No. 13-109335

In the Supreme Court of the State of Kansas

Luke Gannon, *et al.*,

Plaintiffs-Appellees-Cross-Appellants,

v.

State of Kansas,

Defendant-Appellant-Cross-Appellee.

Appeal From Appointed Panel
Presiding in the District Court of Shawnee County, Kansas

Honorable Franklin R. Theis
Honorable Robert J. Fleming
Honorable Jack L. Burr

District Court Case No. 10C001569

BRIEF OF APPELLANT

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Oral Argument: One Hour

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NATURE OF THE CASE

This is an appeal from a judgment in a "school finance" case brought only against "the State" generally, rather than against any particular agency or official, by four school districts – U.S.D. 259 in Wichita, U.S.D. 308 in Hutchinson, U.S.D. 443 in Dodge City and U.S.D. 500 in Kansas City, Kansas. The Plaintiffs also include parents and students in the Plaintiff School Districts, although no evidence was presented about them at trial.

Plaintiffs asked a three-judge panel (the Panel), appointed under K.S.A. 72-64b03, to hold that the School District Finance and Quality Performance Act ("SDFQPA"), K.S.A. 72-6405, *et seq.,* and the State's associated primary and secondary education appropriations violate Article 6, § 6 of the Kansas Constitution. After a bench trial, the Panel rejected most of the Plaintiffs' claims and arguments, but concluded as follows: (1) the current *amount* of Base State Aid Per Pupil (BSAPP) provided under the SDFQPA is unconstitutional and (2) the failure to fully fund "equalization aid" in certain parts of the Act is unconstitutional.

Rather than giving the State an opportunity to consider appropriate remedies, the Panel ordered that the BSAPP be funded at $4492 for FY2014. The Order further permits the Plaintiffs (or the Panel on its own), to petition for relief if that amount is not appropriated for FY2014, and then adjusted upwards to account for inflation in FY 2015 and going forward. The Panel's Order also required, starting in FY 2014, full funding of supplemental state aid under K.S.A. 72-6434 and capital outlay state aid under K.S.A. 72-8801, *et seq.*

STATEMENT OF THE ISSUES

1. Do the Plaintiff Districts lack standing to assert an underfunding claim under Article 6, § 6 of the Kansas Constitution such that the Panel's judgment should be vacated and this case dismissed?

2. Does whether the Legislature has made "suitable provision for finance of the educational interests of the state" present a nonjusticiable question in the circumstances presented here, *i.e.*, where plaintiffs simply want more money such that the Panel's judgment should be vacated and this case dismissed?

3. Is the Panel's legal conclusion that present funding violates Article 6 erroneous because the Panel substituted its own judgment for the Legislature's presumed findings supporting their appropriations under the SDFQPA?

4. Are the "remedies" the Panel ordered beyond judicial authority as a matter of law?

STATEMENT OF FACTS

(a) School Spending In Kansas Is At Record Levels

For Fiscal Year 2013, the State appropriated $3.08 billion for primary and secondary education, which includes special education, general state aid, supplemental general state aid, discretionary grants, KPERS, pre-kindergarten, parent education and miscellaneous items. R. Vol. 11, p. 1346, ¶ 78 (citing R. Vol. 30, p. 2471; R. Vol. 108, pp. 8975-92). Since 2000, more than half of the State's "General Fund," which is about half of the State's total budget, has been going to primary and secondary public education. R. Vol. 11, p. 1347, ¶ 85 (citing R. Vol. 22, pp. 1119-20). Through 2012 Kansas House Substitute for Senate Bill No. 294, "general state aid" to education was increased $55 million over the previous year establishing the Base State Aid Per Pupil

("BSAPP") for 2012-13 at $3,838. R. Vol. 11, p. 1348, ¶¶ 86, 87 (citing R. Vol. 30, p. 2471; R. Vol. 33, pp. 3360-61).

However, primary and secondary public education is not funded alone by the state dollars. As a matter of state law, schools also are funded by local and federal monies. R. Vol. 11, pp. 1350-52, ¶¶ 97-104, p. 1426, ¶¶ 330-33 (citing R. Vol. 110, pp. 10781-97). The total expenditures in 2010-11 (state, local and federal) had only decreased by 1.4% since the "Great Recession" (1.36% in 2009-10 and .04% in 2010-11). R. Vol. 11, p. 1353, ¶ 107 (citing R. Vol. 115, pp. 15306-07). The most current local district spending data is from FY 2011 because FY2012 data was not available until after the trial and school year had ended. *See, e.g.*, R. Vol. 11, p. 1354, ¶ 11 (citing R. Vol. 33, p. 3380). As reported after the trial by the Kansas State Department of Education, FY2012 expenditures were $5,771,010,808, 3.3% higher than FY2011 and 1.8% higher than any time in Kansas history. In FY2013, BSAPP was raised $58 per pupil. R. Vol. 11, p. 1353, ¶ 106 (citing R. Vol. 33, pp. 3324, 3358-59). *See* Appendix A, pp. A1 – A11, "FY 2013 Legal Max" (KSDE), http://www.ksde.org/Portals/0/School%20Finance/data_warehouse/total_expenditures/d0Stateexp.pdf. Thus, spending on primary and secondary education in FY2013 should set a new record for Kansas. R. Vol. 11, p. 1353, ¶ 106.

(b) Actual Spending On And By Schools Exceeds The Panel's Target For Adequate Funding

Provision is made through the SDFQPA to provide finance to local school districts from "State Financial Aid" and "Local Option Budgets." When both are considered, local school districts were provided about **one half billion dollars more** than what the Panel found was the proper remedy to assure the foundation education funding required by Article 6 of the Kansas Constitution.

"State Financial Aid" is the term of art employed to describe the sum each district receives each fiscal year for operational costs under the SDFQPA. State Financial Aid equals "Base State Aid Per Pupil" ("BSAPP"), K.S.A. 2012 Supp. 72-6410(b), times "Adjusted Enrollment." K.S.A. 2012 Supp. 72-6410(a). Weighting multipliers are applied to districts' actual enrollment to calculate the "Adjusted Enrollment." K.S.A. 2011 Supp. 72-6407, -6412, -6413, -6414, -6414a, -6414b, -6421, -6449. *See* Appendix B, pp. A15-A27, "School District Finance and Quality Performance Act and Bond and Interest State Aid Program" (Kansas Legislative Research, 2012-2013 ed.), for a detailed description of these factors.

In addition to State Financial Aid funding, the SDFQPA provides that a local school district board may approve a Local Option Budget ("LOB") spending in an amount up to 30.0 percent (and an additional 1.0 percent, subject to approval of the voters) of its State Financial Aid in the current school year or as calculated with a $4,433 BSAPP. K.S.A. 2012 Supp. 72-6433, -6433d [Appendix F, pp. A118 – A121]. The LOB is funded by local ad valorem tax assessments levied upon the real estate and personal property within each local school district. The State provides assistance to districts with relatively low per student assessed valuations by funding a portion of the LOB, called the Supplemental General State Fund. K.S.A. 2012 Supp. 72-6434 [Appendix F, p. A122 – A123].

Despite the availability of state equalization aid, which substantially diminishes the effects of wealth disparities among districts, nearly all districts elected not to raise all the local revenue they could, deciding not to levy the full amounts authorized by law. R. Vol. 11, pp. 1428-29, ¶¶ 337-40. If the districts had set their levies at 8 mills, there

would have been an additional $92 million for capital outlay for the 2010-11 school year alone. R. Vol. 11, p. 1428, ¶ 337 (citing R. Vol. 115, pp. 15334-35). Thus, although the Plaintiff Districts argue for more money, the evidence in the record shows that the Districts have failed to make use of all options available to them under current state law to maximize their funding, including appropriation acts which provide state equalization aid for LOB.

The Panel ordered that State Financial Aid funding should be calculated using a $4,492 BSAPP. Processed through the SDFQPA finance formula, the difference between the FY2013 BSAPP of $3,838 and the BSAPP ordered by the Panel establishes the dollars the State is supposedly short of adequate funding. Applying the $4,492 BSAPP to the FY2013 weighted student enrollments, the increased state funding ordered by the Panel for FY2014 is approximately $500 million. See Appendix C, p. A38, for the calculation. However, the total of all districts' FY2013 LOBs was $995,792,745. Thus, if just the LOB is considered as part of the "suitable provision for the finance" of schools under Article 6, the actual spending on education already is about one half billion dollars *more* than the Panel found was necessary to constitutionally fund Kansas public schools.

(c) Operational Expenditures Approximate Estimated Required Foundation Funding

(1) Cost Studies

Responding to *Montoy*, in May of 2005, the Legislature directed the Legislative Division of Post Audit to "determine the costs of delivering the kindergarten and grades one through 12 curriculum, related services and other programs mandated by state statute in accredited schools." *Montoy v. State ("Montoy III"),* 279 Kan. 817, 821, 112 P.3d 923 (2005).

The LPA Study reported two approaches to calculate both total required funding and proper distribution of funding foundation education. R. Vol. 11, p. 1340, ¶ 56. The inputs part of the study produced cost estimates resulting in a range of proposed BSAPPs. R. Vol. 11, p. 1340, ¶ 56 (citing R. Vol. 70, p. 3948). The inputs methodology did not include school finance weighting factors; funding weightings significantly increase per pupil revenue to local districts. *Id.*; R. Vol. 11, p. 1350, ¶¶ 92-96 (citing R. Vol. 109, pp. 10430-40). For example, application of the weights provided U.S.D. 259, Wichita, approximately $147 million more in FY2013, nearly twice, the pre-weighted sum. Appendix C, p. A39.

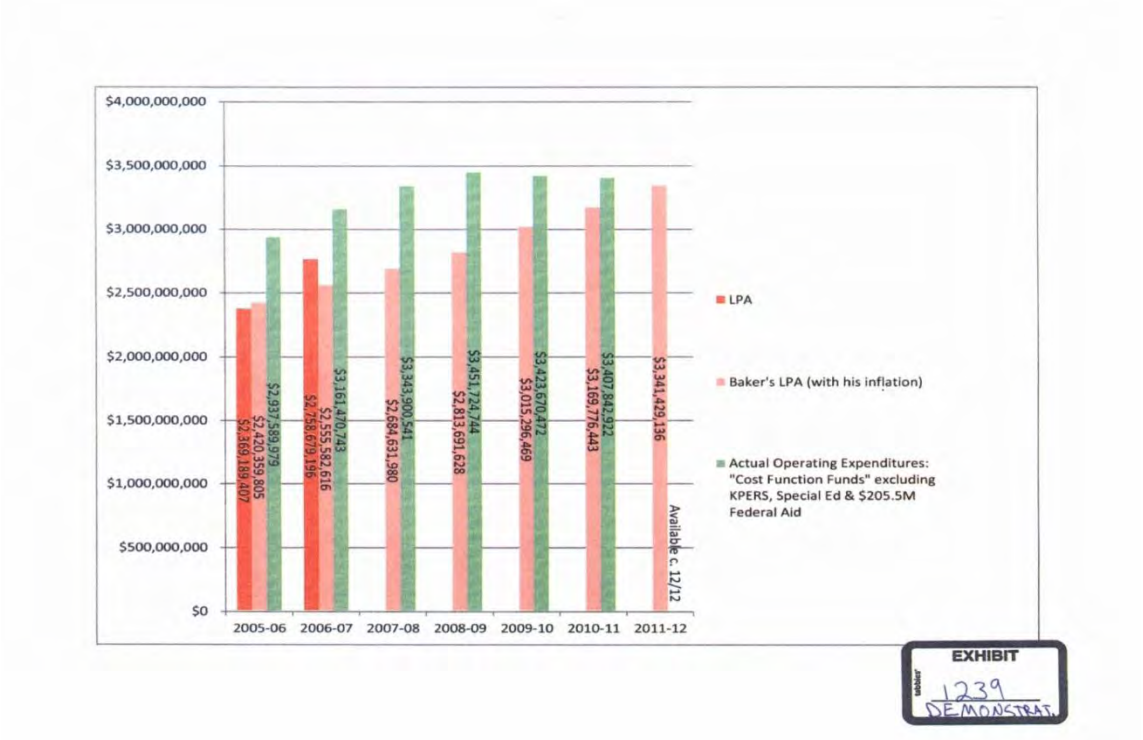
The LPA Study's second approach employed a statistical "cost function" analysis in an attempt to determine the required level of "foundation education funding," in addition to determining any changes to the funding formula's weightings needed to achieve the desired educational "outputs." R. Vol. 11, p. 1340, ¶ 56 (citing R. Vol. 70, pp. 3999-4000; 4074-75). These "outputs" were tied to annual yearly progress ("AYP") and graduation requirements adopted to satisfy requirements in the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301, *et seq*. R. Vol. 11, p. 1340, ¶ 56, p. 1357, ¶119; R. Vol. 27, pp. 1998-2000; R. Vol. 70, pp. 3960-61, 4054-55. The data used to correlate cost to achieve test scores (the largest part of the outputs) applied to testing done on the now twice-replaced Kansas education standards which had been in place before 2006. *Id.*; R. Vol. 31, pp. 2683-84, 2701-03.

(2) Actual Expenditures Are Greater Than The LPA Study's "Operational Expenditures"

The districts' spending ("cost data"), used by the LPA to calculate what it believed had to be spent to achieve the desired outputs, included only certain categories

of overall spending on primary and secondary public education. R. Vol. 11, p. 1358, ¶¶ 122-24. Those categories were selected because of their purported impact on student achievement. R. Vol. 11, p. 1354, ¶ 110 (citing R. Vol. 70, p. 3999). At trial, the expenditures in these categories were called "operational expenditures." R. Vol. 11, p. 1354, ¶ 110 (citing R. Vol. 115, pp. 15318-19). Ultimately, the LPA Study estimated the BSAPP and weightings needed to fund local districts' operational expenditures. R. Vol. 11, p. 1354, ¶ 110 (citing R. Vol. 70, p. 4000). The LPA Study did not draw a distinction between whether the operational expenditures were funded by federal, state or local money. R. Vol. 11, p. 1357, ¶ 119 (citing R. Vol. 27, p. 2018).

Considering *all* funds spent by or on K-12 schools, districts' operational expenditures ***actually were greater*** than the LPA study recommended, even when adjusted for inflation. See below ["Baker's LPA" is an estimate by Plaintiffs' Expert of the funding the LPA study suggested with inflation added.]



R. Vol. 11, pp. 1359-61, ¶¶ 129-33 (citing R. Vol. 33, pp. 3319, 3384-98; R. Vol. 109, pp. 10237-44, pp. 10347-430; R. Vol. 115, pp. 15500-05).

(d) Overall Spending Has Increased Even As BSAPP Has Decreased.

The BSAPP was set for FY2013 at $4,492, subject to "reduction" if the amount of the annual appropriation for general state aid so required. K.S.A. 72-6410(b)(2). Since 2009, annual appropriations produced BSAPPs below $4,492, R. Vol. 78, pp. 5287-91; R. Vol. 79, p. 5389, but LOB funding has increased. R. Vol. 109, pp. 10332-1040.

In finding the schools were underfunded, the Panel ignored increased LOB funding and federal dollars obtained and spent by schools. R. Vol. 14, pp. 1818-38. The Panel instead adopted Plaintiffs' legal argument that LOB funds do not count for Article 6, § 6 purposes. As a result, the Panel's focus on reductions to BSAPP artificially and significantly understates the funding actually available to local school districts. In fact, (a) Kansas primary and secondary public schools are spending at record levels with all sources of revenue considered; (b) the available funding exceeds what the Panel found was necessary to fund Kansas public schools for Article 6 purposes; and (c) operational spending approximates the funding suggested by the LPA. R. Vol. 11, pp. 1353-61; ¶¶ 106-34.

True, there has been some shifting in sources of revenue necessary to reach the funding targets of both the LPA Study and "Calculation of the Cost of a Suitable Education in Kansas in 2000-2001 Using Two Different Approaches" (May 2002) ("A&M Study"). *See* R. Vol. 14, pp. 1821-26. But even the Panel's findings recognize that the State satisfied an adequacy requirement on the basis of "actual costs" when all revenue is considered. The Panel stated that it rejected the State's position "on a basis of

either costs [when only revenue from the State is considered] or equity [when all revenue is considered]." R. Vol. 14, p. 1868 (emphasis supplied).

(e) Many School Districts In Kansas Have Untapped Resources And Unspent Reserves That Can Be Considered Part Of Their Overall Funding

While Kansas law allows local districts to levy a tax which, along with equalization aid, will result in an LOB up to 30% without election, many districts have utilized an LOB less than the statutory authorization. For example, Hutchison's LOB for FY2013 was 26.7%. R. Vol. 11, p. 1428, ¶ 339 (citing R. Vol. 32, p. 2999).

Local school boards also have discretion to raise a capital outlay mill levy up to 8 mills without holding an election, subject to protest. R. Vol. 11, p. 1426, ¶333 (citing R. Vol. 21, p. 521). In addition, districts can transfer LOB revenue over 25% to capital outlay, R. Vol. 11, p. 1426, ¶ 334 (citing R. Vol. 23, p. 1090), so that some of the LOB revenue can be used for capital improvements. *Id*. By contrast, while the districts can transfer funds into capital outlay, they cannot transfer funds out of capital outlay. *Id*.

In addition, although the Plaintiff Districts argue for more money, the evidence in the record shows that the Districts have been holding onto substantial amounts of unspent funds. R. Vol. 11, p. 1429, ¶ 341 (citing R. Vol. 33, pp. 3372-73). Statewide for all districts, the cash balances have increased from $1.16 billion in 2006 to $1.71 billion in 2011. R. Vol. 11, p. 1429, ¶ 342 (citing R. Vol. 115, pp. 15338-39). Wichita's cash balance increased from $128.9 million in 2006 to $155.7 million in 2011. R. Vol. 11, p. 1429, ¶ 342 (citing R. Vol. 115, pp. 15342-43). Hutchinson's cash balance increased from $16.3 million in 2006 to $25.4 million in 2011. R. Vol. 11, p. 1429, ¶ 342 (citing R. Vol. 115, pp. 15340-41). From July 1, 2010 to July 1, 2011 alone, Hutchinson's cash

balance increased 17.2% ($4.4 million). R. Vol. 11, p. 1429, ¶ 342 (citing R. Vol. 110, pp. 11634). Dodge City's cash balance increased from $10.9 million in 2006 to $19 million in 2011, R. Vol. 11, p. 1429, ¶ 342 (citing R. Vol. 115, pp. 15344-45, 13.3% ($2.5 million) from July 1, 2010 to July 1, 2011. R. Vol. 11, p. 1429, ¶ 342 (citing R. Vol. 110, p. 11634). Kansas City's cash balance increased from $55 million in 2006 to $95.7 million in 2011. R. Vol. 11, p. 1429, ¶ 342 (citing R. Vol. 115, pp. 15346-47), and 5.5% ($5.3 million) from July 1, 2010 to July 1, 2011. R. Vol. 11, p. 1429, ¶ 342 (citing R. Vol. 110, p. 11634).

These cash balances are in several funds. R. Vol. 11, p. 1429, ¶ 343 (citing R. Vol. 31, pp. 2825-56). For example, in Wichita, there was $276,344 in the unencumbered cash balance fund for professional development at the end of the 2011-12 school year. R. Vol. 11, p. 1429, ¶ 343 (citing R. Vol. 73, p. 4397). In 2011, the Legislature authorized districts to transfer funds, thus allowing them additional usable operational funds. R. Vol. 11, p. 1338, ¶¶ 50-51 (citing R. Vol. 23, p. 1093).

(f) Funding Is Adequate To Meet Rigorous Accreditation Requirements

There was no evidence that any local district is unable, because of lack of funds, to satisfy rigorous accreditation requirements implemented after *Montoy*. R. Vol. 11, p. 1371, ¶ 155. All primary and secondary public schools in Kansas are accredited. R. Vol. 11, p. 1371, ¶ 162 (citing R. Vol. 23, p. 1075; R. Vol. 27, p. 2124; R. Vol. 112, pp. 12765-833). There was no showing that current accreditation standards are inadequate. R. Vol. 11, p. 1331, ¶ 22.

Kansas accredits K-12 schools according to administrative regulations, known as Quality Performance Accreditation ("QPA"). R. Vol. 11, p. 1331, ¶ 22 (citing R. Vol.

111, pp. 12351-53). A school is assigned its accreditation status annually based upon performance and quality criteria. R. Vol. 11, p. 1331, ¶ 23 (citing R. Vol. 111, pp. 12351-53). QPA performance criteria are based upon student performance and participation related to state assessments, elementary attendance rate and high school graduation rate. R. Vol. 11, pp. 1331-32, ¶ 25 (citing R. Vol. 111, p. 12351-53). QPA quality criteria are based upon eleven specific processes, programs, and policies that are required to be in place in each school, as follows:

> (1) a school improvement plan that includes a results-based staff development plan;
>
> (2) an external technical assistance team;
>
> (3) locally determined assessments that are aligned with the state standards;
>
> (4) formal training for teachers regarding the state assessments and curriculum standards;
>
> (5) 100% of the teachers assigned to teach in those areas assessed by the state or described as core academic areas by the United States Department of Education, and 95% or more of all other faculty, must be fully certified for the positions they hold;
>
> (6) policies that meet the requirements of regulations regarding substitute teachers, minimum enrollment, student credit, records retention, and interscholastic athletics;
>
> (7) local graduation requirements that include at least those requirements imposed by the KSDE;
>
> (8) a curriculum that allows each student to meet the Board of Regents qualified admissions requirements and the State scholarship program;
>
> (9) programs and services to support student learning and growth at both the elementary and secondary level;
>
> (10) specified programs and services to provide equal access to support student learning and growth; and

(11) local policies ensuring compliance with other accreditation regulations and State laws.

R. Vol. 11, pp. 1332-33, ¶ 27 (citing R. Vol. 111, pp. 12,351-53).

Every year, each school district submits a QPA summary report to the Kansas State Department of Education ("KSDE") in which each school district provides written assurances to the KSDE that it has fully satisfied the QPA performance and quality criteria. R. Vol. 11, p. 1333, ¶ 29 (citing R. Vol. 27, pp. 2126-27). The KSDE also independently audits licensed personnel reports from the school districts for compliance with that quality criteria. R. Vol. 11, p. 1333, ¶ 30 (citing R. Vol. 27, pp. 2128-89).

(g) The Kansas NCLB Waiver And Recently Adopted Standards Reflect High Academic Standards That Are Objective and Measurable

In October of 2011, the U.S. Department of Education invited states to apply for a waiver of the specific requirements of the current Elementary and Secondary Education Act (ESEA) known as the No Child Left Behind Act of 2001 ("NCLB"), 20 U.S.C. §§ 6301, *et seq.* R. Vol. 11, p. 1341, ¶ 57 (citing R. Vol. 116, pp. 15898-90). The Kansas ESEA Flexibility Request ("Waiver") was approved in July 2012 during trial. R. Vol. 11, p. 1341, ¶ 58 (citing R. Vol. 116, p. 15890). The KSDE is in the process of refining the QPA regulations in light of the Waiver. *Id*.

The Waiver addressed state standards. R. Vol. 11, p. 1342, ¶ 59 (citing R. Vol. 116, pp. 15932-33). A new set of educational quality standards, known as Common Core Standards ("CCS"), had been adopted by the State Board of Education ("Board") on October 12, 2010. R. Vol. 11, p. 1372, ¶ 165 (citing R. Vol. 116, p. 15933). Use of the CCS was approved in the Waiver. R. Vol. 11, p. 1344, ¶ 71 (citing R. Vol. 116, p. 15958).

The CCS adopts high academic requirements. *Id*.. The CCS is aligned to provide students with the required knowledge and skills to be "college or career ready" upon graduation. R. Vol. 11, p. 1372, ¶ 165 (citing R. Vol. 27, p. 2084). It is benchmarked so that students can be successful in either post-secondary education or with businesses and industry. R. Vol. 11, p. 1372, ¶ 165 (citing R. Vol. 116, p. 15936).

The Waiver implements a multi-dimensional (four-part) look at student performance, in contrast to NCLB's single focus on assessment test scores. R. Vol. 11, p. 1342, ¶61 (citing R. Vol. 115, p. 15608-09). The **first** look is achievement, still measured by math and reading scores on the Kansas assessment tests. *Id.* However, while test scores continue as part of measuring student performance, the Annual Yearly Progress ("AYP") targets from NCLB for standardized test results are replaced by an index, the Annual Performance Index ("API"). R. Vol. 11, p. 1342, ¶ 62 (citing R. Vol. 115, pp. 15608-09; R. Vol. 116, pp. 15901-09). Growth is the **second** look, which is measured by improvement of test scores. R. Vol. 11, pp. 1342-43, ¶¶ 61, 63 (citing R. Vol. 115, p. 15608; R. Vol. 116, pp. 15910-11). Reduction of the gap between the students that score the highest and lowest on the tests is the **third** look. R. Vol. 11, pp. 1342-43, ¶¶ 61, 64 (citing R. Vol. 115, p. 15608; R. Vol. 116, pp. 15912-13). Reduction of the number of students below standard is the last look. R. Vol. 11, pp. 1342-43, ¶¶ 61, 65 (citing R. Vol. 115, p. 15608; R. Vol. 116, pp. 15913-14). Thus, under the Waiver, progress based upon multiple Annual Measurable Objectives ("AMOs") replaces AYP performance targets for schools and local districts. R. Vol. 11, pp. 1342-43, ¶¶ 62-68 (citing R. Vol. 115, pp. 15608-09; R. Vol. 116, pp. 15901-17, 15921-31).

The Kansas assessment tests are designed to test required knowledge and skills outlined in standards adopted by the Board. R. Vol. 11, p. 1388, ¶ 198 (citing R. Vol. 31, p. 2703. The tests are designed and vetted by several experts and by committees representing interest groups and then piloted for further review, study, approval and designation of cut scores, *e.g.,* the "meets standard" score. R. Vol. 11, pp. 1388-89, ¶¶ 198-209 (citing R. Vol. 31, pp. 2683-87, 2703). Finally, the tests are submitted for federal peer review and certification of the tests. R. Vol. 11, p. 1389, ¶ 206 (citing R. Vol. 31, pp. 2684-85). The currently administered Kansas assessment tests have been in place since 2006 and after the district court's opinion in *Montoy*. R. Vol. 11, p. 1388, ¶ 199 (citing R. Vol. 31, pp. 2683-84).

The Kansas assessment tests are currently being redesigned because of the adoption of the CCS. R. Vol. 11, p. 1391, ¶ 218 (citing R. Vol. 31, p. 2707). The redesign started in 2011. *Id*. The new tests will go through the same design, vetting and approval process as previous tests. R. Vol. 11, pp. 1391-92, ¶ 220 (citing R. Vol. 31, pp. 2708-09). The testing on the CCS will be piloted in the 2013-14 school year. R. Vol. 11, pp. 1372-73, ¶ 166 (citing R. Vol. 27, p. 2114). Full implementation is expected to occur in 2014-15. *Id*.; R. Vol. 11. pp. 1391-92, ¶ 220 (citing R. Vol. 31, p. 2708).

