2001**

As Amended by House on Final Action

Brief*

Sub. for HB 2001, as amended, would amend statutes relating to school finance. Specifically, the bill would alter the statutory formula for providing Supplemental General State Aid for FY 2017 and amend laws related to virtual school state aid, the Extraordinary Need Fund, hold harmless funding under 2016 Senate Sub. for HB 2655, and federal funding for certain pre-kindergarten programs. The bill also would amend law related to the sale of the Kansas Bioscience Authority (KBA).

Appropriations

The bill would appropriate \$99,408,027 for Supplemental General State Aid. The bill also would change the appropriation from the State General Fund to the School District Extraordinary Need Fund to \$8.0 million and transfer \$5.0 million from the State Highway Fund to the Extraordinary Need Fund. The bill would lapse \$61,792,947 of School District Equalization State Aid and would lapse \$2.8 million from the block grant to school districts.

The bill would lapse \$4.1 million of the appropriation for the Children's Initiative Fund and transfer \$4.1 million from the Children's Initiative Fund to the State General Fund. It also would direct the Department for Children and Families to expend \$4.1 million from the Temporary Assistance for Needy Families Fund for the purpose of providing additional funding

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

for programs provided by the Kansas State Department of Education.

Supplemental General State Aid

The bill would reinstate the Supplemental General State Aid formula that was in effect prior to the enactment of 2015 House Sub. for SB 7.

Virtual School State Aid

The bill would change the amount school districts would receive for each full-time virtual school student for FY 2017 from \$5,600 to \$5,000.

Extraordinary Need Fund

The bill would allow the Kansas State Department of Education to approve applications to the Extraordinary Need Fund that would be contingent upon the receipt of at least \$38.0 million from the sale of the KBA. If the proceeds of the sale of the KBA are less than \$38.0 million, then the amount of money appropriated to the Extraordinary Need Fund would be reduced by the amount of the shortfall.

Sale of the KBA

The bill would provide that any proceeds of the sale of the KBA in excess of \$25.0 million, but less than \$38.0 million would be deposited in the State General Fund.

Other Provisions

The bill would eliminate the School District Equalization State Aid created in 2016 Senate Sub. for HB 2655. The bill also would include a severability clause.

Background

The bill was introduced by the House Committee on Appropriations.

At the hearing on the bill, testimony was provided by representatives of Game On for Kansas Schools, Kansas Action for Children, Kansas Association of School Boards, Kansas Policy Institute, Kansas PTA, and several school districts, and by a private citizen. Written testimony was provided by the Kansas Chamber of Commerce, the Kansas School Superintendents Association and United School Administrators of Kansas, the League of Women Voters of Kansas, Schools for Fair Funding, and several school districts. The hearing was held jointly with the Senate Committee on Ways and Means.

The House Committee recommended HB 2001 be passed on June 23. On June 24, the bill was referred back to the Committee which met twice, adopted amendments to the bill and recommended those amendments be incorporated into the substitute bill.

The substitute bill would eliminate the reduction in General State Aid contained in the original bill (\$13.0 million) and would instead utilize designated proceeds from the sale of the KBA. If the proceeds of the sale of the KBA are less than \$38.0 million, then the amount of money appropriated to the Extraordinary Need Fund would be reduced by the amount of the shortfall. The substitute bill also includes the transfer of \$5.0 million from the State Highway Fund to the Extraordinary Need Fund.

The House of Representatives made a technical amendment on final action.

Appendix: F

Kansas 2017 Senate Bill 19 Kansas School Equity and Enhancement Act

K-12 School Finance; The Kansas School Equity and Enhancement Act; SB 19

SB 19 makes appropriations for the Kansas Department of Education (KSDE) for FY 2018 and FY 2019; enacts the Kansas School Equity and Enhancement Act; adds a section requiring KSDE to produce a report concerning school district revenues, expenditures, and demographics; and amends the Tax Credit for Low Income Students Scholarship Program, the Virtual School Act, and statutes related to Capital Improvement State Aid and capital outlay.