Now, since the Waiver, schools will no longer be designated as for "improvement," "corrective action" or "restructuring" under NCLB. R. Vol. 11, p. 1343, ¶ 67 (citing R. Vol. 116, p. 15921). This allows Kansas direct federal assistance to "priority schools," the lowest 5% achieving schools over the past 5 years, and "focus schools," 10% of schools with the largest standardized testing gaps between student scores over the last five years. R. Vol. 11, p. 1343, ¶ 67 (citing R. Vol. 116, pp. 15921-

31). Doing so provides Kansas with greater flexibility to direct federal aid where it can be best put to use. *Id*.

The Waiver also addressed support to assure students are being instructed by "highly effective teachers," as defined by federal law. R. Vol. 11, p. 1344, ¶ 69 (citing R. Vol. 116, pp. 15948-53). In its waiver request, Kansas committed to having a model evaluation system that districts can use to review teacher performance. *Id*. A component of the model will take into account how well the teacher's students are achieving. *Id*. Kansas has been piloting the Kansas Educator Evaluation Protocol ("KEEP"), developed by the KSDE and a consultant. *Id*. The Teaching in Kansas Commission II was formed to recommend how student achievement will be integrated into KEEP. *Id*.

KSDE Commissioner Dr. Diane DeBacker testified that the student performance criteria, AMOs, are achievable. R. Vol. 11, p. 1343, ¶ 66 (citing R. Vol. 116, pp. 15916-17, 15969). No evidence was presented that Kansas schools will be unable to successfully meet the AMOs under current funding levels. R. Vol. 11, p. 1343, ¶ 68.

While the Panel accepted general, opinion testimony that districts were confronted with increased economic demands, it made no finding quantifying the increase or its impact on whether any single district, including the Plaintiff Districts, could meet accreditation requirements. R. Vol. 14, pp. 1775-76, 1785-88, 1792-93. No evidence was presented that tended to establish a range or dollar amount of the alleged increase in costs to either any local district or state-wide. R. Vol. 11, pp. 1363-67, ¶ 139. In fact, no evidence was presented on whether adoption of CCS or other parts of the Waiver will cause districts to incur expense significantly beyond already budgeted, planned expense for replacement of class room materials or professional development.

R. Vol. 11, p. 1345, ¶¶ 73-74; R. Vol. 20, p. 453; R. Vol. 26, p. 1803; R. Vol. 11, p. 1345, ¶ 74; R. Vol. 11, p. 1373, ¶ 167; *see generally* R. Vol. 108, p. 9595 – R. Vol. 109, p. 9765)

After the trial, the LPA completed and published a study entitled "K-12 Education: Estimating Potential Costs Related to Implementing the No Child Left Behind Waiver in Kansas," dated December 2012. The study concluded that districts are likely to incur only between $2 million and $10 million in real (additional expense above currently budgeted funds) or opportunity (other professional training deferred or replaced) costs to implement the Waiver in FY2013 and $32 million to $60 million in real or opportunity costs over the next five years. See Appendix D, excerpts from the report, at p. A58, published at LPA Website at http://www.kslpa.org/docs/reports/r-12-017.pdf.

(h) Kansas Schools Have Been Successful Meeting Accreditation Requirements At Present Funding Levels

Kansas students do well on the accountability measures presently in place and have been improving on the tests over the years. R. Vol. 11, p. 1392, ¶ 221 (citing R. Vol. 31, pp. 2716-17, 2727; R. Vol. 111, pp. 12479, 12503). Since the enactment of NCLB, Kansas schools have made significant progress in advancing students not only across the proficiency line, but into the highest performance levels and across all levels of the spectrum of the test. R. Vol. 11, p. 1392, ¶ 222 (citing R. Vol. 31, pp. 2721-23; R. Vol. 111, p. 12484, 12495; R. Vol. 115, p. 15380-81, pp. 15390-91). Kansas students' proficiency on assessment tests **has increased 40% over the last decade and now exceeds 80% at each level**. R. Vol. 11, pp. 1402-03, ¶ 250 (citing R. Vol. 58, p. 2735).

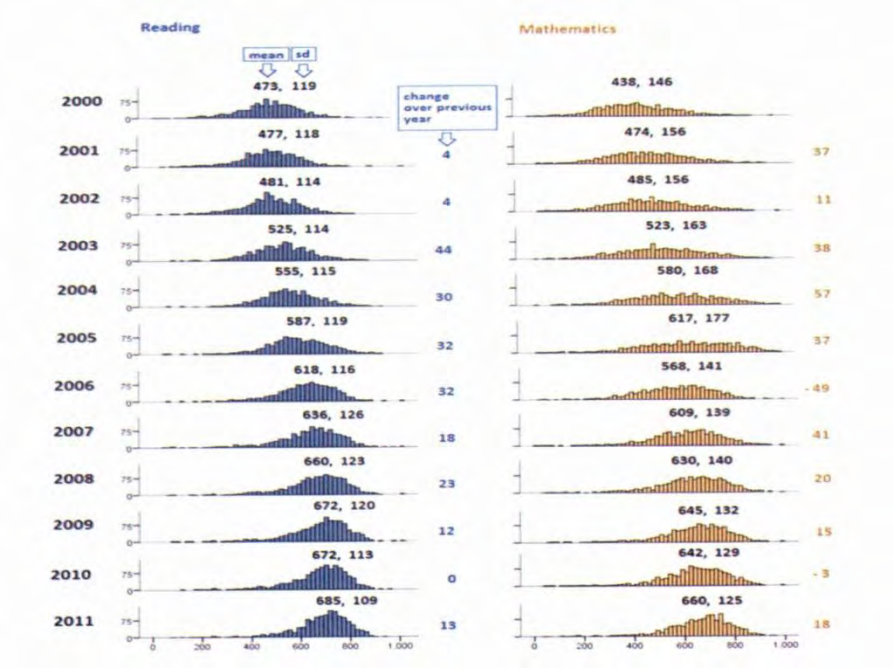
From 2003 to 2011, the State has seen improvement on state assessment test scores for the all students group in math and reading. R. Vol. 11, p. 1392, ¶ 223. Preliminary data presented at trial showed continued general improvement last year, *i.e.,* 2011-2012. R. Vol. 11, p. 1392, ¶ 223 (citing R. Vol. 115-16, pp. 12454-713). Math scores for all students increased from 73.5% proficient in 2003 to 87.6% in 2011 for 4th grade; increased from 60% proficient in 2003 to 81.6% in 2011 for 7th grade; and increased from 45.6% proficient in 2003 to 81.5% in 2011 for 11th grade. R. Vol. 11, p. 1392, ¶ 223 (citing R. Vol. 115, pp. 15348-49, 15378-79, 15392-93). Reading scores for all students increased from 68.7% proficient in 2003 to 86.7% in 2011 for 5th grade; increased from 75.1% proficient in 2003 to 87.1% in 2011 for 8th grade; and increased from 60.6% in 2003 to 88.3% in 2011 for 11th grade. *Id*.

Additionally, the State has seen improvement from 2003, when *Montoy* was tried, to 2011 on state assessment test scores in math and reading for its "free and reduced lunch" students. Preliminary data presented at trial showed continued general improvement last year, *i.e.,* 2011-12. R. Vol. 11, p. 1393, ¶ 224 (citing R. Vol. 115-16, pp. 12454-713). Even among the "free and reduced lunch students," math scores increased from 61.1% proficient in 2003 to 81.9% in 2011 for 4th grade; increased from 40.7% proficient in 2003 to 72.1% in 2011 for 7th grade; and increased from 25.8% proficient in 2003 to 69.9% in 2011 for 11th grade. R. Vol. 11, pp. 1393, ¶ 224 (citing R. Vol. 115, pp. 15348-49). Reading scores increased from 55.1% proficient in 2003 to 79.8% in 2011 for 5th grade; increased from 70.5% proficient in 2003 to 78.9% in 2011 for 8th grade; and increased from 42.9% proficient in 2003 to 80% in 2011 for 11th grade. *Id*.

"Gap" is a term used to describe the difference in scores on assessment tests between groups of students, usually between non-free or reduced lunch white students and the other groups, *e.g.*, Hispanic or African American. R. Vol. 11, p. 1396, ¶ 230 (citing R. Vol. 31, p. 2733). Achievement gaps have always existed and are a national problem. R. Vol. 11, p. 1396, ¶ 231 (citing R. Vol. 28, p. 2123; R. Vol. 25, pp. 1524-26). There has not been a school district anywhere which has been able to fully close the gaps. *Id*. Social and family background factors influence achievement gaps. *Id*.

However, Kansas has made progress in narrowing achievement gaps. R. Vol. 11, p. 1396, ¶ 232. For example, in 2006 every major subgroup was below 65 percent proficient in math. By 2011, **every group was above 65 percent and had an average increase of 15 percentage points from 2006**. R. Vol. 11, p. 1396, ¶ 232 (citing R. Vol, 58, p. 2734-49; R. Vol. 23, p. 1127; R. Vol. 27, p. 2120). In 2006 every major subgroup was below 70 percent proficient in reading. By 2011, **every group was above 70 percent and had increased at least 10 percentage points from 2006**. *Id*.

When measured against the new API: (1) Kansas test scores within every performance category have **increased** from 2000 and (2) the gap between the lowest performing students and highest performing students **has narrowed**. R. Vol. 11, pp. 1402-03, ¶ 250 (citing R. Vol. 115, p. 15608-09). The API graphs, in trial exhibit 1300 [below], show Kansas math and reading assessment test score distributions starting in 2000 through 2011. *Id*. Rightward movement demonstrates improvement on test scores across all categories. *Id*. The clustering proves the gap between students who score the lowest on the tests and students who score the highest is narrowing. *Id*.



The National Assessment of Educational Progress ("NAEP") administers nationwide assessments to try to determine progress students are making over time. R. Vol. 11, p. 1404, ¶ 252 (citing R. Vol. 31, pp. 2673-74). It is often called the Nation's Report Card. R. Vol. 11, p. 1404, ¶ 252. Because each state uses different assessment tests, scores on the NAEP tests are the only way to judge how Kansas schools are performing compared to other states. R. Vol. 11, p. 1405, ¶ 255 (citing R. Vol. 28, pp. 2214-15). For the years 2003, 2005, 2007, 2009 and 2011, Kansas test scores on the NAEP are higher than the national average, and the scores have also generally improved over those years. R. Vol. 11, p. 1407, ¶ 261 (citing R. Vol. 115, pp. 15394-95).

- Kansas ranked 7th in the Nation on the 2011 NAEP 4th grade math test for all students. R. Vol. 11, p. 1407, ¶ 262 (citing R. Vol. 114, p. 14562).

- Kansas ranked 11th in the Nation on the 2011 NAEP 8th grade math test for all students. R. Vol. 11, p. 1407, ¶ 263 (citing R. Vol. 114, p. 14563).

- Kansas ranked 4th in the Nation on the 2011 NAEP 4th grade math test for free and reduced lunch students. R. Vol. 11, p. 1407, ¶ 264 (citing R. Vol. 114, p. 14564).

- Kansas ranked 8th in the Nation on the 2011 NAEP 8th grade math test for free and reduced lunch students. R. Vol. 11, p. 1407, ¶ 265 (citing R. Vol. 114, p. 14565).

- Kansas ranked 14th in the Nation on the 2011 NAEP 4th grade reading test for all students. R. Vol. 11, p. 1407, ¶ 266 (citing R. Vol. 114, p. 14566).

- Kansas ranked 20th in the Nation on the 2011 NAEP 8th grade reading test for all students. R. Vol. 11, p. 1407, ¶ 267 (citing R. Vol. 114, p. 14567).

- Kansas ranked 13th in the Nation on the 2011 NAEP 4th grade reading test for free and reduced lunch students. R. Vol. 11, p. 1407, ¶ 268 (citing R. Vol. 114, p. 14568).

- Kansas ranked 13th on the 2011 NAEP 8th grade reading test for free and reduced lunch students. R. Vol. 11, p. 1407, ¶ 269 (citing R. Vol. 114, p. 14569).

Kansas does even better in statewide comparisons with at-risk students. R. Vol. 11, p. 1407, ¶ 270 (citing R. Vol. 28, p. 2217). Kansas students rank in the top for all students and for low-income students, who traditionally have had lower academic performance. R. Vol. 11, p. 1410, ¶ 280 (citing R. Vol. 23, pp. 1126). The poverty students in Kansas are 4th in the Nation in terms of performance compared to other states. R. Vol. 11, p. 1407, ¶ 270 (citing R. Vol. 28, p. 2217). In January 2012, the Kansas Association of School Boards ranked Kansas public education in the top 10 of all states in the all student and free and reduced lunch categories for reading and math, based on NAEP scores for the past several years, R. Vol. 11, pp. 1409-10, ¶ 278 (citing R. Vol. 23, pp. 1127-28; R. Vol. 58, pp. 2734-49), finding that Kansas school districts produced these top 10 results with per pupil spending near the national average. *Id.*

Kansas schools are preparing more students for college than in the past. R. Vol. 23, pp. 1127-28; R. Vol. 58, pp. 2734-49. Kansas scores for college-bound students rank in the top 10 of all states and have improved over the past 15 years. *Id*. While, ACT

Benchmarks are different than the Kansas standards currently in place and thus are not designed for comparison with the Kansas standards, Kansas has a higher percentage of students who meet the ACT College Readiness Benchmarks ("Benchmarks") than the national average. R. Vol. 11, pp. 1411-12, ¶¶ 287-88 (citing R. Vol. 45, pp. 1162-77; R. Vol. 64, pp. 3287-311).

(i) Districts Are Not Required To Impose Higher Taxes To Fund Their LOBs

Local school boards decide how much LOB to levy and how it will be spent on operations of the district. R. Vol. 11, p. 1426, ¶ 330 (citing R. Vol. 30, pp. 2566-67; R. Vol. 32, pp. 3174-76). Taxation at the local level places some accountability and control over efficiency and effectiveness of spending with local school boards. R. Vol. 11, p. 1421, ¶ 311; *see, e.g.*, R. Vol. 30, p. 2569; R. Vol. 21, pp. 490-93; R. Vol. 32, p. 3175. Local school boards make tax decisions, such as how much LOB to levy, having been advised on the district's financial needs and how their students are performing generally, including on the state assessment tests. R. Vol. 11, p. 1421, ¶ 312, p. 1426, ¶330 (citing R. Vol. 21, pp. 513-14; R. Vol. 32, p. 3174-76; R. Vol. 30, pp. 2566-67).

The mills levied reflect the LOB cost to local taxpayers. R. Vol. 11, p. 1422, ¶ 315. In 2011-12, the mills levied by school districts were generally distributed between 40 and 60 mills, an approximate 16 mill swing among the middle 90% of the districts. R. Vol. 11, p. 1422, ¶ 317 (citing R. Vol. 111, pp. 12079-86). The U.S.D. actual total levies for the Plaintiff Districts were: 57.01 for Wichita, 57.17 for Hutchison, 60.73 for Dodge City and 60.26 for KCK. *Id*.

There is no correlation between lower levies in districts with higher assessed property values. R. Vol. 11, pp. 1422-23, ¶ 318 (citing R. Vol. 111, pp. 12079-86). For

example, the suburban districts around Wichita and Kansas City have almost uniformly higher property tax mill levies, requiring their taxpayers to pay more than the Wichita or KCK taxpayers. *Id*. In Wyandotte County, the Turner and Bonner Springs Districts each have higher mill levies than KCK, 68.459 and 64.108, respectively, compared to 60.26 for KCK. R. Vol. 11, pp. 1422-23, ¶¶ 317-18 (citing R. Vol. 111, pp. 12079-86). In Johnson County, the mill levies are 72.828 for Blue Valley, 65.392 for Spring Hill, 82.595 for Gardner- Edgerton, 82.558 for De Soto, 69.924 for Olathe, and 56.135 for Shawnee Mission. R. Vol. 11, pp. 1422-23, ¶ 318 (citing R. Vol. 111, pp. 12079-86). In Sedgwick County, Derby (63.121), Haysville (60.024), Clearwater (59.598), Goddard (70.072), Mulvane (57.845), Renwick (63.496) and Cheney (61.940) all have higher actual levies than the Wichita School District. *Id*.

(j) There Is No Evidence (And the Panel Made No Finding) That Less Than Full Funding Of Supplemental State Aid Has Created Unequal Educational Opportunities

The LOB is funded by a mixture of local and state funds. R. Vol. 11, pp. 1348-49, ¶ 89, pp. 1421-22, ¶¶ 312-13. Local districts with assessed property values per pupil below the 81.2 percentile receive "Supplemental State Aid." R. Vol. 11, pp. 1348-49, ¶ 89, pp. 1421-22, ¶ 313 (citing R. Vol. 33, pp. 3346, 3362). *See also*, K.S.A. 2012 Supp. 72-6434. The aid is provided on a sliding scale depending on where the district fits in the spectrum – no state money is provided to districts in the top 19.8%; less state money is provided to districts near the top; sliding down to more state money being provided to those at the bottom. *Id*. In theory, all districts are afforded the ability to raise the same LOB revenue, by combination of local taxes and Supplemental State Aid, as the hypothetical district at the 81.2 percentile. See R. Vol. 11, p. 1422, ¶ 316.

2012 Senate Bill 294 appropriated $339,212,000.00 million for Supplemental State Aid. R. Vol. 11, pp. 1348-49, ¶ 89 (citing R. Vol. 33, pp. 3361-63). The appropriation resulted in a *pro rata* reduction in the aid across the eligible districts so that, approximately 80% of the Supplemental State Aid will be paid in 2012-13, leaving districts under the 81.2 percentile to raise the difference with local taxes if they so choose. R. Vol. 11, pp. 1421-22, ¶ 313 (citing R. Vol. 33, pp. 3346, 3362).

The Panel accepted testimony that school districts whose property valuations are lower than the 81.2 percentile are required to levy more mills to replace the pro rata reductions in Supplemental State Aid. R. Vol. 14, pp. 1840-45. However, no evidence was presented that any of the Plaintiff Districts or any other district is unable to provide the opportunity for basic public education described in the State's education standards and accreditation regulations because it is unable to raise its LOB mill levy and the Panel made no such finding. *See* R. Vol. 11, p. 1422, ¶ 314.

(k) There Is No Evidence (And the Panel Made No Finding) That Less Than Full Funding of Capital Outlay State Aid Has Created Unequal Educational Opportunities

No evidence was presented that the Plaintiff Districts were unable to provide the education required under Kansas accreditation regulations and statutes because they lacked capital outlay funding. R. Vol. 11, p. 1430, ¶ 344. The Panel made no such finding. No evidence was submitted showing that capital outlay expenditures will be critical or even important in 2012-13. R. Vol. 11, p. 1430, ¶ 344. The Panel only assumed the need for capital outlay state aid. R. Vol. 14, p. 1914 ("We have no evidence that the needs intended by these character of payments [capital outlay state aid, Appendix

F, pp. A124 – A 125] abated suddenly in FY2010 [when the aid was discontinued] and thereafter. Common sense says they would be ongoing.").

The Panel ignored evidence in the record that the unspent cash balance for all districts for capital outlay on 6/30/10 (this does not include bond and interest for new buildings and other traditional capital expenditures) was $280,200,883. R. Vol. 11, pp. 1430-31, ¶ 347 (citing R. Vol. 111, p. 11752). The unspent balance on July 1, 2009 had been $451,672,840. *Id*. Wichita had $15,893,956 unspent cash in its capital outlay fund on June 30, 2010. R. Vol. 11, pp. 1430-31, ¶ 347 (citing R. Vol. 111, p. 11817). Hutchinson had $3,511,735 unspent cash in its capital outlay fund on June 30, 2010. R. Vol. 11, pp. 1430-31, ¶ 347 (citing R. Vol. 111, p. 11856). Dodge City had $739,234 unspent cash in its capital outlay fund on June 30, 2010. R. Vol. 11, pp. 1430-31, ¶ 347 (citing R. Vol. 111, p. 11981). KCK had $5,095,231 unspent cash in its capital outlay fund on June 30, 2010. R. Vol. 11, pp. 1430-31, ¶ 347 (citing R. Vol. 111, p. 12034).

Wichita's FY2012 Budget shows unspent capital outlay on June 30, 2010 of $28,069,007 and budgeted unspent capital outlay for FY2012 of $13,214,013. R. Vol. 11, pp. 1430-31, ¶ 347 (citing R. Vol. 73, p. 4414). Hutchinson's FY2012 Budget shows unspent capital outlay on June 30, 2010 of $4,242,793 and budgeted unspent capital outlay for FY2012 of $3,000,860. R. Vol. 11, pp. 1430-31, ¶ 347 (citing R. Vol. 74, p. 4537). Dodge City's FY2012 Budget shows unspent capital outlay on June 30, 2010 of $6,296,217 and budgeted unspent capital outlay for FY2012 of $0. R. Vol. 11, pp. 1430-31, ¶ 347 (citing R. Vol. 75, p. 4786). KCK's FY2012 Budget shows unspent capital outlay in on June 30, 2010 of $43,074,710 and budgeted unspent capital outlay for FY2012 of $6,000,000. R. Vol. 11, pp. 1430-31, ¶ 347 (citing R. Vol. 76, p. 4980).

(l) The Legislature Had The Necessary Information To Make An Informed Judgment On What Is Required to Make Suitable Provision For Financing Of Its Public Schools

It is impossible to describe all of the data and information available to the Legislature because education funding is too intertwined with economic and social considerations to permit a complete listing. *See, e.g.*, R. Vol. 11, p. 1327-30, ¶ 20; pp. 1431-35, ¶¶ 348-51; pp. 1444-45, ¶ 373.

However, when the Legislature made its 2012-13 school financing decisions, all of the information and data described at trial was also available to it. *See, e.g.*, R. Vol. 11, pp. 1327- 30, ¶ 20. The Legislature had detailed information about each local school district's previous and current student demographics, staffing, budgets, revenues and spending. R. Vol. 11, pp. 1328-30, ¶ 20(a)-(g), (j), (k). The Legislature had its earlier commissioned cost studies to be given the weight they deserved. R. Vol. 11, pp. 1329-30 ¶ 20(l). It had testimony and information about the effects of reductions in state funding on school districts and about the districts' budget cuts. R. Vol. 11, pp. 1328-29, ¶ 20(f), (g). It also had the information about student performance on state assessment and other standardized tests. R. Vol. 11, p. 1329, ¶ 20(h), (i). It had been provided this information and data by agencies, committees, educators, lobbyists and citizens. R. Vol. 11, p. 1330, ¶ 20(n)-(p).

ARGUMENT

Introduction To The Argument

The Kansas Constitution addresses the funding of public education as follows:

> § 1. The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law.

> § 6(b). The legislature shall make suitable provision for finance of the educational interests of the state. . . .

Kan. Const., art. 6, §§ 1, 6(b) [Appendix F, pp. A114-A115].

This case does not involve the dearth of information alleged in the prior case, *Montoy v. State,* nor does it involve questions about the weightings in the funding formula or educational and accreditation standards. Instead, this case is about one thing and one thing only – more money. During a several-week trial, Plaintiffs, represented solely by the four plaintiff school districts (hereinafter "Districts"), presented no evidence that a single Kansas child is being deprived of an education, or even of the opportunity for a quality education. Indeed, not one plaintiff student or parent testified at trial or apparently even attended the trial.

To the contrary, the evidence presented at trial confirmed that Kansas schools are meeting rigorous accreditation standards set by the State Board of Education and Kansas children are doing well. When all sources of funding are considered (including state, local and federal dollars), Kansas schools are spending at record levels, consistent with levels suggested by the LPA Study. Furthermore, educational standards are constantly changing – the educational system is not static.

This lawsuit suffers from at least four fundamental flaws, any one of which requires reversal of the Panel's decision below, and some of which require outright dismissal of the suit.

First, the only Plaintiffs who even attempted to demonstrate standing here were the four school districts, but as political subdivisions of the State with no potential

constitutional liability under Article 6, § 6, they lack standing, and they cannot assert third-party standing on behalf of students or parents. See Part I. below.

Second, unlike *Montoy*, which involved educational standards and the substantive factors affecting school funding, this case is purely about money. The Panel decided that the State had not provided enough BSAPP, pure and simple, substituting its judgment for the policy and resource allocation decisions of the Legislature and Governors. "We want more money," standing alone, is not a justiciable question under Article 6, § 6. See Part II. below.

Third, even assuming that there is jurisdiction over this case, the Panel completely failed to apply the appropriate and constitutionally necessary level of review. To respect the constitutional separation of powers, and in recognition of the numerous complex policy and resource allocation issues inherent in funding Kansas schools, a court must presume that the Legislature has acted in a constitutional, non-arbitrary manner, and has weighed fiscal and policy decisions regarding taxation, State revenues, competing demands on State resources, and State policies regarding local responsibility and control of schools. When a Legislature does that, it necessarily has made "suitable" provision for the finance of the educational interests of the State. The Panel here simply substituted its political judgment (or perhaps its political will) for the Legislature's determinations. See Part III. below.

Finally, even if a court properly found a violation of Article 6, § 6, no court in this country – state or federal – has the authority to order a legislature to enact or not to enact a particular law. Yet, remarkably, that is precisely the remedy the Panel attempts to impose here, dictating that the Legislature must pass a law raising BSAPP to $4492 for

FY2014 and warning that the Legislature cannot pass a law that fails to do that. Such a remedy is unprecedented – with good reason – and unconstitutional, as explained in Part IV. below.

I. The Plaintiff Districts Lack Standing To Assert An Underfunding Claim Under Article 6, § 6 Of The Kansas Constitution

Standing is a serious question in this appeal because no evidence was presented about the individual student and parent plaintiffs. Thus, the only plaintiffs who even attempted to prove standing were the school districts, but their attempt fails as a matter of law. As this Court has explained:

> [S]tanding is a jurisdictional issue in Kansas. *Families Against Corporate Takeover v. Mitchell*, 268 Kan. 803, 807, 1 P.3d 884 (2000) (*citing Moorehouse v. City of Wichita*, 259 Kan. 570, 574, 913 P.2d 172 [1996]). Additionally, an objection based on lack of standing may be raised at any time, whether it be for the first time on appeal or even upon the appellate court's own motion. *Rivera v. Cimarron Dairy*, 267 Kan. 865, 868, 988 P.2d 235 (1999). The existence of jurisdiction and standing are both questions of law over which this court's scope of review is unlimited. *Schmidtlien Elec., Inc. v. Greathouse*, 287 Kan. 810, 830, 104 P.3d 378 (2005) (jurisdiction); *312 Education Ass'n v. U.S.D. No. 312*, 273 Kan. 875, 882, 47 P.3d 383 (2002) (standing).
>
> ... There can be no question that this court does indeed have the power to entertain the issue of standing. The lack of standing cannot be waived. [Citation omitted.] 'Regardless of the merits of appellants' claims, without standing, the court cannot entertain the action.' [Citation omitted.]"

Mid-Continent Specialists, Inc. v. Capital Homes, L.C., 279 Kan. 178, 185, 106 P.3d 483 (2005).