Kansas School Equity and Enhancement Act

The Kansas School Equity and Enhancement Act (Act) provides for State Foundation Aid (SFA) to be provided to school districts. SFA is calculated by multiplying the base aid for student excellence (BASE) by the adjusted enrollment of the district and deducting the local foundation aid of the district. The adjusted enrollment of the district is calculated by adding the weighted enrollments for at-risk students, declining enrollment, high-density at-risk students, bilingual, low enrollment, high enrollment, new school facilities, ancillary school facilities, cost of living, special education and related services, career technical education, and transportation to the enrollment of the district. The BASE is \$4,006 for school year 2017-2018, \$4,128 for school year 2018-2019, and adjusted each year thereafter according to the average percentage increase in the Consumer Price Index (CPI) for all urban consumers for the Midwest region during the three immediately preceding school years.

The Act also allows districts to adopt a local option budget (LOB) by resolution of the school board. The LOB is capped at 33.0 percent of the BASE multiplied by the adjusted enrollment of the district. In any year in which the BASE is less than \$4,490, the LOB is capped at 33.0 percent of the product of \$4,490 and the adjusted enrollment of the district. Beginning in school year 2019-2020, the BASE allowed to be used to calculate LOB authority will increase based on a three-year CPI average. Any district adopting an LOB in excess of 30.0 percent will be subject to protest petition.

Additionally, the Act defines key terms, charges the State Board of Education (KSBE) with developing and implementing a school accreditation system and with conducting a cost study of career and technical education programs, gives the KSBE authority to adopt rules and regulations to administer the Act, and provides for several performance audits by the Legislative Division of Post Audit (LPA). The provisions of the Act are not severable and are scheduled to expire July 1, 2027.

Enrollment

The enrollment of a district is the number of students regularly enrolled at the district on September 20 of the preceding school year. If the enrollment of the district the preceding school year decreased from enrollment in the prior year, the enrollment will be the enrollment of the district from the second preceding school year. Districts that have military students and receive federal impact aid can use the average enrollment of the three preceding school years.

Students who are not Kansas residents will be counted as 1.0 full-time equivalent (FTE) in school years 2017-2018 and 2018-2019, as 0.75 FTE in school years 2019-2020 and 2020-

2021, and as 0.5 FTE in subsequent years. Out-of-state students whose parents or legal guardians are employed by the district or who were enrolled in the district during the preceding school year will continue to be counted as 1.0 FTE.

Each student enrolled in kindergarten full time will be counted as 1.0 FTE. Formerly, each kindergarten student was counted as 0.5 FTE. Any student enrolled in kindergarten in a district in the preceding school year will be counted as 1.0 FTE, regardless of actual attendance during the preceding year.

At-Risk Student Weighting

The at-risk weighted enrollment of a district is determined by multiplying the number of students eligible for free meals under the National School Lunch Act by 0.484. Any district maintaining kindergarten through 12th grade can substitute 10.0 percent of the district's enrollment multiplied by 0.484 for the purposes of this weighting. Beginning with school year 2018-2019, districts must use those funds for at-risk education programs and services contracted for to provide such programs based on programs identified and approved by KSBE as evidence-based best practices.

Bilingual Weighting

The bilingual weighted enrollment of a district is the greater of the FTE enrollment based on hours of contact in bilingual education programs multiplied by 0.395 or the number of students enrolled in bilingual programs multiplied by 0.185.

Low Enrollment Weighting

Low enrollment weighting is available to districts with fewer than 1,622 students enrolled. The weighting is calculated on a linear transition: districts with 100 or fewer students receive a weighting of approximately 101.4 percent of the enrollment of the district, and that amount transitions to approximately 3.5 percent of the enrollment of the district as the enrollment approaches 1,622 students.

High Enrollment Weighting

High enrollment weighting of approximately 3.5 percent is available to districts with more than 1,622 students.