Standing requires a plaintiff to demonstrate: (1) plaintiff suffered an injury that is concrete, particularized, and actual or imminent; (2) the injury is fairly traceable to challenged action; and (3) the injury is redressable by a favorable ruling. *See State ex rel. Morrison v. Sebelius*, 285 Kan. 875, 896-97, 179 P.3d 366 (2008). Standing is a question

of law over which this Court's scope of review is unlimited. *State v. Gilbert,* 292 Kan. 428, 431-432, 254 P.3d 1271 (2011).

At trial, Plaintiffs presented no evidence, beyond the name and address, regarding any individual student or parent plaintiff. R. Vol. 14, p. 1938. Indeed, Plaintiffs presented no evidence that the individual student/parent plaintiffs were deprived of anything. *Id*.

Thus, the Plaintiff Districts have to establish that they have standing on their own; they cannot rely upon standing of the student or parent plaintiffs. *See Stubaus v. Whitman*, 339 N.J. Super. 38, 770 A.2d 1222, 1229-30 (App. Div. 2001), *cert. denied* (2002) (affirming the lower court's finding that districts lacked standing to assert a constitutional challenge to a school finance law for reasons including that the districts had suffered no direct injury and the individual taxpayers were capable of bringing their own suit); *Exira Community School Dist. v. State*, 512 N.W.2d 787, 790 (Iowa 1994) (affirming that a school district did not have standing to seek declaratory and injunctive relief against the state, the department of education and two larger districts for reasons including that the other appellants were "the real parties in interest" and "fully capable of raising the . . . challenges asserted."); *cf. Lobato v. State*, 218 P.3d 358, 367-68 (Co. 2009) (finding it unnecessary to address the court of appeals' ruling that the districts lacked standing as the parents, who raised the same claims, had standing); *Bismarck Pub. School Dist. No. 1 v. State By and Through North Dakota Legislative Assembly*, 511 N.W.2d 247, 251(N.D. 1994) (while it was conceded that other plaintiffs in the case had standing, making resolution of the standing issue unnecessary, recognizing that school

districts lacked standing to challenge the constitutionality of the state's public school funding system) (citations omitted).

Of the eight counts pled, the Panel found in the Plaintiff Districts' favor on only two: (1) the claim that the State violated Article 6, § 6(b)'s requirement for suitable provision for the finance of the educational interests of the State; and (2) that the State created a constitutionally-cognizable inequity when it suspended the capital outlay equalization payments called for by statute. R. Vol. 14, p. 1722.

But this result puts the cart before the horse: Does Article 6, § 6 vest constitutional rights in a school district to assert a claim against the State/Legislature that a district is underfunded? Do Districts – indisputably political subdivisions of the State – have standing to seek and obtain injunctive or mandamus relief against "the State" itself, (here, for practical purposes, the Legislature), to enforce any particular level of appropriation?

In *Unified School Dist. No. 229 v. State* ("*U.S.D. 229"*), 256 Kan. 232, 885 P.2d 1170 (1994), and *Montoy v. State* ("*Montoy II*"), 278 Kan. 769, 120 P.3d 306 (2005), this Court did not address the standing of the school districts, possibly because, unlike here, other plaintiffs had presented sufficient evidence to support their standing for the claims made in those cases, or perhaps because the parties did not raise the question.

Here, the State is raising that question expressly, and it requires a clear answer from the Court. The only two prior decisions of this Court that consider the standing of a school district both involved claims based on Article 6, § 5, not § 6, and thus are inapposite. In *Board of Ed. of U.S.D. No. 443 v. Kansas State Bd. of Ed*., 266 Kan. 75, 966 P.2d 68 (1998), for example, the plaintiff district had entered into an interlocal

agreement with other districts when the Legislature by statute made such agreements perpetual, limiting the plaintiff district's right to unilaterally withdraw from the agreement. The district objected, arguing that it had a vested right under Article 6, § 5 to enter into or withdraw from interlocal agreements, a right that the Legislature could not impair. This Court upheld the Legislature's actions, reaffirming that districts are subject to oversight by the Legislature and the State Board of Education. The school district's standing to challenge the statute was addressed only in passing, with the Court stating that "on the facts unique to this case," the district's status as a political subdivision of the State did not alone bar it from asserting a claim under Article 6, § 5, a constitutional provision expressly providing districts with authority to enter into interlocal agreements subject to State control. *Id.* at 83.

The only other decision of this Court even arguably addressing the standing of school districts is *Unified School Dist. No. 380 v. McMillen*, 252 Kan. 451, 462, 845 P.2d 676 (1993), where the standing issue was not explicitly raised but a district was allowed to appeal from a hearing committee's decision overturning the district's decision not to renew a tenured teacher's contract. There, the district unsuccessfully argued that a statute unconstitutionally impaired its "constitutional rights" under Article 6, § 5 to hire and fire employees. Although the Court allowed the district to raise the claim, the Court rejected the district's arguments on the merits, stating that "our duty is to uphold the statute, regardless of any personal views individual members of this court may have as to whether the statute is 'unwise, impolitic, or unjust.'" Both of these cases involved the unique provisions of Article 6, § 5, and thus neither case stands for the proposition that districts have standing to enforce Article 6, § 6 against the Legislature.

By way of comparison, the Oklahoma Supreme Court has rejected school district standing for claims such as those presented here. In *Oklahoma Ed. Ass'n v. State ex rel. Oklahoma Legis*., 158 P.3d 1058 (Ok. 2007), the school districts asked the court to declare that the Legislature had failed to adequately fund education in violation of the state constitution, had violated the students' constitutional rights "to a uniform opportunity to receive a basic, adequate education according to the standards set by the Oklahoma Legislature," and had "depriv[ed] Oklahoma school districts of the ability to fulfill their constitutional and statutory obligations to meet the contemporary educational standards established for every child." *Id.* at 1062.

In particular, the districts asked the court "to order the Legislature to design, formulate, adopt, properly and adequately fund, and maintain a comprehensive system of educational funding which affords each child in Oklahoma an equal opportunity for a basic, adequate education and to retain jurisdiction in this matter until the Legislature has implemented such an educational funding system." *Id*. The defendants (the Legislature, President of the State Senate and Speaker of the House), moved to dismiss for lack of standing and because the matter represented a non-justiciable separation of powers question. *Id.* at 1061.

The Oklahoma Supreme Court dismissed the case for lack of standing. The Court first pointed out that to establish standing, the district had the burden to show a "(1) a concrete, particularized, actual or imminent injury in fact, (2) a causal connection between the injury and the alleged misconduct, and (3) a protected interest 'within a statutorily or constitutionally protected zone." *Id.* at 1062-63. The Court noted that the burden of showing standing increases as the case progresses. *Id.* at 1063. The Court held

that the districts had failed to adequately allege that their students were injured (*i.e.*, the students failed to receive a basic education), and also failed to identify any legal authority recognizing third-party standing for districts to assert the rights of their students. *Id.* at 1064.

The districts generally alleged that they were statutorily and constitutionally required to provide students with an adequate education and that they faced sanctions for failure to fulfill such mandates. *Id.* at 1064-65. But the Court rejected those arguments, finding that the constitution placed no duty on the school districts, so that the districts had no interest within the constitutionally-protected zone. *Id.* at 1064-65. The only constitutional duty rested with the Legislature; school districts were merely a "vehicle" for carrying out the Legislature's duty. *Id*.

The same is true in Kansas. Similar to the Oklahoma Constitution, Article 6, § 1 and § 6(b) of the Kansas Constitution place the duty to provide for suitable finance of the educational interests of the State on the Legislature, not on the school districts. While "local public schools" are the subject of Article 6, § 5, that provision merely establishes the authority of local boards to establish schools and places no particular constitutional duty on the schools themselves. Just as in Oklahoma, Kansas districts have no duty within the constitutionally-protected zone.

Kansas school districts are not themselves subject to suit or liability based upon alleged violations of Article 6, § 6. Nor may the districts claim third-party standing to assert the rights of their students, especially at this late stage of the case after no evidence was presented at trial to support the standing of individual students and parents. Finding that the school districts have standing here could open the door to any number of claims

by a state agency or political subdivision against "the State" for reductions or changes in the appropriations the Legislature and the Governor make to such entities.

At trial, Plaintiff Districts failed to show any legally cognizable injury they suffered as school districts, *i.e.*, any "special injury" different from any injury suffered by the public at large, or any constitutional right of the districts themselves rather than an attempt to obtain third-party standing on behalf of their students. Instead, they are only arguing about the "correct" amount of spending on education, a discretionary and political issue, one not suited to judicial determination for reasons explained further in the next section of this brief. The school districts' claim of standing to pursue an action to enforce Article 6, § 6 must be rejected.

II. Whether The Legislature Has Made "Suitable Provision For Finance Of The Educational Interests Of The State" Is A Nonjusticiable Question In The Circumstances Presented Here, *i.e.*, Where Plaintiffs Simply Want More Money

The Kansas Constitution addresses the funding of public education as follows:

> § 1. The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law.
>
> § 6(b). The legislature shall make suitable provision for finance of the educational interests of the state. . . .

Kan. Const., art. 6, §§ 1 and 6(b).

Having failed to meet their burden to show that Kansas children are being deprived of educational opportunity, the Districts insist that Article 6 is violated if education is not financed in strict accordance with statutory BSAPP targets, no matter the other sources of funding made available to and spent by schools, no matter the economic

circumstances of the State, and without regard to any changes in the educational system, goals and standards. That cannot be correct.

Properly understood, the questions presented here are effectively nonjusticiable or, at a minimum, require considerable deference to and respect for the difficult policy, fiscal and resource-allocation choices made by the Legislature and multiple Governors. *See* Part III., *infra*. Those questions include the following: Do the Districts dictate their own level of funding? Is one Legislature bound by a specific funding amount set by a prior Legislature, or does the Legislature have discretion to change a school finance appropriation? Does Article 6 allow the Districts or the Courts to dictate to the Legislature a precise dollar amount that must be spent on education?

In *Baker v. Carr*, 369 U.S. 186, 217 (1962), followed by this Court in *Van Sickle v. Shanahan*, 212 Kan. 426, 438, 511 P.2d 223 (1973), *see also, State ex rel. Morrison v. Sebelius*, 285 Kan. 875, 896-97, 179 P.2d 366 (2008), the United States Supreme Court explained that certain questions are nonjusticiable if one or more of the following considerations is present:

> a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or the impossibility of a court's undertaking independent resolution without expressing a lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question.

This case reflects several of these elements, any one of which would be sufficient to qualify certain questions presented here as nonjusticiable under *Baker v. Carr*. First, Article 6 demonstrates a clear "textual commitment" of questions about the amount of

school funding, and appropriations for school funding, to the Legislature. Kan. Const., art. 6, §§ 1, 6(b); *see generally*, R. Levy, "Gunfight at the K-12 Corral: Legislative vs. Judicial Power in the Kansas School Finance Litigation," 54 U. Kan. L. Rev. 1021, 1051 (2006) ("Gunfight at the K-12 Corral"). In terms of what our Constitution requires, the Districts are asking the wrong question. The Kansas Constitution does not require a "suitable," "adequate," or "uniform" education for example, unlike a number of state constitutions. Rather, the Kansas Constitution simply requires that the Legislature make suitable provision for the finance of the educational interests of the State in pursuit of Article 6, § 1's general aspirational goal of seeking societal improvement. *See King v. State*, 818 N.W.2d 1, 17 (Iowa 2012) (discussing similar provisions in the Iowa Constitution); *Bonner ex rel. Bonner v. Daniels*, 907 N.E.2d 516, 518 (Ind. 2009) (discussing similar provisions in the Indiana Constitution).

Asking the wrong question produces the wrong answer. As the Court stated in upholding the constitutionality of the school finance law in *U.S.D. 229*, 256 Kan. at 254, "[t]he district court correctly held that the issue for judicial determination was whether the Act provides suitable financing, not whether the level of finance is optimal or the best policy."

Second, particularly given that the debate now is solely about the *amount* of money appropriated for BSAPP (not the weightings or funding formula as in *Montoy*), judicially-discoverable and manageable standards are lacking to determine whether the Legislature has made "suitable provision for the finance of the educational interests of the State." The lack of standards is illustrated by what the Panel did in its Order - after three weeks of testimony, thousands of exhibits, three experts and several studies, the Panel

essentially punted. The Panel could not figure out the "correct" BSAPP figure at which Kansas schools would be suitably financed, so it simply required the Legislature to fund the amount targeted for FY2014 in a previous statute.

Other state courts, in contrast, have concluded that the question of the amount of money to spend on schools is nonjusticiable because there are no judicially-discoverable and manageable standards. *See, e.g., Coalition for Adequacy and Fairness in School Funding v. Chiles*, 680 So.2d 400, 406-07 (Fla. 1996); *Schroeder v. Palm Beach Co. Sch. Bd*., 2008 WL 5376086, 4 (Fla. Cir. Ct., July 28, 2008) (holding there was no private right of action by plaintiffs, students and parents, who sought relief against a school district, citing the lack of a standard for adequacy that would not present a substantial risk of judicial intrusion into legislative responsibility to provide an 'adequate and uniform' system of education); *McDaniel v. Thomas*, 248 Ga. 632, 285 S.E. 2d 156 (1981). These Courts are not wrong, nor are they 'abdicating their judicial responsibilities,' especially as we reach the so-called 'third wave' or even the 'fourth wave' of school finance litigation, where the disputes really seem to be solely about the *amount* of money spent on education. *See generally*, A. Moore, "When Enough Isn't Enough: Qualitative and Quantitative Assessments of Adequate Education in State Constitutions by State Supreme Courts," 41 U. Toledo L. Rev. 545 (2010). These Courts are simply recognizing the limits of the judicial power in a complex, rapidly-changing area involving difficult fiscal and quintessential policy questions.

Third, it is impossible on this record to affirm the Panel without "expressing a lack of the respect due coordinate branches of government." The Panel's decision is that the Legislature needs to appropriate more in BSAPP, "adopt[ing $4,492] as a funding

requirement for 2014." R. Vol. 14, p. 1964. The Panel purports to enjoin "the State" from changing the relevant statute, K.S.A. 72-6405, *et seq*., indeed, even to enjoin the Legislature from legislating or appropriating on this subject. *Id.* at pp. 1964-66. The Panel also found that the Legislature's 'consideration of actual cost' was not adequate, summarily disregarding K.S.A. 46-1226(a). *Id.* at 1774. Is there anything more disrespectful than purporting to order another branch of government not to exercise its core powers?

Fourth, although the precise meaning of "the potentiality of embarrassment from multifarious pronouncements by various departments on one question," could be clearer in *Baker v. Carr*, it is obvious that the school finance system is complex, and by tinkering with one part of it, *e.g*., enjoining the capital outlay statute, R. Vol. 14, pp. 1966-67, the Panel disrupted an intricate, interwoven system, probably in ways the Panel never even contemplated. *See* Affidavit of Dale Dennis, filed with the State's Motion for Stay of Operation and Enforcement of Panel's Judgment in this appeal.

Given that this record shows rigorous accreditation standards are being met, Kansas kids are doing well, and schools are spending at record levels, for the Panel to 'grade the Legislature's paper' as it were and say "it's not nearly good enough," shows a lack of respect for the coordinate branches of government and takes the courts outside of their traditional judicial role. If the Plaintiff Districts' position is accepted in this appeal, the Kansas courts will inevitably be mired in school finance litigation, left acting as a "Super Legislature" or "Special Master," whenever a district is willing to demand more money in a lawsuit, a result that is contrary to settled constitutional principle and the directives in Art. 6, §§ 1 and 6(b) that "the legislature" shall make "suitable provision for

finance of the educational interests of the State." *See U.S.D. 229*, 256 Kan. at 265 ("The funding of public education is a complex, constantly evolving process. * * * Rules have to be made and lines drawn in providing 'suitable financing.' The drawing of these lines lies at the very heart of the legislative process and the compromises inherent in the process.").

Here, the Districts are inviting the courts to risk unnecessary, intense and ongoing conflict with the other branches of state government. Moreover, the Kansas courts are not suited to the complex task of creating, administering and supervising K-12 education in Kansas, a task that requires numerous policy and resource allocation decisions. The Court can and should decline the Districts' invitation to enter the political fray on this record. *Cf. Morrison v. Olson*, 487 U.S. 654, 699 (1988) (Scalia, J., dissenting) ("That is what this suit is about. Power. The allocation of power among [the three branches of government] in such fashion as to preserve the equilibrium the Constitution sought to establish -- so that 'a gradual concentration of the several powers in the same department,' Federalist No. 51, p. 321 (J. Madison), can effectively be resisted. Frequently an issue of this sort will come before the Court clad, so to speak, in sheep's clothing: the potential of the asserted principle to effect important change in the equilibrium of power is not immediately evident, and must be discerned by a careful and perceptive analysis. But this wolf comes as a wolf.")

A. The Article 6, § 6 "Make Suitable Provision For Finance" Language Does Not Create A Judicially Enforceable Standard

1. Article 6, § 6 Provides No Judicially Discoverable Or Manageable Standards For Its Implementation

a. The Constitutional Provisions Alone Provide No Standard

Focusing on the constitutional text – as opposed to the plethora of statistics, studies, individual opinions and anecdotal information the Districts offer – Article 6, § 1 of the Kansas Constitution provides:

> The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law.

Article 6, § 6(b) provides that "[t]he legislature shall make suitable provision for finance of the educational interests of the state." Thus, by its terms, the Kansas Constitution does not require a "suitable education." The constitutional text should matter; Kansas is one of twenty-one states on the minimum end of the language spectrum, requiring that "a free public school system be established and nothing more." W. Thro and R. Wood, "The Constitutional Text Matters: Reflections on Recent School Finance Cases," 251 West's Educ. L. Rep. 510, 529, n.118 (Feb. 18, 2010).

The meaning of these Kansas constitutional provisions is not self-evident, and the provisions certainly can be read as hortatory – as is true of many state constitutional provisions – with respect to the legislature supporting public education. The general duty to provide for "improvement" is aspirational, not lending itself to legal definition or therefore judicial enforcement. *Bonner ex rel. Bonner v. Daniels*, 907 N.E.2d 516, 520 (Ind. 2009). Rather than being a restraint on legislative action with regard to the State's

"educational interests," Section 6(b) empowers the Legislature and accords the Legislature considerable discretion.

Nothing in Article 6 suggests that there is an individual right to any particular quality of education, nor does anything in the Kansas Bill of Rights recognize such an individual right. *See e.g., Bonner*, at 517 (Indiana Education Clause did not create an individual right "to be educated to a certain quality or other output standard."). Instead, Article 6 places a general duty on the Legislature as a branch of state government; it gives no citizen an individual right or entitlement. Indeed, Article 6, § 6(b) speaks of "the educational interests of the state", not individual rights. The Legislature's constitutional duty to provide public education is owed to the State generally, like the "public duty" of the police to protect citizens as a whole. It is not a duty that should be enforceable in lawsuits by individual students or school districts.

The single word that bears all of the weight in this case is "suitable." Dictionary definitions of "suitable" are singularly unhelpful, because the word itself has no definite meaning. For example, the *American Heritage College Dictionary* (4th ed. 2004) defines "suitable," an adjective, as "[a]ppropriate to a purpose or an occasion." That's it. No alternative definitions, nothing more precise. What is "suitable" is completely a matter of context, depending on what assumptions are made and what value (or policy) judgments are applied. *See U.S.D. 229*, 256 Kan. at 256-57.

Thus, "suitable" is an extremely vague word, an adjective which inherently gives wide discretion to the person or entity charged with making a judgment based on "suitability." The "suitable provision for finance" language in fact gives the Legislature and other elected public officials great discretion in implementing and satisfying it:

> "Suitable" is one of those adjectives which leaves its content to be determined entirely by context. As my noble and learned friend Lord Scott of Foscote put it in argument, a suitable hat for Royal Ascot is very different from a suitable hat for the Banbury cattle market. * * * But the breadth of the concept of suitability is what determines the breadth of the authority's discretion.

Quintavalle v. Human Fertilisation and Embryology Auth., Lord Hoffman (2005) U.K.H.L. 28.

b. The Court Has Not Articulated A Clear Definition Of "Suitable"

This Court has recognized the difficulties inherent in interpreting Article 6 and in general has properly adopted a deferential standard of review. In *U.S.D. 229*, 256 Kan. at 257, the Court quoted the trial court, as follows: "Suitability does not mandate excellence or high quality. In fact, suitability does not imply any objective, quantifiable education standard against which schools can be measured by a court. Rather, value judgments must be made...." Although *Montoy* reversed the Legislature's efforts regarding school finance, the Court did not articulate a definition of "suitable." *See Montoy II*, 278 Kan. at 773 ("The concept of 'suitable provision for finance' encompasses many aspects.").

Instead, the *Montoy* Court struggled to find measures by which to evaluate the plaintiffs' Article 6 claim. Based upon the record and the parties' arguments in that case, the Court ultimately focused on (1) "equitable" funding and (2) "actual costs." *See Montoy II*, 278 Kan. at 769 ("The equity with which the funds are distributed and the actual costs of education . . . are critical factors for the legislature to consider in achieving a suitable formula for financing education."); *Montoy v. State of Kansas*, 279 Kan. 817, 819, 112 P.3d 923, 926 (2005) (same; quoting *Montoy II*, "*Montoy III*"). In *Montoy IV*, the Court clarified that it was not purporting to mandate that the Legislature comply with any particular study. *Id.* at 282 Kan. 24; K.S.A. 46-1226. While the considerations of

equitable funding and actual costs may have been relevant to that case, based upon that record at that time, the Districts and the Panel have taken language in the *Montoy* opinions out of that unique setting and improperly elevated context-specific words and phrases to Article 6 status.

Furthermore, this Court has not defined "suitable" provision for the finance of the educational interests of the State for understandable reasons: the phrase has no judicially discoverable meaning, if any meaning at all. The choices in interpreting such a broad constitutional provision are inherently fiscal and policy laden, and thus quintessentially legislative, political decisions. "Gunfight at the K-12 Corral", at 1037; *cf., Coalition for Adequacy and Fairness in School Funding v. Chiles,* 680 So.2d 400, 406-07 (1996) (superseded by Constitutional Amendment) (finding the then-Constitutional language requiring an "adequate provision" for schools lacking in standards, requiring the Court "to subjectively evaluate the Legislature's value judgments as to the spending priorities to be assigned to the state's many needs . . . the Court would have to usurp and oversee the appropriations power, either directly or indirectly, in order to grant the relief sought by Plaintiffs"); *City of Pawtucket v. Sundlun*, 662 A.2d 40, 58 (R.I. 1995); *McDaniel v. Thomas*, 248 Ga. 632, 644, 285 S.E.2d 156 (1981) (the term "adequate education" is nonjusticiable, lacking judicially manageable standards; in the absence of evidence to show students were deprived of basic educational opportunities, rejecting plaintiffs' arguments about low-wealth districts as "to do otherwise would be an unwise and unwarranted entry into the controversial are of public school financing, whereby this Court would convene as a 'super-legislature,' legislating in a turbulent field of social, economic and political policy.'") (citation omitted); *see generally*, A. Moore, "When

Enough Isn't Enough," *supra*, 41 U. Toledo L. Rev. 545 (discussing courts' struggles with the concept of educational "adequacy.").

By design, Article 6, § 6 does not lend itself to judicial definition, leaving school finance decisions to the Legislature's discretion. As noted by the Rhode Island Supreme Court, the lack of standards engages the court in a "morass" of political conflict, takes the Court into the area of taxation and balancing competing resources, creates chaos, and allows a Justice to substitute "personal wishes or ... personal notions of fairness under the guise of constitutional interpretation."). *Sundlin*, at 63 (*quoting Hornbeck v. Somerset Co. Bd. of Ed.*, 295 Md. 597, 458 A.2d 758 (1983)). That fact alone provides compelling reason for the Court to decline the role of Special Master of the Kansas Legislature and the Kansas public school funding system.

2. "Equitable" Funding Arguments Implicate Equal Protection, Not Article 6

a. *Montoy* Rejected State And Federal Equal Protection Claims

The Court's unanimous *per curiam* opinion in *Montoy* issued on January 3, 2005, rejected any argument that Kansas school finance laws violated the Equal Protection Clauses of the United States and Kansas Constitutions. *See Montoy II*, 278 Kan. at 771 ("We reverse the district court's holding that [the law] is a violation of equal protection. * * * We conclude that all of the funding differentials ... are rationally related to a legitimate legislative purpose. Thus, the [law] does not violate the Equal Protection Clause of the Kansas or United States Constitutions."); *id.* (also rejecting the argument that the law was unconstitutional because of a "disparate impact" on minority and perhaps other students, concluding that "[n]o discriminatory purpose was shown by the plaintiffs."). Rightly so, because there are no "suspect classifications" in the Kansas

laws, no Bill of Rights guarantees at stake, and no evidence of discriminatory purpose by the Legislature or any Kansas elected officials.

b. The Court's "Suitability" Opinions Have Improperly Focused On "Equitable" Funding

Despite the Court's stated rejection of equal protection claims, the opinions in *Montoy II and III* focused on "equitable" funding of school districts and on funding for at-risk, bilingual, and special education students as factors of purported constitutional magnitude. *See Montoy II*, 278 Kan. at 775; *Montoy III*, 279 Kan. at 831-33 (2005). Yet those concerns are actually equal protection arguments. There is no indication whatsoever, in the Article 6, § 6 language, in the case law, or in Kansas history, that Article 6 incorporates equal protection principles (which are addressed in § 1 of the Kansas Bill of Rights).

c. Whether Or Not Education is a Fundamental Right Does Not Alter The Analysis In This Case

In upholding the district court's application of a rational basis test in *U.S.D. 229*, the Court held that education was not a fundamental right. *Id.* at 260. In so holding, the Court cited *San Antonio School Dist. v. Rodriguez*, 411 U.S. 1, 37, *reh. denied*, 411 U.S. 959 (1973), which so held in rejecting a federal equal protection-based challenge to the Texas system of public school finance. *Id*. "A right is 'fundamental' for purposes of equal protection analysis ... if it is 'explicitly or implicitly guaranteed by the Constitution.'" *Id*. (*quoting* 411 U.S. at 33-34).

Throughout the *Montoy* litigation, no opinion for the Court ever held that education is a fundamental right under the Kansas Constitution. Thus, the current state of the law in Kansas is that Article 6 speaks to the obligations of government institutions

rather than individual rights, the latter of which generally are addressed in the Bill of Rights. Article 6, § 6(b) speaks of the "educational interests of the State," a collective right or interest, rather than an individual one. Nothing in the Kansas Bill of Rights addresses education.