High-Density At-Risk Weighting

If a school or school district's enrollment is at least 50.0 percent at-risk students, the school or school district receives a high-density at-risk weighting equal to 10.5 percent of the at-risk students of the district. If a school or school district's enrollment is between 35.0 percent at-risk students and 50.0 percent at-risk students, the school or school district receives a high-density at-risk weighting on a linear transition downwards from 10.5 percent of the at-risk students of the district. The high-density at-risk weighting is scheduled to expire July 1, 2019.

Beginning with school year 2018-2019, districts must use those funds on at-risk programs and instruction of students receiving at-risk program services identified and approved by the KSBE as evidence-based best practices. The KSBE will notify districts that do not spend the money on such best practices they must either spend such money on best practices or show improvement within three years of notification. Among other factors, improvement can be shown by the percentage of students at grade level or college and career ready on state math and English language arts assessments, average composite ACT scores, or the four-year graduation rate. Districts that do not spend money on best practices and fail to show improvement within five years will not qualify to receive the weighting in the succeeding school year.

Transportation Weighting

The transportation weighting of a district is determined by multiplying the district's per-student transportation cost by the number of students who reside at least 2.5 miles from the school building they attend and are provided transportation to the school building by the district. The district's per-student transportation cost is determined using the curve of best fit of a density-cost graph of the index of density of all districts in the state. A four-year grandfather clause applies to districts that receive less funding pursuant to the transportation weighting than they did during the 2016-2017 school year.

Career Technical Education Weighting

The career technical education weighting of a district is determined by multiplying the FTE enrollment in approved career technical education programs by 50.0 percent. This weighting is scheduled to sunset July 1, 2019. The bill directs KSDE to study the costs of career technical education programs and report its findings on or before January 15, 2018.

New School Facilities Weighting

The new school facilities weighting of a district is determined by multiplying the number of students enrolled in a new school facility by 25.0 percent. A new school facility is 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.

Cost-of-Living Weighting

The bill allows districts in which the average appraised value of a single-family residence is more than 25.0 percent higher than the statewide average value to apply for additional funding from the KSBE in an amount not to exceed 0.05 percent of the district's foundation aid. The district must have an LOB of 31.0 percent, and the school board must pass and publish a resolution authorizing the levy. The entirety of this weighting is financed by local property taxes.

Ancillary School Facilities Weighting

A district can apply to the State Board of Tax Appeals (BOTA) for authority to levy local property taxes for the purpose of financing costs attributable to commencing the operation of a new school facility that is in excess of the amount financed by any other source. The amount to be levied for this weighting is reduced over a period not to exceed six years. The entirety of this weighting is financed by local property taxes.

Declining Enrollment Weighting

The declining enrollment weighting is available to districts that have lost revenues due to the declining enrollment of the district. The district must apply to the BOTA for authority to receive this weighting, and the weighting is capped at 5.0 percent of the general fund budget of the district. In school year 2017-2018, a district can receive declining enrollment weighting equal to half the amount the district generated pursuant to the weighting in school year 2007-2008. The entirety of this weighting is financed by local property taxes. The declining enrollment weighting is scheduled to expire July 1, 2018.

Special Education and Related Services Weighting

The special education and related services weighting is calculated by dividing the total state aid payments made to a district for special education and related services by the BASE.

Legislative Studies

The bill requires the House and Senate Committees on Education to review the high and low enrollment weightings and alternatives to such weightings, including a sparsity weighting by July 1, 2018; virtual schools by July 1, 2020; the at-risk weighting and the BASE by July 1, 2021; the successful schools model by July 1, 2023, and by July 1, 2026; and the bilingual weighting by July 1, 2024.

Local Foundation Aid

Local Foundation Aid includes the unencumbered balance of a district's general fund, certain grants received by a district, special education and related services aid, any tuition for non-resident pupils of a district, and 70.0 percent of the federal impact aid a district received. These categories were commonly referred to as "local effort" under prior law.

Reauthorization of the 20-Mill Levy

The bill reauthorizes the statewide 20-mill school finance levy for school years 2017-2018 and 2018-2019. The first \$20,000 of assessed valuation of residential properties will continue to be exempt from this levy.