Whether education is a fundamental right is not an issue presented on this appeal as the Districts have no standing to raise such a claim (which would belong to students, if anyone). The individual student and parent plaintiffs presented no evidence to support such a claim. Furthermore, even the concurring opinions in *Montoy* that discussed education as a fundamental right indicated that there is no fundamental right to any particular level of education funding. *Montoy II*, 278 Kan. at 776 (Beier, J., concurring) (rational basis review remains the standard for "statutes providing for education finance in Kansas" "as opposed to outright denial of the right to an education"); *Montoy v. State*, 282 Kan. 9, 27, 138 P.3d 755, 766 (2006) ("*Montoy IV"*) (Rosen, J., concurring) (agreeing "with the concurrences previously filed").

On this record, there is no evidence of an "outright denial" of education. Thus, even was the Court to recognize that education is in some sense a fundamental right, this Court's review of the *amount* of school funding would be deferential under the rational basis standard. The mere assertion of such a right would not automatically trigger rigorous judicial review, just as numerous restrictions on other "fundamental" interests such as voting and marriage do not.

3. The Concept Of "Actual Cost" Is Not A Constitutional Standard

a. Article 6, § 6 Nowhere Mentions "Actual Cost"

In *Montoy*, the Court indicated the Legislature should "consider" the "actual cost" of education. *See, e.g., Montoy II*, 278 Kan. at 775. However, nothing in Article 6, § 6 mentions the concept of "actual cost." As both a practical and policy matter, the Legislature necessarily will consider costs in determining school funding, but it will and must consider many other factors as well. "Actual cost," like "suitable," is an inherently ambiguous and manipulable concept.

b. "Actual Cost" Is a Factual Issue, Not a Legal one, and There Is No Judicial Benchmark For Its Determination

There are at least two serious flaws in using "actual cost" as a constitutional standard. First, "actual cost" assumes a judicial benchmark by which the concept can be measured, an agreed upon baseline for example with respect to what components are necessary in a public education system. There is no such benchmark in the context of operating a statewide public school system. There is no objective or consensus way to determine precisely what a statewide school system must provide or accomplish. In *Montoy*, the Court attempted to finesse this problem by relying on legislatively-adopted state standards regarding educational outputs. But standards can be met in a variety of ways, and a Legislature can change standards, meaning that such standards really cannot be constitutional requirements at all. Moreover, reliance on legislative standards merely proves that school finance decisions are the Legislature's prerogative.

The "actual cost" approach begs the question of what exactly is to be provided. What is the actual cost of a "suitable" prison system, a "suitable" Department of Wildlife and Parks, or a "suitable" state highway system? There are myriad legislative decisions

that go into such determinations; the amount of dollars is only one factor. More money may help governmental entities accomplish more and serve more people, but "actual cost" is not a constitutional benchmark against which elected public officials may measure the vast array of options for funding public schools.

c. Using "Actual Cost" As A Constitutional Standard Is Tantamount To Making The Court The Special Master Of Numerous Elected Officials, An Approach That Many State Courts Have Rejected Post-*Montoy*

Because "actual cost" requires annual factual determinations, adopting "actual cost" as a constitutional standard necessarily will make this Court the permanent overseer of school finance in Kansas. The courts will be asked to scrutinize and evaluate whether the Legislature has articulated sufficient reasons for its tax and policy decisions, a judicial role disapproved in *Peden v. Kansas Dept. of Revenue*, 261 Kan. 239, 259, 930 P.2d 1 (1996) ("[u[nder a rational basis standard, it is irrelevant whether these interests are enunciated in the legislative history of the [income tax act] ..."). Such an approach is ill-advised and incapable of being sustained over the long term. Indeed, several other state supreme courts already have discovered that once a state supreme court begins participating in school finance matters on the basis of vague state constitutional provisions with no ascertainable legal meaning, there is no end game.

As a result, since *Montoy* concluded in 2006, several of our sister state supreme courts have refused to mire themselves in the complex policy judgments inherent in operating a statewide public school system. These courts have rejected efforts to draw the courts into the political fray on the grounds that funding questions are nonjusticiable, that court involvement would violate the separation of powers, or simply recognizing that the questions raised are beyond judicial competence. *See, e.g., King v. State*, 818 N.W.

2d 1 (Ia. 2012) (discussed in detail below); *Bonner ex rel. Bonner v. Daniels*, 907 N.E. 2d 516, 522 (Ind. 2009) (affirming the trial court's dismissal, finding the issue of quality non-justiciable where the Indiana Constitution, similar to Kansas, contained only the aspirational goal of improvement and a suitable means to get there, finding that the Constitution did not impose "an affirmative duty to achieve any particular standard of resulting educational quality, this determination being delegated to the sound legislative discretion of the General Assembly."); *Committee for Educational Equality v. State*, 294 S.W.3d 477, 488-89 (Mo. 2009) (refusing to read an adequacy requirement into the Missouri Constitution provision regarding the aspirational goal of providing for the "general diffusion of knowledge and intelligence"); *Oklahoma Ed. Assoc. v. State of Okla. ex rel. Okla. Legislature, President of the Senate and Speaker of the House*, 2007 Okl. 30, 158 P.2d 1058 (2007); *Nebraska Coalition for Educational Equity and Adequacy v. Heineman*, 273 Neb. 531, 731 N.W. 2d 164 (2007).

The Nebraska decision is particularly persuasive. In *Heineman*, a coalition of school districts brought a declaratory judgment action challenging the constitutionality of school funding, arguing the state had failed to provide sufficient funds for an "adequate" or "quality" education after the Legislature had made reductions in state aid. In particular, the Plaintiff Districts argued that the Legislature had shifted more of the funding burden to local property taxes and failed to consider the real costs of education. The Plaintiff Districts argued that, as a result, they were unable to: (1) adequately pay and retain teachers; (2) purchase necessary textbooks, equipment, and supplies; (3) replace or renovate facilities; and (4) offer college-bound courses, advanced courses for high-ability students, technology, and other extra-curricular courses, or adequate services for special

education, English language learners, and vocational programs. They also alleged that a significant number of students did not graduate and that a significant number were academically deficient, as shown by assessment tests.

The Nebraska Supreme Court found the question of the adequacy of state funding to be nonjusticiable: "if we were to declare the present funding constitutionally inadequate, we would be passing judgment on the Legislature's spending priorities as reflected in its appropriation decisions. Thus, we believe the critical question is whether, without violating the separation of powers clause, this court may determine that the Legislature has failed to provide adequate funding for public education." *Id.* at 541. "Determining that an issue presents a nonjusticiable political question is not an abdication of the judiciary's duty to construct and interpret the Nebraska Constitution." *Id.* at 546. "The political question doctrine excludes from judicial review those controversies which resolve around policy choices and value determinations constitutionally committed for resolution to the legislative or executive branches of government." *Id*. "The doctrine 'is designed to restrain the Judiciary from inappropriate interference in the business of the other branches of Government.'" *Id.* at 547.

After examining the *Baker v. Carr* categories, the Court held that the Nebraska Constitution committed the issue of instruction to the Legislature, providing only for "free instruction," and "suitable laws." The Court found there were no qualitative, constitutional standards for public schools that a court could enforce. *Id.* at 550. "Any judicial standard effectively imposing constitutional requirements for education would be subjective and unreviewable policy making by this court." *Id.* at 553 (*citing Committee for Educational Rights v. Edgar*, 174 Ill. 2d 1, 28-29, 220 Ill. Dec. 166, 179, 672 N.E.2d

1178, 1191 (1996)). "[T]he relationship between school funding and educational quality requires a policy determination that is clearly for the legislative branch." *Id.* at 553. Policy decisions include considering federal mandates, districts' efforts and ability to support their schools and the State's ability to provide funding; it is "beyond our ken to determine what is adequate funding for public schools." *Id.* at 554.

The Court further observed that "[w]e could not hold the Legislature's expenditures were inadequate without invading the legislative branch's exclusive realm of authority. In effect, we would be deciding what spending issues have priority." *Id.* at 554 (*citing Coalition for Adequacy v. Chiles*, 680 So. 2d 400, 406-07 (Fla. 1996)). Emphasizing that a justiciable issue must be susceptible of immediate resolution and capable of judicial enforcement, the Court expressed concern about the negative experiences with school finance litigation in other states, including Arkansas, Kansas (*Montoy*), and other states. The Court "refuse[d] to wade into that Stygian swamp." *Id.* at 557.

In *King v. State*, 818 N.W. 2d 1 (Ia. 2012), the Iowa Supreme Court similarly rejected a request to order relief against the State, its Governor, the Department of Education, and its Director where the challenge was based on allegations of inadequate funding, concluding that the Iowa Constitution's education clause did not afford a basis for such relief. The Iowa Constitution contains a somewhat similar provision to Kansas: "the General Assembly shall encourage, by all suitable means, the promotion of intellectual ... improvement." Iowa Const. art IX, div. 2 § 3 (1857). The Iowa Supreme Court noted the education clause did not require that "the state's public education system be 'adequate,' 'efficient,' 'quality,' 'thorough,' or 'uniform.'" *Id.* at 21.

The Iowa Supreme Court found that its Constitutional provision was not "a source of enforceable minimum standards" for the schools and the clause "does not constrain legislative policies in the field of education." *Id.* at 14, 16. The Court noted that the Constitution committed authority over school funding to the Legislature and that the clauses in question lacked judicially discoverable and manageable standards. *Id.* at 17-18. The Court looked to states with similar constitutional language, finding that the Indiana Supreme Court had rejected the argument that the Indiana Constitution imposed an enforceable duty on state government to provide a certain quality of education. *Id.* at 18-19 (*citing Bonner ex rel. Bonner v. Daniels*, 907 N.E. 2d 516, 518-22 (Ind. 2009)).

The *King* Court also upheld the Iowa system against equal protection and due process challenges under a rational basis test, *id.* at 22-34, and affirmed the trial court's finding that the statute contained no private right of action because "[p]ermitting a private right of action under [the statute] would likely unleash a multiplicity of future lawsuits that would transform aspirational goals into a series of specific mandates." *Id.* at 35.

All of these sister state supreme courts that have declined to enter the Stygian swamp of judicial supervision of school finance (including Oklahoma, Missouri, Iowa, and Nebraska) are not abdicating their duties; they are acknowledging that "the question of educational quality is inherently one of policy involving philosophical and practical considerations that call for the exercise of legislative and administrative discretion." *Committee for Educational Rights v. Edgar*, 174 Ill. 2d 1, 29, 220 Ill. Dec. 166, 672 N.E. 2d 1178, 1189 (1996) (emphasis added). They are thus avoiding a "morass comparable to the decades-long struggle of the Supreme Court of New Jersey," a "chilling example of

the thickets that can entrap a court that takes on the duties of a Legislature." *City of Pawtucket v. Sundlun*, 662 A.2d 40, 59 (R.I. 1995).

Here, the funding questions the Districts have presented and which the Panel attempted to resolve are complex, multi-faceted and policy-oriented; decisions about these issues necessarily involve value-laden judgments that belong in the hands of elected officials accountable to the people. Indeed, the choices in the school funding context are, in general, inherently political and legislative in nature – not judicial.

B. At A Minimum, Judicial Review Under Article 6, § 6 Must Be Highly Deferential Because School Finance Decisions Are Quintessentially "Legislative"

As the Court recognized in rejecting the plaintiffs' equal protection challenges in *Montoy* and as the Panel recognized here, Kansas school finance laws are rational and serve legitimate government purposes. Absent proof of some discriminatory purpose or intent behind the laws, or some other reason to invoke more rigorous judicial scrutiny, the rejection of equal protection challenges should be the end of the Court's review. Any more intrusive role simply substitutes the judgment of unelected justices for the collective judgment, study and political compromise of our Legislature and the Governor, an improper result because only the Legislature and Governor answer directly to the people of Kansas for their votes and official actions.

The Legislature has been responsive to school finance concerns. After *Montoy*, the Legislature provided significant additional funding for Kansas schools, and current spending on and by Kansas schools is at an unprecedented level. Furthermore, the Legislature carefully considered and responded to the Legislative Post Audit study recommendations, including recommendations for increased BSAPP and increased

weightings in the formula for at-risk, free and reduced lunch, and special education students, even though no particular study is legally binding. K.S.A. 46-1226. If the Court becomes the permanent overseer of the Legislature on school finance matters, the Court veers toward the shoals of Article IV, § 4, of the United States Constitution, an area better avoided than explored. *See, e.g., Largess v. Supreme Judicial Court for the State of Massachusetts*, 373 F.3d 219, 225 (1st Cir. 2004) ("The Guarantee Clause might provide an exception to that rule of deference [of federal courts to state courts on questions of state law] in extreme cases, such as where the members of a state's highest court declared the state to be a monarchy and themselves its regents.").

Decisions solely about the *amount* of money to be appropriated to schools are nonjusticiable. But if this Court concludes otherwise, it must at a minimum give the elected policymakers of Kansas considerable deference in the funding and resource allocation decisions they make, as explained in more detail in Part III. below.

III. The Panel's Legal Conclusion That Present Funding Violates Article 6 Is Erroneous Because The Panel Substituted Its Findings Of Fact In Place Of The Legislature's Presumed Findings Supporting The Appropriations For The SDFQPA

A. Assuming Jurisdiction, This Court's Review Is *De Novo*

The Court must determine whether the factual findings made by the Panel support its legal conclusions that the Kansas Constitution was violated. This case presents mixed questions of fact and law, which means that this Court reviews the underlying factual findings for substantial competent evidence and reviews the legal conclusions based on those facts *de novo*. *Boldridge v. State*, 289 Kan. 618, 622, 215 P.3d 585 (2009); *Progressive Prods. v. Swartz,* 292 Kan. 947, 955, 258 P.3d 969 (2011). *See also*, *State v. Ransom*, 288 Kan. 697, 705, 207 P.3d 208 (2009) (*quoting State v. Gant*, 288 Kan. 76,

Syl. ¶ 1, 201 P.3d 673 (2009)).

However, when the material facts are undisputed, the Court need not accept the Panel's findings; its review is unlimited. *Stroda v. Joice Holdings*, 288 Kan 718, 720, 207 P.3d 223 (2009). *See also, North River Ins. Co. v. Aetna Fin. Co.*, 186 Kan 758, 759, 352 P.2d 1060 (1960) (Court reviewed *de novo* where the case "was tried to the court below upon a stipulation of almost all of the facts."). Here the Panel acknowledged "[m]uch of the evidence presented has been uncontested, except as to the conclusions reached from it." R. Vol. 14, p. 1953.

Furthermore, the Court must consider uncontradicted and undisputed evidence because the Panel was not permitted to ignore it. *Cain v. Grosshans & Peterson, Inc*., 192 Kan 474, 478-79, 389 P.2d 839 (1964); *Poteet v. Kan. Dep't of Revenue*, 43 Kan. App. 2d 412, 414-15, 233 P.3d 286 (2010).

Finally, it is particularly important here that findings of fact which are premised on application of an erroneous legal standard are not entitled to any deference. *State v. Gonzalez*, 290 Kan. 747, 753-57, 234 P.3d 1 (2010). For example, in *Rubi v. 49'er Country Club Estates, Inc.,* 7 Ariz. App. 408, 440 P.2d 44, 54 (1968), the court found that a board's zoning determinations (considered legislative under Arizona law) were presumptively valid, that the plaintiff property owners had to affirmatively show that the board's denial of their rezoning application was clearly arbitrary and unreasonable. Accordingly, the court held the trial court's findings were not binding if the record showed the factual question was "debatable." *Accord*, *Lockard v. City of Los Angeles,* 33 Cal.2d 453, 202 P.2d 38, *cert. denied,* 337 U.S. 939 (1949) (applying the same rule).

B. The Panel Failed To Give Required Deference To Legislative Decisions

Montoy recognized the fundamental proposition that school finance legislation is entitled to a presumption of constitutionality. *Montoy v. State ("Montoy III")*, 279 Kan. 817, 825-26, 112 P.3d 923 (2005). *Montoy* also made clear that it is the Legislature's prerogative to establish the criteria for educational success in Kansas and whether the schools are achieving state goals: the question is "[d]o the schools meet the [state's] accreditation requirements and are students achieving an 'improvement in performance that reflects high academic standards and is measurable'? K.S.A. 72-6439(a)." *See Montoy II,* 278 Kan. at 773. The Court also opined:

> *There is a point* where the legislature's funding of education may be so low that regardless of what the State says about accreditation, *it would be impossible to find* that the legislature has made "suitable provision for finance of the educational interests of the state."

Montoy v. State (Montoy I), 275 Kan. 145, 155, 62 P.3d 228 (2003) (emphasis supplied).

What *Montoy* did not explicitly describe is the deference a trial court must grant the Legislature's presumed and actual findings of fact in deciding the question of suitability under Article 6 of the Kansas Constitution. Also, *Montoy* did not explicitly align its language that "there is a point where" "it would be impossible to find" a lack of "suitable provision for finance" with the traditional lexicon for review of the constitutionality of legislation. The only way to reconcile *Montoy* with ubiquitous law presuming the constitutionality of legislative actions and deferring to legislative presumed and actual fact findings, however, is to read *Montoy* as an example of a court finding that legislative action was arbitrary.

Attempting to apply its interpretation of language from *Montoy* that "actual costs" be "consider[ed]" by the Legislature, the Panel essentially substituted its judgment for

that of the Legislature, hearing evidence that was not presented to the Legislature, re-weighing and analyzing evidence about cost studies, disregarding statutory language that cost studies are merely informational rather than binding, disregarding other sources of funding available to schools and criticizing the legislative process, including accepting testimony from minority-party legislators about what "the Legislature" allegedly considered or did not. This approach, particularly in the area of educational policy and fiscal and taxation matters, is contrary to well-established law regarding the deference accorded to legislative decisions and takes the Court into a Super-Legislature mode rather than a judicial one.

Courts that have expressly considered the deference legislative decisions must be given in school finance litigation have analyzed whether the systems and funding levels were reasonably related to legitimate state interests and not arbitrary. *See, e.g., Lobato v. People*, 218 P.3d 358, 364-65 (Colo. 2009); *Neeley v. W. Orange – Cove Consol. Indep. Sch. Dist*., 176 S.W. 3d 746 (Tex. 2005), *rehearing denied*, 2005 Tex. LEXIS 966 (Tex. 2005). *See also, Danson v. Casey*, 33 Pa. Comm. 614, 631-32, 382 A. 2d 1238 (1978) (using a fair and substantial relationship test to review Pennsylvania's school finance system against the constitutional obligation to "provide for a thorough and efficient system of public education to serve the needs of the Commonwealth").

1. The Panel Erred In Substituting Its Judgment For That Of The Legislature Because Legislative Decisions Are Presumed Constitutional, Particularly In The Areas of Taxation And Appropriation

Art. 2, § 1 of the Kansas Constitution provides: "The legislative power of this state shall be vested in a house of representatives and a senate." Legislative power is the power to make, amend, or repeal laws. Executive power is the power to enforce the law,

and judicial power is the power to interpret and apply the law to actual controversy. *State ex rel. Tomasic v. Unified Gov't of Wyandotte County/Kansas City, Kan.*, 264 Kan. 293, 300-01, 955 P.2d 1136 (1998).

In *Gawith v. Gage's Plumbing & Heating Co., Inc.,* 206 Kan. 169, 476 P.2d 966 (1970), the Court examined the difference between judicial and legislative powers:

> The classic statement setting out the abstract test to be applied by courts in distinguishing the judicial power from legislative power when examining administrative agencies was made by Justice Holmes speaking for the court in *Prentise v. Atlantic Coast Line,* 211 U.S. 210, 53 L. Ed. 150, 29 S. Ct. 67. He there said:
>
> ". . . A judicial inquiry investigates, declares and enforces liabilities as they stand on present or past facts and under laws supposed already to exist. That is its purpose and end. Legislation on the other hand looks to the future and changes existing conditions by making a new rule to be applied thereafter to all or some part of those subject to its power. . . ." (p. 226.)
>
> As Mr. Justice Holmes said in *Noble State Bank v. Haskell,* 219 U.S. 104, ---, on rehearing, 219 U.S. 575 (1911): "We fully understand * * * the very powerful argument that can be made against the wisdom of the legislation, but on that point we have nothing to say as it is not our concern."

Id. at 178-79. "[T]he legislature, not the judiciary, is the main guardian of the public needs to be served by social legislation." *Wichita v. White*, 205 Kan. 408, 409, 469 P.2d 287 (1970) (*quoting Berman v. Parker*, 348 U.S. 26 (1954)).

In *Barrett v. Unified Sch. Dist. No. 259*, 272 Kan. 250, 255, 32 P.3d 1156 (2001), this Court explained:

> The burden of one asserting the unconstitutionality of a particular statute is a weighty one. This is as it should be for the enacted statute is adopted through the legislative process ultimately expressing the will of the electorate in a democratic society. Thus, when approaching the review of a claim of unconstitutionality, certain basic principles of review are observed. First, the constitutionality of a statute is presumed and all doubts must be resolved in favor of its validity. Before a statute may be

> stricken down the statute must clearly violate the constitution. This court's duty is to uphold the statute under attack rather than defeat it, if there is any reasonable way to construe the statute as constitutionally valid, that should be done. Statutes are not stricken down unless the infringement of the superior law is clear beyond substantial doubt.

Accord, U.S.D. 229, 256 Kan. at 236-38 ("When a statute is attacked as unconstitutional a presumption of constitutionality exists and the statute must be allowed to stand unless it is shown to violate a clear constitutional inhibition."). *See also, Tomasic*, 264 Kan. at 300-01 ("The propriety, wisdom, necessity and expedience of legislation are exclusively matters for legislative determination and courts will not invalidate laws, otherwise constitutional, because the members of the court do not consider the statute in the public interest of the state, since, necessarily, what the views of members of the court may be upon the subject is wholly immaterial and it is not the province nor the right of courts to determine the wisdom of legislation touching the public interest as that is a legislative function with which courts cannot interfere.").

2. Courts Are Constitutionally Bound To Accept The Legislature's Actual And Presumed Factual Findings

In *Blue v. McBride*, 252 Kan. 894, 915, 918, 850 P.2d 852 (1993), the Court acknowledged: "Our function is not that of a super-legislature which weighs the wisdom of the legislation." Instead:

> On frequent occasions, the constitutionality of a statute depends on the existence or nonexistence of certain facts. In view of the presumption in favor of the validity of statutes, it must be supposed that the legislature had before it when the statute was passed any evidence that was required to enable it to act; and if any special finding of fact was needed in order to warrant the passage of the particular act, the passage of the act itself is treated as the equivalent of such a finding. It is presumed that the legislature, in enacting a statute, has investigated and found the facts necessary to support the legislation. Moreover, the validity of legislation that would be necessary or proper under a given state of facts does not depend on the actual existence of the supposed facts. It is enough if the

lawmaking body may rationally believe the facts to be established.

16A Am. Jur. 2d, *Constitutional Law*, § 188 (Rev. 2009). Additionally,

> Since the determination of questions of fact on which the constitutionality of statutes may depend is primarily for the legislature, the general rule is that the courts will acquiesce in the legislative decision, unless it is clearly erroneous, arbitrary, or wholly unwarranted.

16A Am. Jur. 2d, *Constitutional Law*, §189 (Rev. 2009).

In *Blue*, 252 Kan. at 920, the Court stated: "Both individual plaintiffs testified at such hearings. They lost in the legislature. The courts are being asked to sit as a super legislature and overturn the legislature's action as violative of the Fourteenth Amendment. This we are not empowered to do." *State v. Consumers Warehouse Market, Inc*., 183 Kan. 502, 509, 329 P.2d 638 (1958), acknowledged that the "judgment of the legislature cannot be superseded by that of the court if questions relating thereto are reasonably debatable." Further, Kansas courts acknowledge that it is entirely irrelevant for constitutional purposes whether the presumed reason for the challenged statute actually motivated the legislature. *Injured Workers of Kansas v. Franklin*, 262 Kan. 840, 862, 942 P.2d 591 (1997). *Accord*, *State v. Mueller*, 271 Kan. 897, 900, 27 P.3d 884 (2001), cert denied 535 U.S. 1001 (2002) ("An appellate court will uphold a statute as long as it implements any rational purpose, even if the legislature never considered the purpose when enacting the statute."). *Accord, State ex rel. Mitchell v. Sage Stores Co.*, 157 Kan. 404, 413, 141 P.2d 655 (1943) ("the legislature is entitled to its own judgment, and its judgment cannot be superseded by the views of the court").

The United States Supreme Court explained:

> A state legislature, in the enactment of laws, has the widest possible latitude within the limits of the Constitution. In the nature of the case it cannot record a complete catalogue of the considerations which move its

> members to enact laws. In the absence of such a record courts cannot assume that its action is capricious, or that, with its informed acquaintance with local conditions to which the legislation is to be applied, it was not aware of facts which afford reasonable basis for its action. Only by faithful adherence to this guiding principle of judicial review of legislation is it possible to preserve to the legislative branch its rightful independence and its ability to function.

Lehnhausen v. Lake Shore Auto Parts Co., 410 U.S. 356, 364-65 (1973) (*quoting Carmichael v. Southern Coal & Coke Co*., 301 U.S. 495, 510 (1937)).

Recently, in *Downtown Bar & Grill, L.L.C v. State,* 294 Kan. 188, 198, 273 P.3d 709 (2012), the Court acknowledged that a legislative choice is not subject to courtroom fact finding and, as such, the choice may be based on rational speculation unsupported by evidence or empirical data. *Accord*, *Peden v. Kansas Dep't of Revenue*, 261 Kan. 239, 253, 930 P.2d 1 (1966), *cert. denied,* 520 U.S. 1229 (1997) (*quoting FCC v. Beach Communications, Inc.*, 508 U.S. 307, 315 (1993)). *See also, Meehan v. Kansas Dep't of Revenue*, 25 Kan. App. 2d 183, 189, 959 P.2d 940 (1998), *rev. denied,* 1998 Kan. LEXIS 459 (July 9, 1998) (*"*Where scientific opinions conflict on a particular point, the legislature is free to adopt the opinion it chooses, and a court will not substitute its judgment on this issue."). *See also, Cardarella v. Overland Park*, 228 Kan. 698, 701-02, 620 P.2d 1122 (1980) ("[t]he law does not require scientific studies to support a legislative decision"); *State v. Brayman*, 110 Wn. 2d 183, 193, 751 P.2d 294 (1988) ("where scientific opinions conflict on a particular point, the Legislature is free to adopt the opinion it chooses, and the court will not substitute its judgment for that of the Legislature.").

3. The Panel Did Not Apply A Presumption Of Constitutionality Here But, Instead, Substituted Its Own Judgment For The Legislature's Actual And Presumed Factual Findings

The Panel asserted that its task was to provide and then apply the "procedural or factual markers for compliance with [court] declared [constitutional] tenets." R. Vol. 14, p. 1758. The Panel, however, departed from the settled precedent in favor of its own supposed "empirically based" "determination of compliance or non-compliance [with Article 6] . . . by the existence of facts that either do, or do not, allow the challenged actions to stand." R. Vol. 14, pp. 1757-58. The Panel analogized its review to that which applies to the actions of individual officials accused of violating federal and state bills of rights, but the analogies are fundamentally inapposite because individual officials' actions generally are not "legislative" in nature.

The Panel tried to distinguish the law requiring application of a presumption of constitutionality [including the required acceptance of actual and presumed legislative fact findings] and, in particular, *U.S.D. 229's* acknowledgment that the presumption applies to the Article 6 analysis, by claiming the constitutional challenge in this case was "as applied." R. Vol. 14, p. 1753. The distinction does not hold water.

First, the presumption must be enforced whether the constitutional challenge is "facial" or "as applied." *See, e.g.*, *State v. Cook*, 286 Kan. 766, 768, 187 P.3d 1283 (2008) ("We presume that legislative enactments are constitutional and resolve all doubts in favor of a statute's validity. [citation omitted] We will not declare a statute unconstitutional as applied unless it is clear beyond a reasonable doubt that the statute infringes on constitutionally protected rights." [citation omitted]); S*tate ex rel. Six v. Mike W. Graham and Assocs., L.L.C.*, 42 Kan. App. 2d 1030, 1033, 220 P.3d 1105

(2009) ("statute is not unconstitutional as applied unless it is clear beyond a substantial or reasonable doubt that the statute infringes on constitutionally protected rights" and "constitutionality of a statute is presumed, and the court must resolve all doubts in favor of its validity."). Second, the constitutional challenges in *U.S.D. 229* were not different in any material respect from the challenges raised in this case. *U.S.D. 229*, 256 Kan. at 254-68. Finally, the Panel's "as applied" analysis was not limited in any respect to how the SDFQPA and funding appropriations impacted the named plaintiffs. In such an analysis, Plaintiffs only have standing to assert constitutional infirmities that applied to them; they lack standing to assert how the legislation impacts others. *Johnson v. State*, 289 Kan. 642, 651, 215 P.3d 575 (2009); *Cross v. Kansas Dep't of Revenue*, 279 Kan. 501, 508, 110 P.3d 438 (2005) (relying upon *Ulster County Court v. Allen*, 442 U.S. 140 (1979)).

C. The Legislature's School Funding Decisions Were Not Arbitrary

1. The Legislature Had Reasonable Grounds For The Challenged Decisions

The Panel eschewed the State's request that it should analyze the Article 6 constitutional issue under an arbitrariness standard. Therefore, the Panel made no findings of fact and reached no legal conclusions on the subject. However, this Court can and should give proper deference to the Legislature's policy choices to find that the State's decisions were not arbitrary.

The State made suitable provision for finance of the educational interests of the state using traditional techniques for determining the level of funding for governmental services. The Legislature evaluated budgets, historical spending, fund year-end balances, available sources of revenue [much of which was only collected after] and advice from a

variety of sources. With all sources of revenue (state, local and federal) considered, Kansas public K-12 schools are receiving funds *at record levels*. Kansas K-12 schools meet state accreditation requirements and its teachers are licensed and are, with rare exception, qualified or highly qualified. Individual districts have held millions of dollars unspent, in reserve, in recent years.

The State also considered that Kansas students are performing well, generally and in all subcategories, when compared to regional states and nationally. Student performance and graduation data paint the picture of an overall successful education system. Finally, the State possessed scientific evidence and recent history supporting the policy determination that infusion of additional funding at a macro level will not enhance student performance, graduation rates or preparation either generally or by subgroups of students.

Today the law and circumstances important to the Article 6 analysis are like those present when *U.S.D. 229* was decided. As in *U.S.D. 229*, 256 Kan. at 257-58, here there is no evidence that schools are not funded sufficiently or equitably to be able provide the elements of the accreditation system in place, both inputs and outputs. Rather, the undisputed evidence is that all Kansas schools are sufficiently funded to meet current rigorous accreditation requirements. There is no statewide study showing to the contrary. Moreover, the Legislature has nearly a decade of school finance experience since *Montoy*, experience that supports the current provision for K-12 funding as suitable.

By contrast, in *Montoy*, the trial court found the then-SDFQPA's financing formula "failed to equitably distribute resources among children equally entitled by the Constitution to a suitable education, or in the alternative, to provide a rational basis

premised in differing costs for any differential" and "dramatically and adversely impacted the learning and educational performance of the most vulnerable and/or protected Kansas children [the poor, the minorities, the physically and mentally disadvantaged, and those who cannot or nearly cannot yet speak English]." Appendix E, *Montoy v. State*, Shawnee County District Court, Case No. 99-C-1738, "Decision and Order Remedy," May 11, 2004, pp. A75. The trial court's findings in *Montoy* were that: (1) per pupil spending varied by up to 300%; (2) schools with the children most expensive to educate were receiving the least; (3) the State's own study found the funding was inadequate and inequitable; and (4) disaggregated education test records showed an achievement gap between most vulnerable and/or protected students and other Kansas students – "reflecting failure rates in some categories of vulnerable and/or protected students as high as 80%." *Id.,* at pp. A76-A77.

Montoy imposed the Legislature's criteria for determining whether suitable provision had been made for the finance of education. It described the criteria as: "Do the schools meet the accreditation requirements and are students achieving an 'improvement in performance that reflects high academic standards and is measurable'?" *Montoy II*, 278 Kan. at 771. The twin principal elements of these findings, which the Court found were sufficient to support the legal conclusion that Article 6 was violated, were that: (1) the state-sponsored A&M Study used – according to *Montoy* – the State's definition of "a suitable education" and, applying it, found the then-funding was inequitable and inadequate state-wide; and (2) the then-finance formula's distribution of funds failed to provide adequate funding to middle- and large-sized districts with a high proportion of minority and/or at-risk and special education students. *Id*.

The law and circumstances changed after the trial court's decision in *Montoy*. Obviously, there were significant changes in the SDFQPA's financing formula. These changes varied previous weighting to provide additional funding to districts with high minority and/or at-risk and special education student populations. *Montoy v. State* ("*Montoy IV*"), 282 Kan. 9, 16-18, 138 P.3d 755 (2006). The Panel held Plaintiffs failed to establish inequity in these weightings.

Further, separate from the remedy ordered in *Montoy*, new education standards, which drive curriculum choices, were twice adopted, first fully implemented in 2006 and the most recent to be fully implemented in 2014-15. The statutes cited by *Montoy II* as part of State's definition of "suitable education" were amended. 2006 Kan. Sess. Laws Ch. 197, § 22. K.S.A. 2012 Supp. 72-1127 became law. *See* 2005 Kan. Sess. Laws Ch. 152 § 6. It provides:

> (a) In addition to subjects or areas of instruction required by K.S.A. 72-1101, 72-1103, 72-1117, 72-1126 and 72-7535, and amendments thereto, every accredited school in the state of Kansas shall teach the subjects and areas of instruction adopted by the state board of education as of January 1, 2005.
>
> (b) Every accredited high school in the state of Kansas also shall teach the subjects and areas of instruction necessary to meet the graduation requirements adopted by the state board of education as of January 1, 2005.
>
> (c) Subjects and areas of instruction shall be designed by the state board of education to achieve the following goals established by the legislature to allow for the: [7 goals are listed].

Based on the authority of K.S.A. 2012 Supp. 72-6439(b) and (c) and K.S.A. 2012 Supp. 72-1127, the KSDE adopted detailed QPA regulations outlining the accreditation requirements. K.A.R. 91-31-31, *et seq.* (July 1, 2005). K.S.A. 46-1225, including

subsection (e) which conscripted the A&M Study, was repealed in July 2005. K.S.A. 2012 Supp. 46-1226 now provides:

> (a) Any cost study analysis, audit or other study commissioned or funded by the legislature and any conclusions or recommendations thereof shall not be binding upon the legislature. The legislature may reject, at any time, any such analysis, audit or study and any conclusions and recommendations thereof.
>
> (b) A cost study analysis, audit or study shall include, but not be limited to, any cost study analysis, audit or study conducted pursuant to K.S.A. 46-1225, prior to its repeal, K.S.A. 2007 Supp. 46-1131, prior to its repeal, and K.S.A. 2010 Supp. 46-1132, and amendments thereto.

Also, Kansas has continued to make steady progress toward narrowing achievement "gaps" when compared to the circumstances presented at the trial in *Montoy*. In 2006 every major subgroup was below 65 percent proficient in math, but by 2011 every group was above 65 percent and had an average increase of 15 percentage points from 2006. R. Vol. 11, p. 1396, ¶ 230. In 2006 every major subgroup was below 70 percent proficient in reading, but by 2011 every group was above 70 percent and had increased at least 10 percentage points from 2006. R. Vol. 11, p. 1396, ¶ 230. Kansas test scores within every performance category have increased from 2000 and the gap between the lowest performing students and highest performing students has narrowed.

2. The Panel Erroneously Substituted Its Judgment On Whether The Legislature Properly Considered The Actual Costs

First, in finding that the Legislature failed to consider actual costs, the Panel improperly ignored other substantial sources of revenue available to Kansas schools, particularly LOB and federal funding. The evidence was that the funding provided and actual expenditures are in alignment with the "actual cost" calculations and recommendations of the LPA Study.

That the Legislature must "make suitable provision for finance" does not mean that the State must exclusively provide the funding. In *Richland County v. Campbell*, 294 S.C. 346, 349, 364 S.E.2d 470 (1988), the South Carolina Supreme Court noted that a Legislature is only to choose the means of funding from all available sources to satisfy the constitutional requirement that it "shall provide for" maintenance and support of schools. The phrase "shall provide for" maintenance and support of schools does not equate to "shall pay" for maintenance and support. *Id.*

The Legislature fulfilled its duty here by providing multiple sources of revenue to local school districts, including authorizing local school districts to levy taxes for education spending. "Kansas school districts have no inherent power of taxation and never have had. They have always been funded through legislation." *U.S.D. 229*, 256 Kan. at 252. In fact, at the time Article 6 was added to the Kansas Constitution, the assumption was that local funding would support local schools. *Id*. at 239.

Reliance on local school boards, the entities most familiar with how their schools are performing, to decide the necessary level of LOB funding ensures a level of local control, a predominant feature of public education in Kansas (and virtually all States). Under Article 6, § 5 of the Kansas Constitution, local boards of education, elected by and accountable to local electors, make the decisions on how educational funds will be spent and on many aspects of primary and secondary public education, subject only to general supervision by the State Board of Education.

Even the Panel recognized that the State satisfied the constitutional requirement to make suitable provision for the finance of education when all revenue is considered. The Panel stated that it rejected the State's position "on a basis of *either* costs [when only

revenue from the State is considered] or equity [when all revenue is considered]." R. Vol. 14, p. 1868 (emphasis supplied).

Second, the Panel's assertion that the State failed to consider actual costs of funding is inapposite to required deference to legislative findings. For example, the Panel implied "actual costs" can only be determined by a "study" or some entity separate from the Legislature. *See Downtown Bar & Grill, L.L.C,* 294 Kan. at 198 (legislative choice may be based upon "rational speculation unsupported by evidence or empirical data"); *Cardarella*, 228 Kan. at 701-02 ("scientific studies to support a legislative decision" are not required).

The Panel did not cite to any part of Article 6's language to support consideration of "actual costs" as a litmus test to determine the constitutionality of the legislature's school funding decisions. The *Montoy* discussion of "actual costs" started in *Montoy II.* There the Court reviewed the trial court's finding that the Legislature's "failure to do any cost analysis distorted the low enrollment, special education, vocational, bilingual education, and the at-risk student weighting factors." *Montoy II*, 278 Kan. at 775. *See also, Montoy IV*, 282 Kan. at 23 ("Our prior orders have made it clear that we were concerned that the then existing financing formula was distorted and provided *disparate funding* because it was based on former spending levels with little or no consideration of the actual costs and present funding needs of Kansas public education." [emphasis supplied]). Thereafter, the "actual cost" discussion addressed the remedy, not assessing whether plaintiffs proved a violation of Article 6. *See Montoy II*, 278 Kan. at 775; *Montoy III*, 279 Kan. at 820, 823, 829-38, 840-43; *Montoy IV*, 282 Kan. at 10-14, 20-23.

This distinction is important. In the remedy phase, *Montoy II* "shifted [the burden of proof] to the defendants to show that the legislature's action has resulted in suitable provision for the financing of education as required by Article 6, § 6." *Montoy III*, 279 Kan. at 820. *Montoy III* held that the presumption of constitutionality did not apply and the doctrine of separation of powers did not limit the Court's review of legislation passed to remedy a constitutional violation "because of [the] case's remedial posture." *Id*. at 825-26. In our case, the burden of proof has not shifted; the presumption of constitutionality remains intact; and the doctrine of separation of powers prohibits *de novo* substitution of the Panel's policy judgments for those of the Legislature.

3. The Panel Essentially Made A Policy Decision That More Funding Was Needed

The Panel effectively held that the Court's acceptance of funding levels in *Montoy IV,* 282 Kan. at 17-18, 24-25, which involved increases to the BSAPP from $4,257 to $4,316 in 2006-07, to $4,374 in 2007-08, and to $4,433 in 2008-09, created a permanent baseline for Article 6 suitable funding. This premise is the platform for the Panel's evaluation of increasing demands supposedly driving up the cost of public education. *See e.g.*, Opinion, Findings, pp. 56-74. The Panel reached these conclusions even though the Legislature had ample grounds to decide the matters differently.

First, the funding levels accepted in *Montoy IV* can be traced generally to the results of the LPA Study, although this Court did not adopt the study's conclusions. *Montoy IV*, 282 Kan. at 15-16, 24. In fact the Court stated, "[t]he legislature is not bound to adopt, as suitable funding, the "actual costs" as determined by the A&M and LPA studies." *Id.* at 24. Thus, as local district spending in the categories that the LPA Study found important initially exceeded and now approximates the funding suggested by the

study when the source of revenue is ignored, the Panel's reasoning amounts to a slight-of-hand. It is one thing to contend (albeit erroneously) that LOB and federal funding cannot be considered because of equity concerns, and it is altogether another to overlook, on the question of suitability of funding levels, that the effective BSAPP is actually greater in 2012-13 than $4,433 when all sources of revenue are considered.

Second, the Panel's observations about the costs to address increased demands make several assumptions. The Panel assumes funding at a $4,433 BSAPP is the floor only if (a) the funds provided to local districts are spent with maximum efficiency, (b) present resources cannot be tasked to accommodate the demands, and (c) there is a relationship between increased educational funding over current levels and improved student achievement. Each of these suppositions is the subject of reasonable debate.

The Legislature had grounds to determine that the funding that it providing is not being spent efficiently. The LPA proposed setting a BSAPP of $4,433 to generate the revenue necessary to produce desired student achievement (goals no longer in place because of the Waiver) at the 75th percentile. R. Vol. 24, p. 1453, l. 1 – p. 1437, l. 11; R. Vol. 115, pp. 15332-33. Accordingly, it was assumed that districts in the upper 25th percentile of efficient spending would receive more revenue than the LPA proposed as necessary. *Id.* Also, if all districts' efficiency of spending in the years studied (1999-2004), could be improved, funding at the 75th percentile was artificially high.

Kansas Education Commissioner, Dr. DeBacker, was asked to explain how Kansas has made steady improvement in Kansas assessment test scores, for all groups of students, over the last 10 years in light of recent reductions in the BSAPP. She attributed this to: (a) teachers knowing the state standards, knowing the assessments, knowing how

to prepare students (including use of formative assessments to check student learning along the way) and (b) the momentum which has built up where "we look at what's happening within the actual classrooms with the teachers and with the students and the community getting students ready. We then always say, too, you set a mark for us and Kansans want to meet that mark. And whether the mark is at 87.5 percent or 91, we seem to – seem to be able to do it." R. Vol. 11, p. 1445, ¶ 375.

As to the second supposition, no evidence was presented on whether adoption of Waiver (including the CCS) will cause districts to incur significant expense beyond already budgeted, planned expense for replacement of class room materials or professional development. R. Vol. 11, p. 1345, ¶¶ 73-74 (citing R. Vol. 116, p. 15947); pp. 1372-73, ¶ 166 (citing R. Vol. 27, p. 2114; R. Vol. 116, p. 15939); R. Vol. 20, p. 453, lines 15-22; R. Vol. 26, p. 1803, lines 1-7; R. Vol. 108-09, pp. 9595-9765; R. Vol. 11, p. 1373, ¶ 167 (citing R. Vol. 116, 15946-47). After the trial, another LPA Study concluded local districts are likely to incur only between $2 million and $10 million in real or opportunity costs to implement the Waiver in 2012-13. Thereafter, the estimate was $32 million to $60 million in real or opportunity costs over the next five years.

Finally, the authors of the LPA Study reviewed the literature regarding the effect of spending on education outputs. R. Vol. 11, p. 1443, ¶ 368 (citing R. Vol. 27, pp. 2021-32). They reported to the Legislature that there were mixed opinions on that subject, some said spending was related to improved student performance, others said there was no relationship. R. Vol. 11, p. 1443, ¶ 368 (citing R. Vol. 27, pp. 2021-31).

4. The Panel Made Speculative Policy Judgments About The Alleged Impact Funding Levels May Have On Student Achievement

The State does not contend that spending money on education is unnecessary or

makes no difference, but the Legislature reasonably could conclude that minimal reductions in public education spending did not adversely impact Kansas students' opportunity for a quality education. The Panel should not have substituted its judgment for that of the Legislature.

The State does not question that the vast majority of Kansas schools, administrators and teachers do an exceptional job. Yet, it cannot be assumed providing more money is automatically the solution whenever students do not achieve desired academic success. If we have learned anything from the NCLB, it is that after more training and money have been tried (as the approaches have been tried in Kansas), some schools may need to be reorganized, and some administrators and teachers may need to be replaced. That is the NCLB's model of accountability. *See* R. Vol. 111, pp. 12452-53.

The Panel found the preliminary assessment test results for 2011-12 showed students are beginning to feel effects from decreased state funding. R. Vol. 14, pp. 1902-03. It found undirected increases or reductions of state aid impact student performance. R. Vol. 14, p. 1877. But experts and social science studies disagree about whether and how more spending can increase student performance *en masse*. The Panel acknowledged this. R. Vol. 14, p. 1871.

The Legislature had Kansas assessment test scores, gap reduction, NEAP scores and ACT scores and expert opinions from which it could have reasonably concluded that its funding decisions would not impact the opportunity for a quality of education in this state. *See* R. Vol. 11, pp. 1329-30, ¶ 20(h), (i), (l), p. 1439-45, ¶¶ 360-76.

Although reporting the mixed opinions on whether the actual cost of providing a desired education is capable of scientific calculations, the statistical analysis in the LPA Study was premised on the assumption that *undirected* increases in money to Kansas school districts increases academic achievement based upon the evaluation of Kansas data. R. Vol. 11, pp. 1340-41, ¶ 56 (citing R. Vol. 70, pp. 3999-4000; 4074-75). This assumption was disputed by Kansas State University Professor Dr. Florence Neymotin's peer-reviewed and published statistical study, which reviewed the same data used by the LPA. R. Vol. 11, pp. 1442-43, ¶ 366 (citing R. Vol. 108, pp. 8825-47). She found there is no strong relationship between increased spending and outputs. *Id*. Her study is lockstep with an earlier study by the LPA, "Performance Audit Report, Analyzing the Relationship Between Funding Levels and the Quality of Education in Kansas School Districts," January 1991, which found lack of correlation. R. Vol. 11, pp. 1340-41, ¶ 56 (citing R. Vol. 108, pp. 8904-57).

The testimony at trial confirmed this. The State called two experts on this topic. R. Vol. 11, pp. 1439-40, ¶ 361. Both experts reviewed Kansas data. R. Vol. 11, pp. 1440-41, ¶¶ 362-63. They concluded:

- "[T]here's no reason to expect better performance simply by adding more money." R. Vol. 11, p. 1440, ¶ 362 (citing R. Vol. 28, p. 2261);

- "These data show there is no systematic or stable positive statistical relationship between spending per student in a district and student achievement. Indeed, it is much more common to find a negative relationship between the two variables. This does not mean that higher spending causes lower student achievement. Rather, it simply indicates that reliable statistical relationship between the two variables does not exist." R. Vol. 11, p. 1441, ¶ 363 (citing R. Vol. 114, p. 14675);

- "Simply put, it is not possible to identify a level of district spending per student that can reliably predict any given level of student achievement." R. Vol. 11, p. 1441, ¶ 364 (citing R. Vol. 114, p. 14675);

- "There are political ways, which is the way we normally do it, but there's not a scientific way to [estimate needed funds to achieve desired educational outputs]." R. Vol. 11, p. 1441, ¶ 364 (citing R. Vol. 28, p. 2266).

According to these experts, what makes assessing the impact of spending issue so difficult, particularly where closing test scores are the focus, is that there are so many variables which can impact student academic achievement, including parents addicted to alcohol, methamphetamine or other drugs, incarcerated parents, erosion of the nuclear family, parents who do not take advantage of the tutoring offered to their children, illness and lack of health insurance. R. Vol. 11, pp. 1444-45, ¶¶ 373-74 (citing R. Vol. 32, pp. 3112-13, 3134, 3044-45, 3053; R. Vol. 22, pp. 954-55).

Case law similarly recognizes the impossibility of establishing a causal relationship between particular school funding levels and student performance. *See, e.g.*, *Missouri v. Jenkins*, 515 U.S. 70, 102 (1995) ("numerous external factors beyond the control of the [school district] and the State affect . . . student achievement"); *Paynter v. State of New York*, 100 N.Y.2d 434, 441, 797 N.E.2d 1225, 1229 (2003) ("The causes of academic failure may be manifold, including such factors as the lack of family supports and health care"); *City of Pawtucket v. Sundlun*, 662 A.2d 40, 61 (R.I. 1995) (because of indeterminate relationship between funding and student performance, "[w]e are particularly troubled by a definition of 'equity' that requires a sufficient amount of money [to be] allocated to enable all students to achieve 'learner outcomes'"); *cf. Finstad v. Washburn*, 252 Kan. 465, 476, 845 P.2d 685 (1993) (quoting the concurring opinion in *Donohue v. Copiague Union Free School Dist*., 47 N.Y.2d 440, 391 N.E.2d 1352, 418 N.Y.S.2d 375, 379 (1979)) ("The practical problems raised by a cause of action sounding in educational malpractice are so formidable that I would conclude that

such a legal theory should not be cognizable in our courts. . . . Factors such as the student's attitude, motivation, temperament, past experience and home environment may all play an essential and immeasurable role in learning.").

5. The Panel Improperly Overrode The Legislature's And The Governor's Judgments On Tax And Economic Policies, Quintessential Political Decisions

In *Serrano v. Priest*, 226 Cal. Rptr. 584, 619-20, 200 Cal. App. 3d 897 (1986), evaluating funding for education under the California Constitution, the court recognized that the state must satisfy competing demands in the state's budget. In *U.S.D. 229,* this Court similarly observed that potential funds available for schools are not unlimited. "The funding of public education is a complex, constantly evolving process. The legislature would be derelict in its constitutional duty if it just gave each school district a blank check each year." *Id.* at 265.

With respect, policy judgments regarding taxation and economic development are not the province of the Judiciary. The Legislature is politically accountable to the citizens of Kansas and fully understands that its appropriation and taxing decisions impact the Kansas economy and all Kansans. The debate as to whether it is best to raise taxes to help stimulate the economy (as the Panel effectively opined, in order that such revenue be spent on educational services) or whether it is best to lower taxes and trust that this policy choice will result in increased economic growth that eventually will generate additional revenue is a pure policy debate, not a matter of state constitutional law, or an issue appropriate for judicial resolution.

Notwithstanding, the Panel substituted its views on the State's economy and appropriate tax policy for those of the Legislature and Governor: "It appears to us that the

only certain result from the tax cut will be a further reduction of existing resources available and from a cause, unlike the 'Great Recession' which had a cause external to Kansas, that is homespun, hence, self-inflicted." R. Vol. 14, p. 1946.

Educators testified that schools have been providing their poor students (and in some instances the students' families) with basic social services – *e.g.*, food, clothing, health care, psychological counseling, R. Vol. 11, pp. 1431-32, ¶¶ 349-50 (citing R. Vol. 32, pp. 3044-46, 3094-95; R. Vol. 31, pp. 2847-48, 2882, 2884-85), and several of the SDFQPA weightings assume children in poverty cost more to educate.

The Legislature may determine it is better policy to provide support services directly to the poor as opposed to funding increases in education budgets to indirectly provide social services to the poor. R. Vol. 11, p. 1431, ¶ 349. Likewise, the Legislature could determine that stimulating economic growth and providing opportunities for jobs with tax cuts is a better policy to battle poverty and the reduce the ills poverty produces, including increased educational costs. See discussion at R. Vol. 11, pp. 1437-39, ¶¶ 356-59.

The State must make appropriation and taxing decisions which impact its economy. *See, e.g.*, R. Vol. 11, pp. 1436-39, ¶¶ 352-59. Whether it is best to raise taxes to help stimulate the economy (or in this instance to be spent on educational services) or whether it is best to lower taxes to generate long-term growth and revenue is a longstanding public and political debate. R. Vol. 11, pp. 1438-39, ¶ 359 (citing R. Vol. 33, p. 3280-81; R. Vol. 27, p. 2117). Evidence does exist to support the proposition that economic growth is best advanced by lowering or keeping state taxes low, even if some may disagree with that approach. *See* R. Vol. 11, p. 1438, ¶ 358 (citing R. Vol. 33, pp.

3279-80, pp. 3581-85). Ultimately, this is precisely the kind of fiscal and policy debate that is suited for legislative, not judicial, determination.

D. The Panel's Legal Conclusion That Present Funding Creates Wealth-Based Disparities Which Violate Article 6 Is Erroneous

The Panel concluded that the system's reliance on LOB injected a wealth-based disparity into school funding in violation of Article 6, § 6; it also concluded that the State created wealth-based disparities by eliminating or reducing equalization payments in the form of capital outlay and other state aid. R. Vol. 14, pp. 1859-66, 1906-16. These rulings improperly assumed that Article 6, § 6 forbids wealth-based disparity in taxation and, again, substituted the Panel's judgments for those of the Legislature.

1. Kansas Law Does Not Require Equal Taxation Among All School Districts

Nothing in the language of Article 6, § 6 requires equal taxation in all school districts. Differences in assessed property value and, therefore, varied ability to raise revenue are inherent in ad valorem tax systems. At the time Article 6 was added to the Kansas Constitution, the assumption was that revenue would be generated for public schools from local ad valorem tax assessments levied upon the real estate and personal property within each school district. Between 1861 and Article 6's enactment in 1966, schools were primarily funded by local dollars because the state gave school boards taxing authority. *U.S.D. 229,* 256 Kan. at 239; *Knowles v. State Board of Ed.,* 219 Kan. 271, 274, 547 P.2d 699 (1976). Thus, there can be no serious argument that Article 6, § 6 intended equal taxation. *See Montoy IV*, 282 Kan. at 22 ("What is required is an equitable and fair distribution of the funding to provide an opportunity for every student to obtain a suitable education.").