Supplemental General State Aid

Supplemental General State Aid is paid to any district that has adopted a LOB. The amount of aid a district is eligible to receive is determined by multiplying the district's local foundation budget by an equalization factor that equalizes all districts below the 81.2 percentile of assessed valuation per pupil (AVPP) up to that percentile. For school year 2017-2018, the AVPP used is that of the immediately preceding school year. For school year 2018-2019, the AVPP used is an average of the AVPPs of the three immediately preceding school years.

Accreditation

The Act requires KSBE to design and adopt a district accreditation system based on improvement in performance that equals or exceeds the educational goals known as the "Rose capacities," which are codified at KSA 2016 Supp. 72-1127, and is measurable. The Act also requires KSBE to report to the Governor and Legislature on or before January 15 of each year regarding the district accreditation system.

KSDE District Report

The Act requires KSDE to develop an annual report for each district reflecting the total amount of revenues received from federal, state, and local sources each year, with certain categories of revenue being specifically identified. The report also includes total expenditures for certain programs and services and certain demographic information.

LPA Performance Audits

The Act requires LPA to perform several performance audits in the future. Topics of required audits include virtual school programs; the cost of providing educational opportunities to every public school student in Kansas to achieve the performance outcome standards adopted by KSBE; at-risk education, bilingual education, and transportation funding; and the best practices of successful schools. The House and Senate Committees on Education will review these reports.

School District Extraordinary Declining Enrollment Fund

The bill allows school districts to apply to KSBE for Extraordinary Declining Enrollment State Aid. KSBE will review all submitted applications and approve or deny any such application based on whether the applicant school district has demonstrated extraordinary declining enrollment since school year 2014-2015. In reviewing the application, KSBE may conduct a hearing and provide the applicant school district an opportunity to present testimony as to such school district's extraordinary declining enrollment. If approved, KSBE will determine the amount of aid to be disbursed, which could be less than the amount requested in the application. If denied, within 15 days of such denial, KSBE must send written notice of such denial to the superintendent of such school district. The bill also establishes the School District Extraordinary Declining Enrollment Fund.

Virtual School State Aid

Virtual School State Aid is paid to districts operating virtual schools. \$5,000 per student is paid for students under age 19 enrolled in a virtual school on a full-time basis. \$1,700 is paid for each FTE student enrolled in a virtual school on a part-time basis. For students 19 years of age and older, aid is paid at a rate of \$709 per credit hour earned, not to exceed six credit hours earned by any one student in any one school year.

Tax Credit for Low Income Students Scholarship (TCLISS) Program Act

On and after July 1, 2018, the bill amends the definition of “public school” within the TCLISS Program Act to mean a school identified by KSBE as one of the lowest 100 performing schools with respect to student achievement. It also amends the definition of “qualified school” to require accreditation on and after July 1, 2020. Accreditation must be by KSBE or a KSBE-recognized national or regional accrediting agency. Additionally, the bill expands eligibility for the tax credit to individuals and places an annual cap of \$500,000 on contributions.

Capital Outlay Changes

The bill allows capital outlay funds to be used for utility expenses and property and casualty insurance. Additionally, the bill allows capital outlay funds to be used for construction, reconstruction, repair, remodeling, additions to, furnishing, maintaining, and equipping computer software, performance uniforms, building sites, school buses, and other fixed assets. The law already allowed for acquisition of these items using capital outlay funds.

Beginning in school year 2017-2018, any new property tax exemptions granted by BOTA for property financed by industrial revenue bonds or for economic development purposes pursuant to Article 11, Section 13 of the *Kansas Constitution*, for which the public hearing was not held prior to May 1, 2017, will no longer apply to the capital outlay mill levy. Previously exempted property will continue to be eligible for exemption from the levy.

Beginning July 1, 2017, districts will receive the revenue generated by the capital outlay mill levy on the incremental valuation growth in newly created Neighborhood Revitalization Areas.

Capital Improvement Changes

For all bond issuances approved at an election on or after July 1, 2017, any district with an enrollment of less than 260 students must receive approval from KSBE prior to holding an election to approve the issuance of bonds to be eligible for Capital Improvement State Aid.