This Court addressed a challenge to reliance on property taxes to fund education in *Knowles v. State Bd. of Ed.,* 219 Kan. 271, 547 P.2d 699 (1976). Rejecting a claim that an amendment to school funding statutes violated equal protection, *Knowles* first looked at controlling federal authority:

> In *San Antonio School District v. Rodriguez,* 411 U.S. 1 (1973), the United States Supreme Court considered a class action on behalf of Texas school children challenging the constitutionality of the state's statutory system for financing public education under the equal protection clause of the Fourteenth Amendment. In *Rodriguez* the court noted:
>
> "'The broad discretion as to classification possessed by a legislature in the field of taxation has long been recognized. *** [T]he passage of time has only served to underscore the wisdom of that recognition of the large area of discretion which is needed by a legislature in formulating sound tax policies. *** It has ... been pointed out that in taxation, even more than in other fields, legislatures possess the greatest freedom in classification. Since the members of a legislature necessarily enjoy a familiarity with local conditions which this Court cannot have, *the presumption of constitutionality can be overcome only by the most explicit demonstration that a classification is a hostile and oppressive discrimination against particular persons and classes*. . . .' *Madden v. Kentucky,* 309 U.S. 83, 87-88 (1940)." 411 U.S. pp. 40-41.

Id. at 277-78 (emphasis supplied). *See also, U.S.D. 229*, 256 Kan. at 261-62 (following *San Antonio* and finding no equal protection violation). The Court then refused to decide the impact of the amendment on the School Funding Act. The Court explained:

> The present case is one where the presumption of constitutionality which attends every legislative act can be overcome only by the most explicit demonstration that the method of classification and the payments made results in a hostile and oppressive discrimination against particular persons and classes. The facts and figures necessary to demonstrate such a discrimination are not available in our present record as to the 1975 Act. Therefore, we must decline to examine and decide the constitutional questions raised by the plaintiffs in light of the limited record before us.
>
> The cases of *Manzanares v. Bell, supra*, and *Ash v. Gibson, supra*, are distinguishable from our present case. There the constitutional challenges were directed to the statutes themselves. No constitutional issues were raised which had to be resolved upon facts and figures outside the record

> in order to demonstrate how the particular law would result in inequalities and oppressive discrimination. Here it is the operation and effect of the law on particular persons and classes which is challenged rather than the basic theory of the law itself.

Id. at 278.

In *Montoy*, the Court provided direction for the remedy it required after affirming that the former version of the SDFQPA violated Article 6. In *Montoy II*, it wrote:

> It is clear increased funding will be required; however, increased funding may not in and of itself make the financing formula constitutionally suitable. The equity with which the funds are distributed and the actual costs of education, including appropriate levels of administrative costs, are critical factors for the legislature to consider in achieving a suitable formula for financing education. By contrast, the present financing formula increases disparities in funding, not based on cost analysis, but rather on political and other factors not relevant to education.

278 Kan. at 775. In *Montoy III*, the Court reviewed legislation passed after *Montoy II* and found that it had failed to make the SDFQPA constitutional. Among the several issues discussed, the Court noted the absence of LOB equalization "which can worsen wealth-based disparities" and the legislation's "failure to provide any equalization to those districts unable to access [capital outlay] funding perpetuates the inequities produced by [capital outlay funding through local property taxes]. 279 Kan. at 834, 838. In *Montoy IV*, the Court accepted that the Legislature had responded to concerns about the SDFQPA's funding formula. Addressing its requirement that the legislation be equitable, the Court stated:

> Equity does not require the legislature to provide equal funding for each student or school district. In *Montoy II*, we rejected the plaintiffs' claim that the school finance act violated the *Equal Protection Clause* of the United States and Kansas Constitutions. What is required is an equitable and fair distribution of the funding *to provide an opportunity for every student to obtain a suitable education*.

Montoy IV, 282 Kan. at 22 (emphasis supplied).

Whether this opportunity is denied turns on the actual operation of the SDFQPA. This is highlighted by the concurrence in *Montoy IV*. The concurring Justices expressed concern that districts are required to impose a local property tax levy by enacting an LOB in order to receive LOB state aid. They reasoned some school boards or taxpayers may reject a local tax to support their school district so that those districts may not have the funds necessary for "a constitutionally adequate education" and the State cannot allow districts to choose to fund less than what is adequate base level funding. 282 Kan. at 30. Nevertheless, the concurring Justices concluded that the legislation reviewed in *Montoy IV* substantially complied with the Court's orders because there was, in actual operation, "such a high level of participation in the LOB funding." *Id*.

The Panel did not consider how the SDFQPA actually operated or even the need for equalization to provide required education opportunity. Instead, it applied a *per se* prohibition against wealth-based disparities: "Throughout the litigation history concerning school finance in Kansas, wealth based disparities have been seen as an anathema, one to be condemned and disapproved." R. Vol. 14, pp. 1860-64.

The Panel ignored *Montoy* and *Knowles,* relying instead upon decisions that do not stand for the Panel's *per se* rule. *Board of Ed. v. Tinnon,* 26 Kan. 1 (1881), found a local district lacked statutory authority to require African-American students to attend separate schools. In *State v. Smith*, 155 Kan. 588, 595, 127 P2d. 518 (1942), the Court reversed truancy convictions, in the process stating only that the Kansas Constitution established a system of public education in which "every child in the state, without regard to race, creed, or wealth, shall have the facilities for a free education."

LOB equalization, or "supplemental general state aid," is available to each district that adopts an LOB and which ranks at or below the 81.2% of the school districts ranked by local tax AVP. K.S.A. 2012 Supp. 72-6434. The aid is reduced about 20% to conform to the 2012-13 appropriation. However, even if 100% of the aid was provided, the wealthiest school districts (approximately 19% of districts), would still be able to raise more taxes per mill levy than the districts with lower assessed property values. *Montoy* accepted that "disparity," *Montoy IV*, 282 Kan. at 16, 23, because "[n]o scheme of taxation, whether the tax is imposed on property, income, or purchases of goods and services, has yet been devised which is free of all discriminatory impact. In such a complex arena in which no perfect alternatives exist, the Court does well not to impose too rigorous a standard of scrutiny lest all local fiscal schemes become subjects of criticism under the Equal Protection Clause." *San Antonio*, 411 U.S. at 41.

2. There Is No Evidence That Kansas Schools Are Failing To Provide Required Opportunities For Education

There is no evidence that any district is unable to provide the required opportunity for an education because it was unable to raise LOB or capital outlay taxes. The Panel's Opinion failed to point to any support for its legal conclusion that the "disparity" accepted in *Montoy* is the most the Kansas Constitution allows. No evidence was presented here that the *pro rata* reduced supplemental general state aid prevented any district from providing the required educational opportunity. Rather, the evidence at trial showed minimal variances in mill levy rates among the districts and no relationship between district AVP which might suggest "poorer" districts are imposing higher local taxes on individuals and businesses than are imposed in "wealthy" districts.

There are several reasonable factors the Legislature could have weighed in favor of limiting BSAPP reductions and weighed against fully funding all equalization aid. An increased BSAPP includes *all* districts. Thus, the top approximately 19% AVP districts receive a proportion of the funds and can have a larger General Fund than if the appropriation was more weighted toward equalization payments. With the all-services reductions of State budgets since the Great Recession, this choice cushions the impact on those districts, perhaps minimizing cuts to their programs and personnel. This reflects a change in distribution of funds, but there is no evidence that the change is significant enough to deprive a student of opportunity in a constitutionally-recognizable sense.

Similarly, the BSAPP multiplies the SDFQPA's weights. A higher BSAPP increases the funds that the Plaintiff Districts receive for students who are believed to be more expensive to educate. The Plaintiff Districts generally have a higher number of these students. Yet, equalization aid, if the State's limited resources are allocated to LOB aid or capital outlay state aid, is less likely to be spent on instruction for these kids. The Legislature could legitimately and reasonably have preferred spending on instruction over spending on capital outlay items. *See* K.S.A. 72-64c01(a) ("It is the public policy goal of the State of Kansas that at least 65% of moneys appropriated, distributed or otherwise provided by the state to school districts shall be expended in the classroom or for instruction.").

Additionally, the importance of capital outlay state aid depends upon the need for capital expenditures. Some General Fund and LOB monies can be transferred into capital outlay funds. Money raised by local capital outlay levy, however, can only be used on capital outlay expenditures. Providing more operational funding, by placing monies

otherwise appropriated for capital outlay into the General Fund appropriation, provides districts with greater flexibility to spend the monies where needed.

Plaintiffs failed to show that capital outlay expenditures are presently critical or even important. In fact, almost all the evidence of "cuts" to programs and staff concerned operational expenses. By contrast, evidence supported a finding that school districts were not taking advantage of their full authority to levy capital outlay expenses and some, including the Plaintiff Districts, were instead building cash balances in their capital outlay funds rather than actually spending on capital projects. Ultimately, the equity issues – whether they involve increased reliance on LOB funding, or decreased "equalization" funding for supplemental general state aid and capital outlay aid – come down to a balance between hypothetical, absolute taxing equality and the benefits of local control over education funding levels, a pure and quintessential legislative policy choice.

Ironically, in *Petrella v. Brownback*, in the United States District Court for the District of Kansas, Case No. 10-CV-2661-JWL-KGG, parents and students in the Shawnee Mission School District, U.S.D. 512, complain that their constitutional rights are being denied because their district is not allowed to increase its LOB above 31% of its General Fund. *See Petrella v. Brownback*, 697 F.3d 1285 (10th Cir. 2012). They are seeking to compel (under federal constitutional claims) even *more* local control. Here, by contrast, the Panel found that placing more funding control in the hands of local districts violates state constitutional rights.

Both the *Petrella* Plaintiffs and the Panel are wrong. The Legislature can balance equity in taxation with traditional concerns in favor of substantial local control over

school funding without violating either the Kansas or U.S. Constitutions. Indeed, the Legislature's choices are presumptively constitutional.

IV. The "Remedies" The Panel Ordered Are Beyond Judicial Authority As A Matter of Law

Leaving aside, for the moment, all other questions presented in this case and on appeal, the remedies the Panel purported to impose in its Entry of Judgment and Order were beyond judicial authority as a matter of law, and by definition an abuse of discretion.

A. The Panel's Entry Of Judgment And Order

In its Entry of Judgment and Order, the Panel ordered as follows:

> (1) The State of Kansas is hereby enjoined from performing the unconstitutional act of altering, amending, superceding, by-passing, diluting or otherwise changing, directly or collaterally, any portion of the School District Finance and Quality Performance Act, K.S.A. 72-6405, et seq., as it existed on July 1, 2012, if the effect of such action would be to abolish, lower, dilute or delay the revenue that would be derived from the base student aid per pupil set forth by K.S.A. 72-6410(b)(1) of $4492. . ..
>
> (2) The State of Kansas is hereby enjoined from performing the unconstitutional act of enacting any appropriation or directing, modifying, or canceling any transfer, or using any accounting mechanism or other practice that would, will, or may in due course, affect, effect, or fund less than the base student aid per pupil of $4492 set forth in K.S.A. 72-6410(b)(1) as it existed on July 1, 2012 . . . .
>
> (3) The State of Kansas is enjoined from the exercise of any claimed authority under K.S.A. (2012) 72-6410(b)(2) except in recognition of that authority authorized to the Governor and the Finance Council by K.S.A. 75-6704 upon its proper exercise.
>
> (4) The State of Kansas is hereby enjoined from performing the unconstitutional act of amending, changing, altering, diluting, superceding or by-passing any of the provisions of K.S.A. 72-6434 as it existed on July 1, 2012 if the effect of the same would be to create a wealth based disparity in the distribution of funds or in the ability to use the local option budget by a school district. The State is hereby enjoined from the unconstitutional act of providing by appropriation, transfer, or otherwise

> less than full funding of such statutory formula, or, subject to the foregoing, any alternative funding means, to any eligible school district for FY2014 and thereafter and are enjoined from the unconstitutional act of proration under section "(b)" of such statute or any like statute.

In paragraph 5, the Panel ordered that K.S.A. (2012) 72-8801, *et seq*. is unconstitutional and of no force and effect. Paragraph 6 provides that Plaintiffs, their attorneys, "or such other counsel as this Court may designate" are empowered to enforce this Entry of Judgment and Order as follows:

> with all deliberate speed before this Court, . . . should any violation of this Order reasonably appear or be reasonably apprehended. Such Plaintiffs, attorneys acting on their behalf, or such other counsel as this Court may designate shall not join as a party any official, either in his or her official capacity or individually, without a showing first to the court that the effective enforcement of this Entry of Judgment and Order, most probably requires such joinder or joinders.

B. The Panel's "Remedy" Is, At Best, Premature

At best, the Panel's "Remedy" is premature. While the Panel purported to recognize that "any remedy or solution will largely rest in the hands of the Kansas Legislature," R. Vol. 14, p. 1958, the Panel gave the Legislature *no opportunity* to assess and consider the Court's findings or and to come up with solutions to the issues the Panel perceived. If courts are to order Legislatures around – an extreme action – they should do so only as a last resort, after a Legislature has been given a reasonable opportunity to respond, and only when fundamental rights are at stake.

Here, the Panel seemed to believe that kicking the Legislature was the Panel's first resort, not the last. Indeed, the Panel treats this case as though it is merely a continuation of *Montoy* and this just another remedial round of that litigation, rather than recognizing that this is a completely new and separate case. That alone is reversible error on the Panel's part. *Montoy v. State*, 04-92032-S (Order denying "motion to re-open").

In stark contrast to the Panel here, in *Montoy* the trial court never attempted to enjoin the Legislature or to direct it to act in any particular way. *Montoy II*, 278 Kan. at (the trial judge stated that there were "literally hundreds of ways" the financing formula could be altered to comply with Article 6, § 6). Neither did this Court. Rather, both courts in *Montoy* deferred to the Legislature to fashion a remedy for constitutional problems the courts identified, as courts typically do. *Id. See, e.g., DeRolph v. State*, 78 Ohio St. 3d 193, 677 N.E. 2d 733, 747 (1997) ("although we have found the school financing system to be unconstitutional, we do not instruct the General Assembly as to the specifics of the legislation it should enact," staying its decision for one year). *See generally, Leandro v. State*, 346 N.C. 336, 355-57, 488 S.E. 2d 249 (1997) ("the very complexity of the problems of financing and managing a statewide public school system suggests that 'there will be more than one constitutionally permissible method of solving them,' and that within the limits of rationality, 'the legislature's efforts to tackle the problems,' should be entitled to respect.")

Until the Panel's decision, Kansas school finance litigation has involved a respectful dialogue between the branches of Kansas government, with the courts rendering legal opinions and the Legislature and Governor responding as necessary and appropriate to redress constitutional infirmities. R. Levy, "Gunfight at the K-12 Corral: Legislative vs. Judicial Power in the Kansas School Finance Litigation," 54 U. Kan. L. Rev. 1021, 1034-47 (2006). The Panel's Entry of Judgment and Order in this case, however, goes too far, exceeding the judicial power and invading the legislative power, turning a constitutional dialogue into a judicial monologue.

C. The Panel Cannot Enjoin The Legislature From Legislating

In paragraphs 1-4 of the remedy portion of its Order, quoted above, the Panel purported to enjoin "the State," which realistically and necessarily here means "the Legislature." Under our Constitution, however, the power of appropriation is a core legislative power. Kan. Const., art. 2, §§ 1, 24. The Panel did not hold that the School District Finance and Quality Performance Act, K.S.A. 72-6405, *et seq*., was itself unconstitutional, but the Panel's Order nonetheless attempts to compel the Legislature to make an appropriation of BSAPP of $4,492 for FY2014. R. Vol. 14, pp. 1961-62, 1964.

In purporting to order such a "remedy," the Panel exceeded its judicial power under the Kansas Constitution. No longer was the Panel interpreting the law; it assumed the role of appropriator of state funds. *See, e.g., Bismarck Pub. School Dist. No. 1 v. State*, 511 N.W.2d 247, 263 (N.D. 1994) (concluding "the district court erred in mandating specific actions to be taken by the Governor, the Superintendent of Public Instruction, and the Legislative Assembly and its leaders, and in retaining jurisdiction to monitor and enforce compliance with its decision. In view of the separate powers entrusted to the three coordinate branches of government, it is not the usual function of the judiciary to supervise the legislative process in that manner.").

1. There Is No Legal Authority to Support The Relief Ordered

Regrettably, the Panel acted as a "Super-Legislature," going so far as to assert that, "[w]hile one legislature may not bind another, a court order can." R. Vol. 14, p. 1959. The Panel does not cite any authority that supports its actions, even itself recognizing that the cited school desegregation cases were not "equally analogous." *See Id*. Indeed, the first case cited, *Brown v. Board of Ed.*, 349 U.S. 294, 299 (1955), does

not itself contain any remedial order, despite the fact that the Supreme Court had declared segregated schools unconstitutional a year earlier; instead, even then, the Court recognized that school authorities have the primary responsibility for solving local problems. *Swann v. Charlotte-Mecklenburg Bd. of Ed.*, 402 U.S. 1, 16 (1971), also cited by the Panel, recognized the limits of judicial remedies: "Remedial judicial authority does not put judges automatically in the shoes of school authorities whose powers are plenary. Judicial authority enters only when local authority defaults."

2. The Panel Cannot Enjoin The Exercise of Legislative Power

In *State ex. rel. Stephan v. Kansas House of Representatives*, 236 Kan. 45, 51, 687 P.2d 622 (1984), this Court recognized "the general principle that the authority of the legislature to act in its discretionary function is not subject to interference by the judiciary." More recently, this Court cited *Stephan* in *State ex. rel. Morrison v. Sebelius*, 285 Kan. 875, 179 P.3d 366 (2008), for the proposition that "when the legislature is considering legislation, a court cannot enjoin the legislature from passing a law. '*This is true whether such action by the legislature is in disregard of its clearly imposed constitutional duty or is the enactment of an unconstitutional law*.'" *Id.* at 898-99 (quoting *Stephan*, 236 Kan. at 51 (emphasis added)).

Moreover, Article 2, § 22 of the Kansas Constitution, the Speech or Debate Clause, cloaks legislators with a common-law immunity from suit arising out of the performance of legislative functions. The purpose of the Speech or Debate Clause is to insure that legislators may perform legislative functions independently, free from outside interference or fear of such interference, particularly interference by the other branches of government: "[I]t is apparent from the history of the clause that the privilege was not

born primarily of a desire to avoid private suits … but rather to prevent intimidation by the executive and accountability before a possibly hostile judiciary." *United States v. Johnson*, 383 U.S. 169, 180-81 (1966).

To preserve legislative independence, legislators are protected not only from the consequences of the results of litigation but also from the burden of defending themselves. *State v. Neufeld*, 260 Kan. 930, Syl. ¶ 2, 926 P.2d 1325, (1996). Critically, the act of voting for or against proposed laws (or not voting at all), which is what the Panel here seeks to compel and to enjoin, is the very essence of the "legislative" activity that the Speech or Debate Clause protects from judicial intrusion. *Id.* at 930, Syl. ¶ 7; *see also, Gravel v. United States*, 408 U.S. 606, 617 (1972) ("the Court's consistent approach has been that to confine the protection of the Speech or Debate Clause to words spoken in debate would be an unacceptably narrow view. Committee reports, resolutions, and the act of voting are equally covered.") The Panel's attempt to force the Legislature to affirmatively act on a matter, and to simultaneously enjoin the Legislature from doing anything to the contrary, is clearly unconstitutional.

The Governor also has legislative immunity for his "legislative" actions. He plays a vital role in the legislative process and holds the power to sign or veto legislation. This power is legislative in nature, and that is confirmed by the fact that the Governor's veto power is found in Article 2 of the Kansas Constitution, not Article 1. *See* Constitution of Kansas, Article 2, §14. The Panel's unconstitutional attempt to "enjoin" the State of Kansas clearly invades the constitutional prerogatives of the Governor and the Legislature.

The Panel's Order thus is plainly invalid.

3. The Panel's Order Improperly Attempted To Use Mandamus To Compel A Particular Appropriation

Indeed, the Panel's "remedy" effectively sounds in mandamus – ordering a public official to perform a public duty. This Court's decisions long have recognized that mandamus is not available to compel a discretionary act; only ministerial actions may be compelled through the writ or court order. *See, e.g, Kansas Bar Ass'n v. Judges of the Third Judicial Dist*., 270 Kan. 489, 491, 14 P.3d 1154, 1156-57 (2000). The Legislature's appropriation decisions are quintessentially discretionary, not ministerial, in nature. *See, e.g., California Sch. Bds. Ass'n v. State*, 192 Cal. App. 4th 770, 797-99, 121 Cal Rptr. 3d 696, 716-18 (2011), *reh'g denied* (Mar. 8, 2011), *review denied* (May 18, 2011) ("a court is prohibited from using its writ power to require an appropriation even if the Legislature is statutorily required to appropriate certain funds," stating "[t]here is nothing ministerial about placing items in a budget bill," citing separation of powers concerns, citation omitted). Thus, as a California court found in this context:

> On its face, the issued writ interferes directly with the Legislature's discretionary functions by requiring the Legislature to appropriate funds for certain local school district programs and services. The determination as to how and whether to spend public funds is within the Legislature's broad discretion. The School Districts argue that the writ implicates only ministerial powers because it does not "tell[ ] the Legislature which programs it must retain or forego, nor does it order the Legislature to fund any program" and instead merely compels the state to comply with existing law and to make the choice given to it by the existing statutory scheme. . . .
>
> This argument is unavailing. There is nothing ministerial about placing items in a budget bill. The formulation of a budget bill, including the items to be placed in the bill, is inherently a discretionary and a legislative power. (See In re Madera Irrigation District (1891) 92 Cal. 296, 310, 28 P. 272.) The budget determination "is limited by [the Legislature's] own discretion, and beyond the interference of courts." (Ibid.; see City of Sacramento v. California State Legislature (1986) 187 Cal.App.3d 393, 398, 231 Cal.Rptr. 686.)

California Sch. Bds. Ass'n v. State, 192 Cal. App. 4th at 797-99.

4. The Legislature Is Not A Party To This Suit And Is Immune In Any Event

The Plaintiffs chose to sue the "State of Kansas," and only the State. The Panel overstepped its judicial role when it volunteered to aid the Plaintiffs by joining appropriate officials to enforce the Order. R. Vol. 14, pp. 1967-68. Moreover, any parties added to this suit will not include the Legislature, which is legally immune from any contempt or other enforcement action related to the injunction in any event. Kan. Const., art. 2, § 22. Aside from the Legislature, there is no other State official or entity that can do or not do what the Panel ordered in Paragraphs 1-4 of its Entry of Judgment and Order. Therefore, those provisions are a practical nullity.

In *State ex. rel. Stephan v. Kansas House of Representatives*, 236 Kan. 45, 687 P.2d 622 (1984), the Attorney General brought an original action in *mandamus* and *quo warranto* against the Kansas House of Representatives, Kansas Senate and Kansas Governor, John Carlin, seeking a determination of the constitutionality of K.S.A. 1983 Supp. 77-426(c) and (d), which by its terms provided the legislature with the power to adopt administrative rules and regulations by concurrent resolutions without presentment to the governor. The Court ultimately dismissed the suit on the basis of legislative immunity under the Speech or Debate Clause. 236 Kan. at 58. The Court emphasized that legislators enjoyed a common-law immunity from suit arising out of the performance of legislative functions, an immunity now embodied in the Speech or Debate Clause in Article 2, § 22 of the Kansas Constitution. *Id.* at 54. In fact, state legislators enjoy immunity under federal and state law similar to that accorded Congressional

representatives under the federal Speech or Debate Clause. *Id*. (*citing Tenney v. Brandhove*, 341 U.S. 367 (1951); *United States v. Johnson*, 383 U.S. 169 (1966); *Supreme Court of Va. v. Consumers Union*, 446 U.S. 719, 732-33 (1980)).

Importantly, legislative immunity protects legislators from suits for either prospective relief or damages. *Id*. (*citing Supreme Court of Va*., 446 U.S. at 731-32 (*citing Eastland v. United States Servicemen's Fund*, 421 U.S. 491, 502-03 (1975)). The *Stephan* Court explained that "'[t]he purpose of this immunity is to insure that the legislative function may be performed independently without fear of outside interference. To preserve legislative independence, we have concluded that 'legislators engaged 'in the sphere of legitimate legislative activity,' should be protected not only from the consequences of litigation's results but also from the burden of defending themselves.' . . . 'a private civil action, whether for injunction or damages, creates a distraction and forces [legislators] to divert their time, energy and attention from their legislative tasks to defend the litigation.'" *Id.* at 54-55 (citations omitted). In addition to preserving legislative independence, "'the clause serves the additional function of reinforcing the separation of powers so deliberately established by the Founders.'" *Id.* at 55 (*quoting United States v. Johnson*, 383 U.S. 169, 178 (1966)). "Under the Speech or Debate Clause legislators are absolutely immune from the burden of defending lawsuits based upon acts done within 'the sphere of legitimate legislative activity,'" *id.* at 56, and "the passing of acts and resolutions is the very essence of the legislative process." *Id.* (*citing Eslinger v. Thomas*, 476 F.2d 225, 228 (4th Cir. 1973)).

Legislative immunity thus plainly bars enforcement of the remedy portion of the Panel's Order.

D. The Panel's Order Violates The Separation Of Powers

The Panel's Order on remedies violates the separation of powers because the Panel invades the "legislative power," a power vested exclusively in the Legislature by Article 2, § 1 of the Kansas Constitution, as well as the appropriation power, also vested exclusively in the Legislature by Article 2, § 24 of the Kansas Constitution. *See also, Ex parte James*, 836 So.2d 813, 819 (Ala. 2002) (dismissing school funding case and pointing out that "any specific remedy that the judiciary could impose would, in order to be effective, necessarily involve a usurpation of that power entrusted exclusively to the Legislature."). This Court has discussed the separation of powers many times. *See* N. Haag, "Separation of Powers: Is There Cause For Concern?," J. Kan. Bar Ass'n 30, 31 n.1 (March 13, 2013) (summarizing cases). As discussed in *Stephan*, 236 Kan. at 59:

> The doctrine of separation of powers is an outstanding feature of the American constitutional system. The governments, both state and federal, are divided into three branches, i.e., legislative, executive and judicial, each of which is given the powers and functions appropriate to it. Thus, a dangerous concentration of power is avoided through the checks and balances each branch of government has against the other. *Van Sickle v. Shanahan*, 212 Kan. at 439-40, 511 P.2d 223; *State ex. rel. Bennett*, 219 Kan. at 287, 547 P.2d 786; *State v. Greenlee*, 228 Kan. at 715, 620 P.2d 1132. Generally speaking, the legislative power is the power to make, amend, or repeal laws; the executive power is the power to enforce the laws; and the judicial power is the power to interpret and apply the laws in actual controversies. *Van Sickle v. Shanahan*, 212 Kan. at 440, 511 P.2d 223 . . ..

Applying separation of powers first principles here, it is apparent that the Panel purports to restrict "the State" from performing legislative acts, including the determination of appropriations. R. Vol. 14, pp. 1964-66. The Panel also purports to restrict executive acts. *Id.* at 1966. By entering this remedy and retaining jurisdiction, the Panel is seeking to exercise control over the amount the Legislature spends for

Kansas schools, including ordering a specific amount in BSAPP on an annual basis for the foreseeable future. The Panel is also in effect reordering legislative (and gubernatorial) spending priorities, effectively requiring the Legislature to make cuts in other areas of state government or to raise taxes in order to increase funding for schools.

The Panel's Order thus necessarily results in significant interference with legislative operations and usurps legislative power. That is in fact the very objective of the Order – to put the Panel in charge of school funding for FY2014 and subsequent years. Under the Panel's Order, the Legislature is enjoined from appropriating any amount less than a figure based upon BSAPP of $4,492 for FY2014, an over $500 million increase, no matter the economic conditions or other needs of State government. This is far more interference with another branch's exclusive power than the statute the Court struck down in *Stephan*. *Id.* at 61, 64.

More recently, in *State ex. rel. Morrison v. Sebelius*, 285 Kan. 875, 179 P.3d 366 (2008), this Court held that the "judicial trigger" provision of the Kansas Funeral Picketing Act violated the separation of powers because the Legislature directed the Attorney General to file an action asking the courts for an advisory opinion on the constitutionality of a new law before the law would go into effect, amounting to the legislature "requiring the judicial branch to exercise legislative or executive power." *Id.* at 900 (citation omitted). The Court discussed the "legislative power" as follows:

> Article 2 of the Kansas Constitution gives the legislature the exclusive power to pass, amend, and repeal statutes. *State ex rel. Stephan v. Finney*, 251 Kan. 559, 577, 836 P.2d 1169 (1992). It is universally recognized that 'the essential of the legislative function is the determination of the legislative policy and its formulation and promulgation as a defined and binding rule of conduct within the limitations laid down by the constitution.' 251 Kan. at 578. The separation of powers doctrine, therefore, prohibits either the executive or judicial branches from

> assuming the role of the legislature. *E.g., State ex rel. Board of Healing Arts v. Beyrle*, 269 Kan. 616, 622, 7 P.3d 1194 (2000); *State ex rel. Tomasic*, 264 Kan. at 337-38, 955 P.2d 1136.

Generally speaking, "[w]hen the legislature is considering legislation, a court cannot enjoin the legislature from passing a law. 'This is true whether such action by the legislature is in disregard of its clearly imposed constitutional duty or is the enactment of an unconstitutional law.'" *Stephan*, 236 Kan. at 51, 687 P.2d 622 (emphasis added).

The Panel's Order only gives lip service to the principle that school funding and appropriations are the Legislature's prerogative. Instead, the Panel actually claims that authority for the courts, and even suggests that the Legislature should delegate legislative power over school funding to the State Board of Education. R. Vol. 14, pp. 1954-55. Under the Panel's Order, no Legislature is even needed anymore for school funding – an administrator can calculate and issue annual checks to school districts.

In addition to interfering with the legislative power, the Panel's Order unconstitutionally exceeded the "judicial power," under Article 3, § 1 of the Kansas Constitution. The judicial power, like all government power, is limited and subject to checks and balances. But there is no check on the Panel's Order, which instead contains a threat that the courts will enter the political fray as a litigant, even appointing their own counsel to enforce the Panel's Order. That does not look like any "judicial power" the Kansas courts traditionally have exercised.

The extensive and ongoing judicial involvement in school finance that the Panel's Order contemplates in fact would run roughshod over the constitutional principle, commanded by the people of Kansas through the adoption of the plain language of Article 6, § 6, that spending on education is fundamentally a legislative responsibility.

Moreover, the Panel's Order would elevate the requirements of Article 6, § 6 (as the Panel interprets those requirements) above all other requirements of the Kansas Constitution, thus rendering a nullity the Article 2 requirements that only the Legislature may legislate, that only the Legislature may determine and make appropriations, and that courts may not direct the Legislature's deliberations or votes. Article 2, §§ 1, 22, 24.

That cannot be, and is not, a correct interpretation of the Kansas Constitution. If the people of Kansas think education is underfunded, the ballot box presents them with a recurring and regular opportunity to remedy the situation. Courts dictating appropriations for schools to the Legislature will cause institutional conflict, perhaps even a constitutional crisis. *See* R. Levy, "Gunfight at the K-12 Corral: Legislative vs. Judicial Power in the Kansas School Finance Litigation", 54 U. Kan. L. Rev. 1021 (2006). Like the supreme courts in our sister states such as Iowa, Oklahoma, and Nebraska, this Court should decline the Plaintiffs' invitation to enter the Stygian swamp of supervising a state school finance system, and certainly when the fight is solely about the *amount* of money. At the very least, the remedies the Panel purported to order cannot stand, and must be reversed.

CONCLUSION AND REQUESTED RELIEF

For the foregoing reasons, the State requests that the Panel's decision be reversed, and the case either dismissed for lack of jurisdiction or the Court render judgment on the merits in the State's favor.

Respectfully submitted,

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The undersigned hereby certifies that on the 15th day of May 2013, true and correct copies of the above and foregoing BRIEF OF APPELLANT and APPENDIX were mailed, postage prepaid, to:

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Appendix A

"FY 2013 Legal Max" (KSDE)

The Court may judicial notice of the Kansas State Department of Education publication. *See* K.S.A. 60-409(a) & (c).

			Col 1	Col 2	Col 3	Col 4	Col 4(a)	Col 4(b)		Col 4(c)	Col 5	Col 6	Col 7	Col 7(a)	Col 8	Col 8(a)	Col 9	Col 9(a)	Col 9(b)	Col 10	Col 10(a)	Col 11	Col 11(a)	Col 12	Col 12(a)
	4/29/2013																								
USD #	County	District Name	FTE Enroll (exc 4 yr old at-risk exc virtual) 9/20/2010 2/20/2011	FTE Enroll (exc 4 yr old at-risk exc virtual) 9/20/2011 2/20/2012	FTE Enroll (exc 4 yr old at-risk exc virtual) 9/20/2012	Declining Enrollment Provision	FTE Enroll (exc 4 yr old at-risk) 2/20/2013	4 yr old at-risk (inc 9/20 inc 2/20)	FTE Enroll (inc 4 yr old at-risk inc virtual inc 2/20) 9/20/2012	Total Adjusted Enrollment	Virtual FTE (Info Only) 9/20/12	Low and High Enroll Weighted FTE	Vocational Contact Hrs	Vocational Weighted FTE	Bilingual Contact Hrs	Bilingual Weighted FTE	At-Risk Headcount	At-Risk Weighted FTE	High At-Risk Weighted FTE	2011-12 Non-Proficient Headcount	Non-Proficient Weighted FTE	New Facilities FTE	New Facilities Weighted FTE	Transp Over 2.5 Current Year	Transp Weighted FTE
Total		STATE TOTALS	446,403.1	447,305.6	447,904.0	452,298.7	599.2	3,552.0	457,502.5	456,449.9	5,447.3	54,410.9	86,192.6	7,184.7	140,837.3	9,272.3	190,965.0	87,080.7	12,917.3	22,112.0	1,027.6	18,035.6	4,509.4	134,039.2	25,895.0
101	Neosho	Erie-Galesburg	512.6	499.5	520.0	520.0	0.0	6.0	526.6	526.0	0.6	214.3	137.9	11.5	7.8	0.5	301	137.3	31.6	31	1.4	0.0	0.0	291.0	77.8
102	Gray	Cimarron-Ensign	659.6	664.4	643.8	664.4	0.0	9.5	656.9	673.9	3.6	240.7	117.0	9.8	779.1	51.3	221	100.8	0.0	30	1.4	65.0	16.3	105.0	39.3
103	Cheyenne	Cheylin	138.0	138.5	121.5	138.5	0.0	0.0	121.5	138.5	0.0	126.4	16.5	1.4	130.0	8.6	56	25.5	2.1	4	0.2	0.0	0.0	48.0	22.7
105	Rawlins	Rawlins County	300.0	309.0	304.5	309.0	0.0	0.0	304.5	309.0	0.0	148.7	66.3	5.5	66.6	4.4	96	43.8	0.0	22	1.0	0.0	0.0	83.5	35.7
106	Ness	Western Plains	165.5	146.5	148.0	153.3	0.0	0.0	148.0	153.3	0.0	133.8	7.5	0.6	66.6	4.4	77	35.1	8.1	9	0.4	0.0	0.0	51.0	23.4
107	Jewell	Rock Hills	283.5	286.0	295.5	295.5	0.0	6.5	302.0	302.0	0.0	146.0	133.7	11.1	0.0	0.0	126	57.5	5.9	15	0.7	0.0	0.0	163.0	60.3
108	Washington	Washington Co. Schools	399.0	393.0	359.5	393.0	0.0	0.0	359.5	393.0	0.0	177.9	92.0	7.7	0.0	0.0	134	61.1	0.0	31	1.4	42.0	10.5	150.5	48.5
109	Republic	Republic County	483.5	464.5	463.5	470.5	0.0	0.0	463.5	470.5	0.0	200.6	84.6	7.1	0.0	0.0	198	90.3	9.8	25	1.2	0.0	0.0	181.0	60.9
110	Phillips	Thunder Ridge Schools	247.0	237.0	235.0	239.7	0.0	2.0	237.0	241.7	0.0	154.4	52.3	4.4	0.0	0.0	102	46.5	5.1	18	0.8	0.0	0.0	164.0	54.8
111	Doniphan	Doniphan West Schools	341.5	340.0	307.5	340.0	0.0	6.0	313.5	346.0	0.0	162.1	72.6	6.1	0.0	0.0	112	51.1	0.0	24	1.1	0.0	0.0	222.0	58.4
112	Ellsworth	Central Plains	516.5	479.0	454.5	483.3	0.0	7.0	506.7	490.3	45.2	205.7	119.7	10.0	0.0	0.0	162	73.9	0.0	23	1.1	0.0	0.0	259.0	81.2
113	Nemaha	Prairie Hills	1,176.8	1,178.9	1,105.8	1,178.9	0.0	7.5	1,113.3	1,186.4	0.0	217.2	269.7	22.5	2.4	0.2	296	135.0	0.0	37	1.7	95.7	23.9	448.3	122.0
114	Doniphan	Riverside	740.7	647.5	646.9	678.4	0.0	5.5	652.4	683.9	0.0	241.9	185.2	15.4	0.0	0.0	325	148.2	28.4	51	2.4	0.0	0.0	292.0	58.3
115	Nemaha	Nemaha Central	583.8	564.8	578.3	578.3	0.0	8.5	586.8	586.8	0.0	226.9	255.3	21.3	0.0	0.0	105	47.9	0.0	18	0.8	0.0	0.0	220.9	57.7
200	Greeley	Greeley County Schools	188.5	195.0	193.5	195.0	0.0	3.5	197.0	198.5	0.0	149.5	29.6	2.5	132.7	8.7	88	40.1	5.7	21	1.0	0.0	0.0	50.0	24.5
202	Wyandotte	Turner-Kansas City	3,681.5	3,754.9	3,801.0	3,801.0	0.0	81.5	3,882.5	3,882.5	0.0	136.0	755.6	63.0	1,690.0	111.3	2,557	1,166.0	268.5	185	8.6	0.0	0.0	1,216.0	182.2
203	Wyandotte	Piper-Kansas City	1,640.5	1,718.0	1,770.7	1,770.7	0.0	4.0	1,774.7	1,774.7	0.0	62.2	340.7	28.4	18.2	1.2	290	132.2	0.0	58	2.7	113.4	28.4	986.0	147.7
204	Wyandotte	Bonner Springs	2,356.5	2,404.0	2,388.2	2,404.0	0.0	20.5	2,408.7	2,424.5	0.0	85.0	370.0	30.8	307.3	20.2	1,042	475.2	58.4	152	7.1	0.0	0.0	883.0	132.3
205	Butler	Bluestem	503.2	495.7	501.6	501.6	0.0	0.0	501.6	501.6	0.0	208.5	131.6	11.0	0.0	0.0	226	103.1	16.0	31	1.4	0.0	0.0	279.0	76.6
206	Butler	Remington-Whitewater	516.0	487.0	491.1	498.0	0.0	2.5	537.8	500.5	44.2	208.2	59.9	5.0	70.8	4.7	154	70.2	0.0	23	1.1	0.0	0.0	374.0	89.5
207	Leavenworth	Ft Leavenworth	2,020.5	1,979.0	1,791.1	1,979.0	192.4	0.0	1,983.5	2,171.4	0.0	76.1	0.0	0.0	110.8	7.3	124	56.5	0.0	88	4.1	0.0	0.0	131.0	19.6
208	Trego	Wakeeney	374.0	365.3	359.3	366.2	0.0	0.0	359.3	366.2	0.0	169.1	50.4	4.2	0.0	0.0	76	34.7	0.0	18	0.8	0.0	0.0	84.0	35.2
209	Stevens	Moscow Public Schools	176.5	176.6	159.3	176.6	0.0	4.5	163.8	181.1	0.0	144.8	0.0	0.0	298.0	19.6	81	36.9	5.5	11	0.5	0.0	0.0	41.0	15.7
210	Stevens	Hugoton Public Schools	979.3	1,013.2	1,011.1	1,013.2	0.0	20.5	1,036.3	1,033.7	4.7	242.8	248.1	20.7	1,398.7	92.1	506	230.7	49.6	113	5.3	217.5	54.4	170.0	58.1
211	Norton	Norton Community Schools	725.8	713.6	704.9	714.8	0.0	0.0	704.9	714.8	0.0	245.4	132.0	11.0	0.0	0.0	231	105.3	0.0	49	2.3	0.0	0.0	151.0	55.3
212	Norton	Northern Valley	199.0	186.0	168.5	186.0	0.0	0.5	169.0	186.5	0.0	146.4	39.9	3.3	0.0	0.0	68	31.0	0.7	8	0.4	0.0	0.0	89.0	29.6
214	Grant	Ulysses	1,565.4	1,559.8	1,588.6	1,588.6	0.0	31.0	1,626.2	1,619.6	6.6	58.1	232.9	19.4	1,551.6	102.1	879	400.8	92.3	105	4.9	0.0	0.0	231.0	72.1
215	Kearny	Lakin	587.5	617.5	604.4	617.5	0.0	6.0	610.4	623.5	0.0	233.4	39.9	3.3	709.3	46.7	252	114.9	9.5	12	0.6	0.0	0.0	90.0	36.4
216	Kearny	Deerfield	291.6	243.0	214.0	249.5	0.0	4.5	222.2	254.0	3.7	154.0	47.4	4.0	462.4	30.4	139	63.4	14.6	10	0.5	0.0	0.0	25.0	10.5
217	Morton	Rolla	193.5	171.5	182.4	182.5	0.0	0.0	183.4	182.5	1.0	145.2	67.5	5.6	175.4	11.5	56	25.5	0.0	13	0.6	0.0	0.0	47.0	17.8
218	Morton	Elkhart	549.8	497.1	489.4	512.1	0.0	10.0	1,001.8	522.1	502.4	213.4	117.7	9.8	453.2	29.8	270	123.1	28.4	24	1.1	0.0	0.0	30.0	13.8
219	Clark	Minneola	266.3	263.0	255.0	263.0	0.0	0.0	255.0	263.0	0.0	153.1	0.0	0.0	0.0	0.0	84	38.3	0.0	20	0.9	0.0	0.0	56.0	21.2
220	Clark	Ashland	205.5	206.4	183.6	206.4	0.0	1.0	184.6	207.4	0.0	151.3	18.9	1.6	12.9	0.8	68	31.0	0.0	9	0.4	0.0	0.0	57.0	25.5
223	Washington	Barnes	343.3	357.3	373.2	373.2	0.0	0.0	373.2	373.2	0.0	171.4	145.9	12.2	52.8	3.5	119	54.3	0.0	15	0.7	0.0	0.0	152.3	48.8
224	Washington	Clifton-Clyde	282.5	288.5	301.5	301.5	0.0	2.5	304.0	304.0	0.0	146.8	103.5	8.6	0.0	0.0	88	40.1	0.0	37	1.7	0.0	0.0	197.0	54.5
225	Meade	Fowler	163.5	153.5	165.0	165.0	0.0	3.5	168.5	168.5	0.0	140.3	0.0	0.0	35.0	2.3	69	31.5	2.8	10	0.5	16.7	4.2	33.0	13.8
226	Meade	Meade	447.5	440.8	419.3	440.8	0.0	5.0	424.3	445.8	0.0	193.8	66.2	5.5	50.7	3.3	129	58.8	0.0	18	0.8	0.0	0.0	78.5	30.0
227	Hodgeman	Hodgeman County Schools	306.0	302.0	311.4	311.4	0.0	0.0	311.4	311.4	0.0	149.6	62.4	5.2	21.5	1.4	78	35.6	0.0	24	1.1	0.0	0.0	125.0	49.8
229	Johnson	Blue Valley	20,592.0	20,897.7	21,134.6	21,134.6	0.0	0.0	21,134.6	21,134.6	0.0	740.6	4,278.7	356.6	537.1	35.4	1,233	562.2	0.0	667	31.0	738.8	184.7	5,147.0	771.0
230	Johnson	Spring Hill	2,034.1	2,115.7	2,178.9	2,178.9	0.0	7.5	2,740.9	2,186.4	554.5	76.6	365.4	30.5	4.9	0.3	463	211.1	0.0	95	4.4	145.6	36.4	1,001.0	149.9
231	Johnson	Gardner Edgerton	4,743.3	4,940.2	5,060.1	5,060.1	0.0	7.5	5,067.6	5,067.6	0.0	177.6	768.0	64.0	127.1	8.4	1,282	584.6	0.0	152	7.1	85.3	21.3	1,351.0	202.4
232	Johnson	De Soto	6,354.0	6,526.4	6,623.1	6,623.1	0.0	12.0	6,635.1	6,635.1	0.0	232.5	1,607.8	134.0	884.6	58.2	746	340.2	0.0	243	11.3	83.9	21.0	1,781.0	266.8
233	Johnson	Olathe	26,010.7	26,342.8	26,895.8	26,895.8	0.0	30.0	26,925.8	26,925.8	0.0	943.5	3,835.3	319.6	5,802.1	382.0	5,910	2,695.0	0.0	1,056	49.1	88.8	22.2	4,669.1	699.4
234	Bourbon	Fort Scott	1,853.2	1,812.1	1,791.0	1,818.8	0.0	18.0	1,809.0	1,836.8	0.0	64.4	272.3	22.7	15.3	1.0	1,010	460.6	106.1	152	7.1	0.0	0.0	568.0	128.7
235	Bourbon	Uniontown	444.0	442.5	422.5	442.5	0.0	7.0	429.5	449.5	0.0	194.8	124.5	10.4	1.0	0.1	224	102.1	23.2	9	0.4	0.0	0.0	293.0	77.4
237	Smith	Smith Center	416.0	402.5	391.5	403.3	0.0	0.0	391.5	403.3	0.0	181.1	96.1	8.0	0.0	0.0	129	58.8	0.0	24	1.1	0.0	0.0	127.0	47.0
239	Ottawa	North Ottawa County	608.5	590.9	590.4	596.6	0.0	0.0	590.4	596.6	0.0	228.7	42.9	3.6	0.0	0.0	181	82.5	0.0	21	1.0	0.0	0.0	181.0	57.1
240	Ottawa	Twin Valley	591.3	576.0	582.5	583.3	0.0	12.0	594.5	595.3	0.0	228.5	87.4	7.3	0.0	0.0	214	97.6	1.3	32	1.5	0.0	0.0	180.0	51.4
241	Wallace	Wallace County Schools	188.0	206.0	194.5	206.0	0.0	0.0	194.5	206.0	0.0	151.1	0.0	0.0	0.0	0.0	70	31.9	0.0	5	0.2	0.0	0.0	61.0	27.3
242	Wallace	Weskan	110.0	99.5	100.0	103.2	0.0	0.0	100.0	103.2	0.0	103.8	0.0	0.0	30.1	2.0	33	15.0	0.0	6	0.3	0.0	0.0	45.0	17.0
243	Coffey	Lebo-Waverly	516.5	495.7	485.5	499.2	0.0	0.0	487.5	499.2	2.0	207.9	140.9	11.7	0.0	0.0	176	80.3	0.4	27	1.3	0.0	0.0	130.0	39.3
244	Coffey	Burlington	836.9	819.7	797.7	819.7	0.0	4.5	802.2	824.2	0.0	252.3	227.7	19.0	1.7	0.1	229	104.4	0.0	27	1.3	0.0	0.0	241.0	56.3
245	Coffey	LeRoy-Gridley	224.5	208.0	213.9	215.5	0.0	0.0	213.9	215.5	0.0	152.6	31.5	2.6	0.0	0.0	85	38.8	2.6	17	0.8	0.0	0.0	92.5	28.9
246	Crawford	Northeast	537.5	487.8	462.0	495.8	0.0	6.0	470.0	501.8	2.0	208.6	2.2	0.2	0.0	0.0	296	135.0	31.1	43	2.0	0.0	0.0	206.5	46.4
247	Crawford	Cherokee	694.0	655.0	652.6	667.2	0.0	6.0	658.6	673.2	0.0	240.6	173.6	14.5	0.0	0.0	316	144.1	26.3	38	1.8	0.0	0.0	334.0	85.2
248	Crawford	Girard	1,001.0	1,011.5	1,000.0	1,011.5	0.0	7.0	1,007.0	1,018.5	0.0	244.5	287.9	24.0	17.3	1.1	395	180.1	10.5	37	1.7	0.0	0.0	353.0	86.3
249	Crawford	Frontenac Public Schools	858.0	867.0	871.0	871.0	0.0	7.0	878.0	878.0	0.0	252.7	165.6	13.8	0.0	0.0	292	133.2	0.0	50	2.3	0.0	0.0	54.0	11.5
250	Crawford	Pittsburg	2,600.5	2,686.4	2,716.8	2,716.8	0.0	20.0	2,739.4	2,736.8	2.6	95.9	315.1	26.3	734.0	48.3	1,641	748.3	172.3	98	4.6	0.0	0.0	434.4	67.7
251	Lyon	North Lyon County	437.3	418.0	428.0	428.0	0.0	0.0	428.0	428.0	0.0	188.6	79.2	6.6	0.0	0.0	207	94.4	19.4	24	1.1	0.0	0.0	282.0	81.0
252	Lyon	Southern Lyon County	517.8	499.5	508.2	508.5	0.0	3.0	511.2	511.5	0.0	210.9	237.6	19.8	0.0	0.0	191	87.1	3.1	22	1.0	0.0	0.0	228.3	63.2
253	Lyon	Emporia	4,196.5	4,191.1	4,179.6	4,191.1	0.0	70.0	4,253.6	4,261.1	4.0	149.3	797.6	66.5	5,843.0	384.7	2,665	1,215.2	279.8	158	7.3	249.1	62.3	1,666.0	249.6
254	Barber	Barber County North	435.5	424.5	444.0	444.0	0.0	5.0	449.0	449.0	0.0	194.7	71.7	6.0	0.0	0.0	143	65.2	0.0	11	0.5	0.0	0.0	130.0	49.8
255	Barber	South Barber	215.2	215.0	221.5	221.5	0.0	1.0	222.5	222.5	0.0	153.4	77.7	6.5	0.0	0.0	67	30.6	0.0	20	0.9	0.0	0.0	52.0	21.8