In determining the amount of payments a district is obligated to make for bond issuances approved at an election on or after July 1, 2017, KSBE will exclude payments for any capital improvement project, or portion thereof, that proposes to construct, reconstruct, or remodel a facility used primarily for extracurricular activities, unless a State Fire Marshal report, inspection under the Americans with Disabilities Act, or other similar evaluation demonstrates the project is necessary due to concerns relating to safety or disability access.

Additionally, beginning July 1, 2017, in each fiscal year, KSBE can approve for election bond issuances exceeding 14.0 percent of the district's assessed valuation for the election only to the extent of the aggregate amount of bonds retired by districts in the state in the preceding year. A district that has not passed a bond election in the past 25 years is not subject to this limitation.

Appropriations

The bill provides \$1.991 billion in general state aid from the State General Fund (SGF) for FY 2018 and \$2.047 billion in general state aid from the SGF for FY 2019. For FY 2018, \$480.9 million of supplemental general state aid is appropriated from the SGF, and for FY 2019, \$486.1 million of supplemental general state aid is appropriated from the SGF. Appropriations are also made for KSDE operations, special education state aid, and KPERS employer contributions for districts from the SGF for both fiscal years.

Appendix: G

Kansas 2018 Substitute for Senate Bill 423

K-12 School Finance; Amendments to the Kansas School Equity and Enhancement Act; Sub. for SB 423

Sub. for SB 423 makes appropriations to the Kansas State Department of Education (KSDE) for FY 2019. This bill also creates a new pilot program for the Mental Health Intervention Team between school districts and community mental health centers (CMHCs). In addition, the bill makes several amendments to the Kansas School Equity and Enhancement Act (KSEEA), including amendments to the Base Aid for Student Excellence (BASE), preschool-aged at-risk students, the Local Option Budget (LOB), various weightings in the school finance formula, the State Board of Education's (KSBE) accreditation system, school district funding reporting requirements, and the schedule for audits to be completed by the Legislative Division of Post Audit (LPA). The bill also amends statutes relating to capital outlay funds and school district capital improvements.

Introductory Statement

The bill includes an introductory statement stating the State's educational interests concern the areas of social-emotional learning, kindergarten readiness, individual plans of study, graduation, and post secondary success, and the State addresses such interests by providing support and services both in the classroom and in the community. Further, the introductory statement summarizes appropriations for K-12 education, as well as appropriations for support services provided by other state agencies and institutions for students from birth to graduation.

FY 2019 Appropriations

The bill appropriates \$26.0 million, all from the State General Fund (SGF), for increased State Foundation Aid payments. The bill also appropriates \$32.4 million for increased Special Education Services Aid payments and \$6.0 million for increased Supplemental State Aid (LOB State Aid) payments, all from the SGF.

The bill appropriates \$2.8 million, all from the SGF, to provide the ACT and three ACT WorkKeys assessments required to earn a national career readiness certificate to each student enrolled in grades 9-12. No such student is required to pay any fees or costs, and no school district is required to provide more than one exam and three assessments per student. Further, the bill appropriates \$500,000 for the mentor teacher program, all from the SGF.

The bill appropriates \$10.0 million, all from the SGF, for the first year of a Mental Health Intervention Team pilot program between school districts and CMHCs for FY 2019, including \$7.5 million for the operation of the pilot program and \$2.5 million for the one-time purchase of a database. Upon the certification of memorandums of understanding between participating school districts and CMHCs, the bill requires the transfer of \$1.5 million from KSDE to the Kansas Department for Aging and Disability Services (KDADS) to provide treatment and services for students under the pilot program who are uninsured or underinsured.

The bill appropriates \$15,000, all from the SGF, to implement the Jobs for America's Graduates–Kansas (JAG-K) pilot program for foster children in the Wichita school district (USD 259), the Topeka school district (USD 501), and the Kansas City school district (USD 500).

Mental Health Intervention Team Pilot Program

The bill creates the Mental Health Intervention Team pilot program between participating school districts and CMHCs for FY 2019. School districts will enter into memorandums of understanding with participating CMHCs and the appropriate state agencies. The mental health intervention teams will be composed of school liaisons employed by the school district and clinical therapists and case managers employed by the CMHC.

The following will participate in the program:

- Twenty-three schools in the Wichita school district (USD 259);
- Twenty-eight schools in the Topeka school district (USD 501);
- Ten schools in the Kansas City school district (USD 500);
- Five schools in the Parsons school district (USD 503);
- Four schools in the Garden City school district (USD 457); and
- Nine schools served by the Central Kansas Cooperative in Education. *[Note: This provision was amended by House Sub. for SB 61.]*

The bill requires the Director of the Division of Health Care Finance of the Kansas Department of Health and Environment to certify to the Director of the Budget and the Director of Legislative Research the aggregate amount of expenditures for FY 2019 for treatment provided to students under the pilot program, or provided based on a referral from such program.

Base Aid for Student Excellence

The bill amends the BASE for five years beginning in school year 2018-2019. The new BASE amounts are:

- School year 2018-2019, \$4,900;
- School year 2019-2020, \$5,061;
- School year 2020-2021, \$5,222;
- School year 2021-2022, \$5,384; and

- School year 2022-2023, \$5,545. *[Note: These amounts are amended by House Sub. for SB 61.]*

Beginning in school year 2023-2024, the BASE will increase by the average percentage increase in the Consumer Price Index for all urban consumers in the Midwest region during the three immediately preceding school years. SB 19 (2017) provided for inflationary increases beginning in school year 2019-2020.

Preschool-Aged At-Risk

The bill amends the definition of “preschool-aged at-risk student” to allow districts to expand their programs to include three-year-old children.

Local Option Budget

Use of LOB

The bill requires each school district to adopt an LOB equal to 15.0 percent of the school district’s Total Foundation Aid. The amount, along with the LOB State Aid attributable to that required LOB, will be included in a district’s Local Foundation Aid. The required LOB dollars will be included in the BASE amount, and the bill revises the BASE to reflect this increase.

Beyond the required LOB amount, school districts may adopt an LOB up to 27.5 percent of a district’s Total Foundation Aid on the action of local school boards. The maximum LOB amount a school district may adopt is 30.5 percent of Total Foundation Aid, which is subject to a protest petition. *[Note: House Sub. for SB 61 amends these percentages to 30.0 percent and 33.0 percent, respectively, and further amends LOB provisions.]*

The Total Foundation Aid amount used for LOB purposes divides the total Special Education Services Aid received by a school district by 85.0 percent of the BASE. The resulting quotient is then used to calculate a school district’s Total Foundation Aid.

Further, the bill requires school districts to transfer from the LOB an amount proportional to the amounts of its Total Foundation Aid attributable to the at-risk and bilingual weightings to their at-risk and bilingual funds.

LOB Authority

The bill voids any resolution providing LOB authority in excess of 30.0 percent that was adopted by a local school board prior to July 1, 2017, under the provisions of the Classroom Learning Assuring Student Success Act and not submitted to the electors of the school district for approval. Any school district affected by this provision will be required to adopt a new resolution subject to protest petition to adopt an LOB above 27.5 percent. *[Note: House Sub. for SB 61 changes this to 30.0 percent.]*

The bill increases the protest petition requirements to challenge an LOB increase above 27.5 percent from 5.0 percent of a school district's qualified voters in 30 days to 10.0 percent of voters in 40 days.

The bill requires any school board seeking to raise its LOB authority for the succeeding school year to notify KSBE of the intended percentage increase in its LOB authority by April 1 of the current school year. School boards are prohibited from adopting an LOB in excess of the authority stated in its notice submitted to KSBE, which KSBE is required to submit all such notifications to the Legislature. The notification requirement takes effect for any planned increases in LOB authority during school year 2019-2020.

LOB State Aid

The bill changes the process for calculating LOB State Aid from a school district's LOB for the immediately preceding school year to a school district's current-year LOB.

Formula Weightings

Transportation Weighting

The bill amends the transportation weighting in the KSEEA. The transportation weighting will be calculated based on a per capita allowance based on a school district's density figure, which is the area of a school district in square miles divided by the number of transported students. The bill also provides for a statutory minimum level of transportation funding; provides for per capita allowances based on a cost factor of 5.0 for students more than 2.5 miles away from their school (prior law provided for a cost factor of 2.8); and limits the proportion of a school district's State Foundation Aid attributable to the transportation weighting to being no more than 110.0 percent of a school district's total transportation expenditures for the immediately preceding school year.

At-Risk and Other Weightings

The bill removes language that provides for a 10.0 percent minimum for the at-risk student weighting. The bill also delays to July 1, 2020, the sunset on the provision in the high-density at-risk weighting that allows for calculation of the weighting at the school-building level. The bill removes authority for the Board to adopt rules and regulations to establish criteria for eligibility for at-risk program services.

The bill changes the use of the preceding year's data to use of the current year's data for the bilingual and career and technical education (CTE) weightings and repeals the July 1, 2019, sunset for the CTE weighting.

KSBE Accreditation System

The bill requires KSBE to establish rigorous accountability measures in the areas of social-emotional learning, kindergarten readiness, individual plans of study, graduation, and

postsecondary success. The bill requires such accountability measures to be applied at the school district level and the school building level, and both KSBE and local school boards are required to publish such accountability measures on their websites.

The bill also requires any corrective action plan required by KSBE for a school district not meeting accreditation requirements, and any subsequent reports regarding the implementation of such a corrective action plan, to be published on the websites of KSDE and such school district. In addition, the bill requires the superintendent, or the superintendent's designee, of any school district not meeting accreditation requirements to appear before the House Committee on Education and the Senate Committee on Education during the same school year in which the school district is not accredited. Such school district is required to provide a report to the House and Senate education committees on the challenges to the district regaining accreditation.

School District Funding Reporting Requirements

The bill requires KSDE to include the following in the annual school district funding reports:

- Expenditures and fund transfers from the LOB for the following:
 - At-risk education programs and services;
 - Preschool-aged at-risk education programs and services;
 - Bilingual education programs and services;
 - CTE programs and services;
 - Special education and related services; and
 - Virtual school programs and services; and
- Each school district's total bonded indebtedness.

Performance Audit Schedule—Legislative Division of Post Audit

The bill makes several changes to the schedule for the performance audits to be completed by LPA. The new schedule is:

- FY 2019, special education and related services;
- FY 2020, at-risk education funding;
- FY 2021, cost-function analysis of statewide education performance;
- FY 2022, bilingual education funding;
- FY 2023, virtual school programs; and

- FY 2024, cost-function analysis of statewide education performance.

The bill removes from the schedule a cost-function analysis that was to be performed in 2019. The remaining cost-function analyses will not include special education and related services. The bill also removes two performance audits to identify best practices in successful schools that were to be performed in 2021 and 2026.

Use of Capital Outlay Funds

The bill eliminates the provision of law that allowed school districts to expend capital outlay funds on utilities and property and casualty insurance.

School District Capital Improvements

The bill amends provisions that allow KSBE to approve an application for a bond election only if approval does not result in the aggregate amount of all general obligation bonds approved by the KSBE for such school year exceeding the aggregate principal amount of bonds retired by districts in the state in the preceding year (aggregate principal amount). The bill provides that for an application in excess of \$175.0 million, KSBE will apply an amount of \$175.0 million when determining whether the aggregate principal amount has been exceeded. Additionally, commencing in school year 2017-2018, KSBE is required to determine the aggregate principal amount by adjusting the aggregate principal amount by the five-year compounded producer price index industry data for new school buildings as reported by the Bureau of Labor Statistics.

Effective Dates

The bill took effect upon publication in the *Kansas Register*. However, all provisions other than the use of current year data for the bilingual and CTE weighting will be effective on and after July 1, 2018.

Appendix: H

Kansas 2018 House Substitute for Senate Bill 61

K-12 School Finance; Kansas School Equity and Enhancements Act Amendments; House Sub. for SB 61

House Sub. for SB 61 makes changes to school finance law. The bill makes a public policy statement concerning the consideration of Local Option Budget (LOB) funds in determining adequacy, revises the Base Aid for Student Excellence (BASE) for school years 2018-2019 through 2022-2023, amends LOB authority, changes the definition of Local Foundation Aid, and revises the terms of the mental health pilot program provided by 2018 Sub. for SB 423. [Note: Sub. for SB 423 was approved by the Governor on April 17, 2018.]

Public Policy Statement

The bill provides a statement of public policy of the State of Kansas to require an LOB of at least 15 percent of the school district's Total Foundation Aid. The statement further provides that the moneys provided for school districts pursuant to the required portion of the LOB shall be included in determining the adequacy of the amount of total funding and that other moneys provided by LOBs may also be included in determining the adequacy of the amount of total funding.

Base Aid for Student Excellence

The bill amends the BASE for five years beginning in school year 2018-2019. The new BASE amounts are as follows:

- School year 2018-2019, \$4,165;
- School year 2019-2020, \$4,302;
- School year 2020-2021, \$4,439;
- School year 2021-2022, \$4,576; and
- School year 2022-2023, \$4,713.

Local Option Budget Authority

The bill provides that school districts may adopt an LOB up to the statewide average from the preceding year and may adopt an LOB up to 33 percent of the Total Foundation Aid of the district if the board of education of the district has adopted a resolution providing for such authority that has been subject to a protest petition of the district.

The bill reinstates a provision in law prior to Sub. for SB 423 providing for the Total Foundation Aid for purposes of the LOB to be calculated as if the BASE was \$4,490 in all years in which the BASE is less than \$4,490.

The bill also reinstates a provision in law prior to Sub. for SB 423 providing for districts to use the Special Education Aid amount from school year 2008-2009 for purposes of calculating the district's LOB authority in any year in which the district's actual Special Education Aid amount is less than that year.

Local Foundation Aid Defined

The bill eliminates a provision created by Sub. for SB 423 that included the proceeds of a 15.0 percent LOB as Local Foundation Aid.

Mental Health Pilot Program

The bill voids the provision of Sub. for SB 423 that allowed for nine schools to be served by the Central Kansas Cooperative in Education and replaces it with a provision allowing nine schools to be served by USD 435, Abilene, as fiscal agent.

Appendix: I

Statement by Kansas Advisory Committee Member Phyllis Nolan

Addendum:

Of course money matters, but it's how money is spent that can make a difference rather than simply spending more. Some panelists expressed a belief in a correlation between spending and achievement but we were not presented with any evidence that spending more money caused achievement to change. We did receive testimony, however, showing that spending money differently can have an impact.

Multiple datasets provided in testimony showed student achievement in Kansas has remained relatively flat over the last two decades even though school funding increased by more than \$3 billion. Testimony also showed numerous states get the same or better achievement results while spending less per-student than Kansas.

These facts underscore the testimony of at least two panelists. Dave Trabert, president of Kansas Policy Institute, said, "money obviously matters but it's how money is spent that makes the difference, not how much."

Dr. Walt Chappell, a former member of the Kansas State Board of Education, said, "...we are very much faced with a fact that spending more money will not improve learning outcomes or job skills without significant changes in how that money is spent plus more parental and community hands-on support for teachers."

Following Dr. Chappell's testimony, Commission member Mark Dodd said, "...everything goes directly to that point that it's not the formula. It is the lack of accountability. So it is where they're using money, not the distribution of money from the state, not the amount of money."

We also know from Mr. Trabert's testimony that "... local school boards and administrators alone... decide how and where money is spent. Sadly, there's no accountability on how money is spent."

The Kansas Department of Education's Accounting Manual emphasizes the importance of spending money wisely. It defines budget code 1000 Instruction as direct interaction between students and teachers, and says, "Although all other functions are important, this function acts as the most important part of the education program, the very foundation on which everything else is built. If this function fails to perform at the needed level, the whole educational program is doomed to failure regardless of how well the other functions perform."

Correcting the lack of accountability in how money is spent should be a high priority for legislators.