A2

	Col 13	Col 14	Col 15	Col 16	Col 17	Col 18	Col 18(a)		Col 19	Col 20					Col 21	Col 21(a)	Col 21(b)				Col 21(c)	Col 21(d)	Col 22	Col 22(a)	Col 22(b)	Col 22(c)	Col 22(d)
USD #	Ancillary Weighted FTE	Declining Enroll Weighted FTE	Cost of Living FTE	Virtual Weighted FTE	KAMS FTE	FY 13 Spec Ed State Aid	Spec Ed Weighted FTE	2012-13 Subtotal Weighted FTE (exc Spec Ed)	2012-13 Total Weighted FTE	Authorized Transfers	Sequence Number	Audit	Republished		Computed General Fund (exc Spec Ed)	Computed General Fund (inc Spec Ed)	Adopted General Fund	2012-13 General Fund (Before reductions)	Budget Law Violation	2011-12 Trans Audit Adjust	2011-12 Bilingual Vocational At-Risk Audit Adj	2011-12 Total Reduction	2012-13 Adjusted Legal General Fund Budget	LOB Base General Fund	2012-13 LOB Authorized Percent	Max Computed LOB Authorized	Adopted LOB	Legal LOB
Total	5,921.9	183.2	5,118.7	5,828.0	56.0	443,617,781	115,586.0	675,855.6	791,441.6	10,731,194					2,611,114,504	3,054,733,568	3,117,228,871	3,045,758,785	0	-114,358	0	-114,358	3,045,644,427	3,452,459,321	85.93	1,042,281,490	1,002,491,010	995,792,745
101	0.0	0.0	0.0	0.6	0.0	740,724	193.0	1,001.0	1,194.0	0	14	A	PX		3,841,838	4,582,572	4,582,572	4,582,572				0	4,582,572	5,178,157	30.00%	1,553,447	1,290,500	1,290,500
102	0.0	0.0	0.0	3.8	0.0	551,739	143.8	1,137.3	1,281.1	0					4,364,957	4,916,862	4,993,238	4,916,862				0	4,916,862	5,593,390	30.00%	1,678,017	1,310,000	1,310,000
103	0.0	0.0	0.0	0.0	0.0	166,036	43.3	325.4	368.7	0	12	A			1,248,885	1,415,071	1,460,359	1,415,071				0	1,415,071	1,632,753	30.00%	489,826	505,519	489,826
105	0.0	0.0	0.0	0.0	0.0	253,296	66.0	548.1	614.1	137,025	13	A			2,240,633	2,493,941	2,571,204	2,493,941				0	2,493,941	2,763,330	30.00%	828,999	848,017	828,999
106	0.0	0.0	0.0	0.0	0.0	126,584	33.0	359.1	392.1	0	12	A			1,378,226	1,504,880	1,518,697	1,504,880				0	1,504,880	1,743,232	30.00%	522,970	527,757	522,970
107	0.0	0.0	0.0	0.0	0.0	349,508	91.1	583.5	674.6	0	4	A			2,239,473	2,589,115	2,509,284	2,509,284				0	2,509,284	2,936,164	30.00%	880,849	744,750	744,750
108	0.0	0.0	0.0	0.0	1.0	497,341	129.6	701.1	830.7	160,000	16	A			2,850,822	3,348,227	3,369,719	3,348,227				0	3,348,227	3,651,874	30.00%	1,095,562	1,103,010	1,095,562
109	0.0	0.0	0.0	0.0	1.0	547,118	142.6	841.4	984.0	0	10	A	R		3,229,293	3,776,592	3,776,592	3,776,592				0	3,776,592	4,340,753	30.00%	1,302,226	1,260,000	1,260,000
110	0.0	0.0	0.0	0.0	0.0	330,994	86.2	507.7	593.9	648	7	A			1,949,201	2,280,036	2,301,913	2,280,036				0	2,280,036	2,584,565	30.00%	775,370	782,950	775,370
111	0.0	0.0	0.0	0.0	0.0	526,132	137.1	624.8	761.9	0	11	A			3,650,739	4,176,929	4,176,929	4,176,929				0	4,176,929	3,324,959	30.00%	997,488	1,030,000	997,488
112	0.0	0.0	0.0	47.5	0.0	506,641	132.0	909.7	1,041.7	0	6	A			4,998,037	5,504,653	5,504,653	5,504,653				0	5,504,653	4,718,676	30.00%	1,415,603	1,460,819	1,415,603
113	0.0	0.0	0.0	0.0	1.0	976,602	254.5	1,709.9	1,964.4	0	1	A			7,638,511	8,615,282	8,615,282	8,615,282				0	8,615,282	8,676,347	30.00%	2,602,904	2,615,538	2,602,904
114	0.0	0.0	0.0	0.0	0.0	780,000	203.2	1,178.5	1,381.7	0	12	A			4,955,854	5,735,736	5,735,736	5,735,736		-734		-734	5,735,002	6,004,291	30.00%	1,801,287	1,232,750	1,232,750
115	0.0	0.0	0.0	0.0	0.0	654,556	170.5	941.4	1,111.9	36,730	12	A			4,544,093	5,198,472	5,198,472	5,198,472				0	5,198,472	4,827,782	30.00%	1,448,335	1,112,250	1,112,250
200	0.0	0.0	0.0	0.0	0.0	138,804	36.2	430.5	466.7	0	12	A			1,652,259	1,791,195	1,873,712	1,791,195				0	1,791,195	2,074,258	30.00%	622,277	650,870	622,277
202	0.0	0.0	0.0	0.0	0.0	3,464,230	902.6	5,818.1	6,720.7	0	16	A	R		22,329,868	25,794,047	25,794,047	25,794,047		-561		-561	25,793,486	29,255,867	30.00%	8,776,760	8,714,920	8,714,920
203	0.0	0.0	0.0	0.0	0.0	1,608,000	419.0	2,177.5	2,596.5	0	6	A			8,357,245	9,965,367	10,013,342	9,965,367				0	9,965,367	11,260,858	30.00%	3,378,257	3,394,881	3,378,257
204	0.0	0.0	0.0	0.0	0.0	2,519,937	656.6	3,233.5	3,890.1	0	16	A	PX		12,410,173	14,930,204	14,930,204	14,930,204				0	14,930,204	16,854,043	30.00%	5,056,213	5,017,247	5,017,247
205	0.0	0.0	0.0	0.0	0.0	690,000	179.8	918.2	1,098.0	0	9	A			3,524,052	4,214,124	4,241,374	4,214,124				0	4,214,124	4,760,381	30.00%	1,428,114	1,436,227	1,428,114
206	0.0	0.0	0.0	46.4	0.0	650,896	169.6	925.6	1,095.2	0	12	A			3,552,453	4,203,378	4,236,384	4,203,378				0	4,203,378	4,754,081	30.00%	1,426,224	1,350,000	1,350,000
207	0.0	0.0	0.0	0.0	0.0	1,579,727	411.6	2,335.0	2,746.6	0	16	AM			8,961,730	10,541,451	11,234,210	10,541,451				0	10,541,451	11,930,782	30.00%	3,579,235	3,819,282	3,579,235
208	0.0	0.0	0.0	0.0	0.0	501,475	130.7	610.2	740.9	1,043	12	A			2,342,991	2,844,617	2,853,061	2,844,617				0	2,844,617	3,215,015	30.00%	964,505	950,000	950,000
209	0.0	0.0	0.0	0.0	0.0	117,530	30.6	404.1	434.7	0	3	A			1,550,936	1,668,379	1,707,526	1,668,379				0	1,668,379	1,929,536	31.00%	598,156	612,173	598,156
210	0.0	0.0	0.0	4.9	0.0	641,486	167.1	1,792.3	1,959.4	0					6,878,847	7,520,177	7,562,395	7,520,177				0	7,520,177	8,586,752	30.00%	2,576,026	2,535,198	2,535,198
211	0.0	0.0	0.0	0.0	0.0	990,059	258.0	1,134.1	1,392.1	0	16	A			4,718,647	5,708,851	5,708,851	5,708,851		-1,372		-1,372	5,707,479	6,017,524	30.00%	1,805,257	1,650,000	1,650,000
212	0.0	0.0	0.0	0.0	0.0	263,442	68.6	397.9	466.5	0	11	A			1,527,140	1,790,427	1,887,528	1,790,427				0	1,790,427	2,027,333	30.00%	608,200	641,846	608,200
214	0.0	0.0	0.0	6.9	0.0	938,352	244.5	2,376.2	2,620.7	0	14	A	R		9,119,856	10,058,247	10,058,247	10,058,247				0	10,058,247	11,527,925	30.00%	3,458,378	3,426,992	3,426,992
215	0.0	0.0	0.0	0.0	0.0	381,006	99.3	1,068.3	1,167.6	0	14	A			4,100,135	4,481,249	4,749,141	4,481,249				0	4,481,249	5,132,325	30.00%	1,539,698	1,632,524	1,539,698
216	0.0	0.0	0.0	3.9	0.0	185,057	48.2	535.3	583.5	0	12	A			2,054,481	2,239,473	2,421,778	2,239,473				0	2,239,473	2,578,874	30.00%	773,662	750,000	750,000
217	0.0	0.0	0.0	1.1	0.0	122,446	31.9	389.8	421.7	0	14	A	R		1,496,052	1,618,485	1,618,485	1,618,485				0	1,618,485	1,874,323	30.00%	562,297	557,510	557,510
218	0.0	0.0	0.0	551.0	0.0	331,300	86.3	1,492.5	1,578.8	0	16	A			5,728,215	6,059,434	7,091,089	6,059,434				0	6,059,434	7,007,042	30.00%	2,102,113	2,459,590	2,102,113
219	0.0	0.0	0.0	0.0	0.0	246,587	64.2	476.5	540.7	0	1	A			1,828,807	2,075,207	2,099,770	2,075,207				0	2,075,207	2,360,148	30.00%	708,044	635,050	635,050
220	0.0	0.0	0.0	0.0	0.0	183,330	47.8	418.0	465.8	0	3	A			1,604,284	1,787,740	1,783,135	1,783,135				0	1,783,135	2,051,675	30.00%	615,503	613,907	613,907
223	0.0	0.0	0.0	0.0	0.0	497,234	129.6	664.1	793.7	0	16	A			2,548,816	3,046,221	3,072,703	3,046,221		-1,202		-1,202	3,045,019	3,441,189	30.00%	1,032,357	1,041,533	1,032,357
224	0.0	0.0	0.0	0.0	0.0	305,800	79.7	555.7	635.4	0	2	A			2,132,777	2,438,665	2,430,605	2,430,605				0	2,430,605	2,811,276	30.00%	843,383	707,000	707,000
225	0.0	0.0	0.0	0.0	0.0	120,575	31.4	363.9	395.3	0	1	A			1,396,648	1,517,161	1,633,837	1,517,161				0	1,517,161	1,765,956	30.00%	529,787	570,216	529,787
226	0.0	0.0	0.0	0.0	0.0	363,842	94.8	738.0	832.8	50,000					2,882,444	3,246,286	3,278,909	3,246,286				0	3,246,286	3,665,148	30.00%	1,099,544	1,110,849	1,099,544
227	0.0	0.0	0.0	0.0	0.0	237,222	61.8	554.1	615.9	0	1	A			2,598,747	2,835,935	2,835,935	2,835,935				0	2,835,935	2,776,977	30.00%	833,093	827,375	827,375
229	3,241.8	0.0	1,618.1	0.0	0.0	20,360,684	5,305.0	28,676.0	33,981.0	0	12	A			110,058,488	130,419,078	131,013,968	130,419,078		-10,097		-10,097	130,408,981	147,481,392	31.00%	45,719,232	45,932,237	45,719,232
230	82.0	0.0	0.0	596.2	1.0	1,951,500	508.5	3,374.8	3,883.3	0	16	A			12,952,482	14,904,105	17,658,638	14,904,105		-3,926		-3,926	14,900,179	16,907,555	30.00%	5,072,267	6,026,736	5,072,267
231	0.0	0.0	0.0	0.0	0.0	5,163,000	1,345.2	6,133.0	7,478.2	0	7	A			23,538,454	28,701,332	29,263,215	28,701,332		-1,122		-1,122	28,700,210	32,350,589	30.00%	9,705,177	9,899,874	9,705,177
232	611.8	0.0	0.0	0.0	1.0	4,766,330	1,241.9	8,311.9	9,553.8	0	6	A			31,901,072	36,667,484	36,994,098	36,667,484				0	36,667,484	41,608,550	30.00%	12,482,565	12,597,069	12,482,565
233	1,986.3	0.0	1,667.4	0.0	3.0	23,985,950	6,249.6	35,693.3	41,942.9	0	16	A			136,990,885	160,976,850	161,597,839	160,976,850		-4,319		-4,319	160,972,531	185,737,272	31.00%	57,578,554	57,800,905	57,578,554
234	0.0	0.0	0.0	0.0	0.0	1,100,908	286.8	2,627.4	2,914.2	0	15	A			10,083,961	11,184,700	11,258,773	11,184,700				0	11,184,700	12,797,193	30.00%	3,839,158	2,946,000	2,946,000
235	0.0	0.0	0.0	0.0	0.0	442,000	115.2	857.9	973.1	0	14	A	R		3,292,620	3,734,758	3,735,142	3,734,758				0	3,734,758	4,245,071	30.00%	1,273,521	909,000	909,000
237	0.0	0.0	0.0	0.0	0.0	581,237	151.4	699.3	850.7	0	7	A			2,683,913	3,264,987	3,279,955	3,264,987				0	3,264,987	3,686,032	31.00%	1,142,670	1,148,030	1,142,670
239	0.0	0.0	0.0	0.0	0.0	775,988	202.2	969.5	1,171.7	0	6	A			3,720,941	4,496,985	4,598,692	4,496,985				0	4,496,985	5,073,782	30.00%	1,522,135	1,557,377	1,522,135
240	0.0	0.0	0.0	0.0	0.0	638,412	166.3	982.9	1,149.2	0	14	A	R		3,772,370	4,410,630	4,410,630	4,410,630				0	4,410,630	4,995,608	30.00%	1,498,682	1,488,309	1,488,309
241	0.0	0.0	0.0	0.0	0.0	159,156	41.5	416.5	458.0	0	8	A			1,598,527	1,757,804	1,754,350	1,754,350				0	1,754,350	2,005,501	30.00%	601,650	590,000	590,000
242	0.0	0.0	0.0	0.0	0.0	87,792	22.9	241.3	264.2	0	9	A			926,109	1,014,000	1,012,848	1,012,848				0	1,012,848	1,167,940	30.00%	350,382	349,983	349,983
243	0.0	0.0	0.0	2.1	0.0	590,076	153.7	842.2	995.9	0	1	A			3,232,364	3,822,264	3,908,619	3,822,264				0	3,822,264	4,323,549	30.00%	1,297,065	990,000	990,000
244	0.0	0.0	0.0	0.0	0.0	1,293,910	337.1	1,257.6	1,594.7	0	1	A			4,826,669	6,120,459	6,233,296	6,120,459				0	6,120,459	6,875,291	30.00%	2,062,587	2,101,686	2,062,587
245	0.0	0.0	0.0	0.0	0.0	251,700	65.6	441.8	507.4	0	1	A			1,695,628	1,947,401	1,984,246	1,947,401				0	1,947,401	2,259,050	30.00%	677,715	690,482	677,715
246	0.0	0.0	0.0	2.1	0.0	549,081	143.1	927.2	1,070.3	0	2	A			3,558,594	4,107,811	4,147,343	4,107,811				0	4,107,811	4,659,359	30.00%	1,397,808	1,340,000	1,340,000
247	0.0	0.0	0.0	0.0	0.0	682,008	177.7	1,185.7	1,363.4	0	1	A			4,550,717	5,232,729	5,342,880	5,232,729				0	5,232,729	5,938,216	30.00%	1,781,465	1,819,633	1,781,465
248	0.0	0.0	0.0	0.0	0.0	1,012,400	263.8	1,566.7	1,830.5	0	9	A			6,012,995	7,025,459	7,130,236	7,025,459				0	7,025,459	7,957,581	30.00%	2,387,274	2,118,500	2,118,500
249	0.0	0.0	0.0	0.0	0.0	846,631	220.6	1,291.5	1,512.1	0	12	A			4,956,777	5,803,440	5,896,703	5,803,440				0	5,803,440	6,571,851	30.00%	1,971,555	1,572,000	1,572,000
250	0.0	0.0	0.0	2.7	0.0	2,781,063	724.6	3,902.9	4,627.5	0	11	A			14,979,330	17,760,345	17,788,746	17,760,345				0	17,760,345	20,082,619	30.00%	6,024,786	6,034,627	6,024,786
251	0.0	0.0	0.0	0.0	0.0	492,480	128.3	819.1	947.4	0	1	A			3,143,706	3,636,121	3,637,656	3,636,121				0	3,636,121	4,123,550	30.00%	1,237,065	1,237,597	1,237,065
252	0.0	0.0	0.0	0.0	0.0	584,499	152.3	896.6	1,048.9	0	4	A			3,441,151	4,025,678	3,985,763	3,985,763		-1,030		-1,030	3,984,733	4,559,127	30.00%	1,367,738	1,353,907	1,353,907
253	0.0	0.0	0.0	6.2	0.0	3,583,872	933.8	6,682.0	7,615.8	100,000	1	A			25,745,516	29,329,440	29,182,061	29,182,061				0	29,182,061	33,205,178	30.00%	9,961,553	8,769,542	8,769,542
254	0.0	0.0	0.0	0.0	0.0	601,600	156.7	765.2	921.9	0	14	A	R		2,936,838	3,538,252	3,538,252	3,538,252				0	3,538,252	3,993,732	30.00%	1,198,120	1,160,350	1,160,350
255	0.0	0.0	0.0	0.0	0.0	289,440	75.4	435.7	511.1	0					1,672,217	1,961,602	1,974,651	1,961,602				0	1,961,602	2,220,898	30.00%	666,269	670,791	666,269

			Col 1	Col 2	Col 3	Col 4	Col 4(a)	Col 4(b)		Col 4(c)	Col 5	Col 6	Col 7	Col 7(a)	Col 8	Col 8(a)	Col 9	Col 9(a)	Col 9(b)	Col 10	Col 10(a)	Col 11	Col 11(a)	Col 12	Col 12(a)
	4/29/2013																								
USD #	County	District Name	FTE Enroll (exc 4 yr old at-risk exc virtual) 9/20/2010 2/20/2011	FTE Enroll (exc 4 yr old at-risk exc virtual) 9/20/2011 2/20/2012	FTE Enroll (exc 4 yr old at-risk exc virtual) 9/20/2012	Declining Enrollment Provision	FTE Enroll (exc 4 yr old at-risk) 2/20/2013	4 yr old at-risk (inc 9/20 inc 2/20)	FTE Enroll (inc 4 yr old at-risk inc virtual inc 2/20) 9/20/2012	Total Adjusted Enrollment	Virtual FTE (Info Only) 9/20/12	Low and High Enroll Weighted FTE	Vocational Contact Hrs	Vocational Weighted FTE	Bilingual Contact Hrs	Bilingual Weighted FTE	At-Risk Headcount	At-Risk Weighted FTE	High At-Risk Weighted FTE	2011-12 Non-Proficient Headcount	Non-Proficient Weighted FTE	New Facilities FTE	New Facilities Weighted FTE	Transp Over 2.5 Current Year	Transp Weighted FTE
Total		STATE TOTALS	446,403.1	447,305.6	447,904.0	452,298.7	599.2	3,552.0	457,502.5	456,449.9	5,447.3	54,410.9	86,192.6	7,184.7	140,837.3	9,272.3	190,965.0	87,080.7	12,917.3	22,112.0	1,027.6	18,035.6	4,509.4	134,039.2	25,895.0
256	Allen	Marmaton Valley	330.0	308.0	288.0	308.7	0.0	5.5	293.5	314.2	0.0	150.6	105.6	8.8	0.0	0.0	165	75.2	17.3	7	0.3	0.0	0.0	118.0	35.6
257	Allen	Iola	1,246.8	1,288.5	1,257.0	1,288.5	0.0	14.0	1,275.0	1,302.5	4.0	187.0	333.3	27.8	0.5	0.0	676	308.3	71.0	81	3.8	0.0	0.0	341.5	73.1
258	Allen	Humboldt	536.0	536.0	555.5	555.5	0.0	5.0	686.4	560.5	125.9	221.8	273.8	22.8	0.0	0.0	244	111.3	14.5	26	1.2	0.0	0.0	82.0	23.6
259	Sedgwick	Wichita	44,871.0	44,797.8	45,287.9	45,287.9	0.0	956.0	46,494.2	46,243.9	250.3	1,620.4	9,415.9	784.7	33,584.2	2,211.0	33,303	15,186.2	3,496.8	2,162	100.5	5,984.3	1,496.1	14,491.0	2,170.8
260	Sedgwick	Derby	6,175.7	6,261.4	6,253.4	6,261.4	43.0	25.0	6,356.0	6,329.4	34.6	221.8	1,210.5	100.9	1,399.1	92.1	2,378	1,084.4	43.3	453	21.1	28.7	7.2	1,469.0	220.1
261	Sedgwick	Haysville	4,873.6	4,886.6	4,996.6	4,996.6	0.0	72.5	5,069.1	5,069.1	0.0	177.6	841.7	70.1	312.8	20.6	2,339	1,066.6	181.7	198	9.2	0.0	0.0	1,860.0	278.6
262	Sedgwick	Valley Center Pub Sch	2,520.3	2,496.3	2,536.9	2,536.9	0.0	16.5	2,601.0	2,553.4	47.6	89.5	645.0	53.8	172.2	11.3	725	330.6	0.0	130	6.0	807.7	201.9	1,278.0	191.4
263	Sedgwick	Mulvane	1,799.9	1,759.0	1,736.9	1,765.3	0.0	15.0	1,751.9	1,780.3	0.0	62.4	331.5	27.6	5.5	0.4	475	216.6	0.0	115	5.3	0.0	0.0	433.0	78.1
264	Sedgwick	Clearwater	1,233.6	1,186.1	1,136.8	1,186.1	0.0	3.5	1,140.3	1,189.6	0.0	216.4	110.7	9.2	0.0	0.0	257	117.2	0.0	93	4.3	0.0	0.0	517.0	100.2
265	Sedgwick	Goddard	4,888.2	5,015.2	5,018.7	5,018.7	0.0	29.0	5,047.7	5,047.7	0.0	176.9	1,024.3	85.4	575.9	37.9	936	426.8	0.0	146	6.8	860.0	215.0	3,496.0	523.7
266	Sedgwick	Maize	6,375.8	6,447.4	6,416.6	6,447.4	0.0	18.0	6,729.4	6,465.4	294.8	226.5	1,503.0	125.3	82.9	5.5	959	437.3	0.0	364	16.9	12.1	3.0	4,432.0	663.9
267	Sedgwick	Renwick	1,918.0	1,869.8	1,855.5	1,881.1	0.0	0.0	1,855.5	1,881.1	0.0	65.9	400.1	33.3	0.0	0.0	184	83.9	0.0	82	3.8	0.0	0.0	739.0	145.7
268	Sedgwick	Cheney	755.4	743.0	744.8	747.7	0.0	10.0	754.8	757.7	0.0	249.0	173.4	14.5	0.0	0.0	175	79.8	0.0	28	1.3	10.6	2.7	228.0	52.1
269	Rooks	Palco	143.0	125.0	113.0	127.0	0.0	0.5	113.5	127.5	0.0	120.0	44.5	3.7	0.0	0.0	47	21.4	0.6	22	1.0	0.0	0.0	66.0	23.1
270	Rooks	Plainville	368.9	372.4	375.4	375.4	0.0	0.0	375.4	375.4	0.0	172.1	160.3	13.4	0.0	0.0	106	48.3	0.0	39	1.8	0.0	0.0	47.1	18.3
271	Rooks	Stockton	278.1	273.1	272.6	274.6	0.0	3.0	275.6	277.6	0.0	150.9	54.2	4.5	0.0	0.0	110	50.2	3.5	13	0.6	0.0	0.0	62.0	25.1
272	Mitchell	Waconda	370.3	319.7	316.3	335.4	0.0	4.5	322.8	339.9	2.0	160.0	107.6	9.0	0.0	0.0	138	62.9	5.4	1	0.0	0.0	0.0	143.0	47.2
273	Mitchell	Beloit	712.8	728.8	730.7	730.7	0.0	12.5	743.2	743.2	0.0	247.9	175.4	14.6	12.0	0.8	211	96.2	0.0	51	2.4	0.0	0.0	121.5	44.5
274	Logan	Oakley	403.0	398.6	389.8	398.6	0.0	0.0	389.8	398.6	0.0	179.6	125.5	10.5	0.0	0.0	137	62.5	0.0	14	0.7	0.0	0.0	86.0	34.8
275	Logan	Triplains	77.8	80.0	97.5	97.5	0.0	0.0	97.5	97.5	0.0	98.9	0.0	0.0	0.0	0.0	20	9.1	0.0	4	0.2	0.0	0.0	28.0	15.0
281	Graham	Graham County	362.3	387.6	377.5	387.6	0.0	0.0	377.5	387.6	0.0	176.1	121.5	10.1	0.0	0.0	110	50.2	0.0	28	1.3	0.0	0.0	110.5	44.1
282	Elk	West Elk	302.0	301.0	290.5	301.0	0.0	5.0	295.5	306.0	0.0	147.5	97.1	8.1	0.0	0.0	137	62.5	9.4	13	0.6	0.0	0.0	184.0	61.1
283	Elk	Elk Valley	176.5	162.6	151.5	163.5	0.0	5.0	156.5	168.5	0.0	140.3	83.2	6.9	0.0	0.0	109	49.7	11.4	15	0.7	0.0	0.0	40.0	14.2
284	Chase	Chase County	387.5	364.0	347.0	366.2	0.0	0.0	349.0	366.2	2.0	169.1	99.4	8.3	0.0	0.0	82	37.4	0.0	20	0.9	0.0	0.0	179.5	65.1
285	Chautauqua	Cedar Vale	134.7	149.4	168.2	168.2	0.0	0.0	168.2	168.2	0.0	140.2	0.0	0.0	0.0	0.0	98	44.7	10.3	8	0.4	0.0	0.0	35.5	14.4
286	Chautauqua	Chautauqua Co Community	340.0	350.5	322.0	350.5	0.0	5.5	327.5	356.0	0.0	165.6	53.3	4.4	0.0	0.0	148	67.5	6.8	17	0.8	0.0	0.0	108.0	37.5
287	Franklin	West Franklin	643.0	624.5	597.0	624.5	0.0	0.0	599.0	624.5	2.0	233.5	290.6	24.2	0.0	0.0	275	125.4	17.3	23	1.1	0.0	0.0	413.0	94.3
288	Franklin	Central Heights	545.9	562.1	532.0	562.1	0.0	5.0	537.0	567.1	0.0	223.1	332.1	27.7	0.9	0.1	294	134.1	30.9	37	1.7	0.0	0.0	415.0	85.3
289	Franklin	Wellsville	807.1	789.0	776.0	790.7	0.0	0.0	776.0	790.7	0.0	251.0	54.4	4.5	0.0	0.0	220	100.3	0.0	37	1.7	0.0	0.0	273.8	60.5
290	Franklin	Ottawa	2,402.2	2,366.9	2,371.7	2,380.3	0.0	18.0	2,409.4	2,398.3	19.7	84.0	539.2	44.9	32.2	2.1	1,136	518.0	98.6	127	5.9	44.0	11.0	571.0	104.4
291	Gove	Grinnell Public Schools	71.5	83.0	79.5	83.0	0.0	1.5	81.0	84.5	0.0	85.7	10.0	0.8	0.0	0.0	28	12.8	0.0	3	0.1	0.0	0.0	37.0	15.0
292	Gove	Wheatland	104.0	103.5	92.0	103.5	0.0	0.0	92.0	103.5	0.0	104.0	24.4	2.0	0.0	0.0	20	9.1	0.0	2	0.1	0.0	0.0	67.5	26.9
293	Gove	Quinter Public Schools	264.5	279.5	286.7	286.7	0.0	1.5	288.2	288.2	0.0	148.6	65.6	5.5	15.4	1.0	72	32.8	0.0	22	1.0	0.0	0.0	66.0	25.9
294	Decatur	Oberlin	349.5	335.1	343.0	343.0	0.0	0.0	343.0	343.0	0.0	161.1	114.4	9.5	0.0	0.0	112	51.1	0.0	35	1.6	0.0	0.0	74.0	33.1
297	Cheyenne	St Francis Comm Sch	288.9	286.0	283.0	286.0	0.0	0.0	283.0	286.0	0.0	149.1	13.3	1.1	12.1	0.8	94	42.9	0.0	13	0.6	0.0	0.0	62.0	27.1
298	Lincoln	Lincoln	350.5	339.0	336.8	342.1	0.0	6.5	343.3	348.6	0.0	163.0	71.7	6.0	0.7	0.0	144	65.7	6.4	16	0.7	0.0	0.0	121.5	42.5
299	Lincoln	Sylvan Grove	224.5	220.0	219.5	221.3	0.0	3.0	232.5	224.3	10.0	153.6	27.5	2.3	0.0	0.0	81	36.9	0.6	17	0.8	0.0	0.0	151.0	54.2
300	Comanche	Comanche County	312.0	332.0	326.0	332.0	0.0	0.0	326.0	332.0	0.0	157.1	40.8	3.4	0.0	0.0	69	31.5	0.0	13	0.6	0.0	0.0	216.0	76.9
303	Ness	Ness City	302.4	304.1	304.9	304.9	0.0	0.0	304.9	304.9	0.0	147.1	146.0	12.2	14.4	0.9	108	49.2	0.3	34	1.6	0.0	0.0	43.7	20.0
305	Saline	Salina	6,928.9	6,867.8	6,872.1	6,889.6	0.0	30.0	6,902.1	6,919.6	0.0	242.5	714.4	59.5	1,223.8	80.6	3,463	1,579.1	363.6	342	15.9	0.0	0.0	897.0	141.2
306	Saline	Southeast Of Saline	710.0	714.5	703.8	714.5	0.0	0.0	703.8	714.5	0.0	245.3	197.4	16.5	0.0	0.0	110	50.2	0.0	66	3.1	0.0	0.0	427.0	95.9
307	Saline	Ell-Saline	461.0	469.0	482.9	482.9	0.0	0.0	482.9	482.9	0.0	203.8	116.6	9.7	42.5	2.8	128	58.4	0.0	20	0.9	151.2	37.8	204.5	54.5
308	Reno	Hutchinson Public Schools	4,641.0	4,781.0	4,800.2	4,800.2	0.0	28.0	4,834.2	4,828.2	6.0	169.2	1,158.2	96.5	837.6	55.1	2,826	1,288.7	296.7	204	9.5	17.4	4.4	51.0	10.0
309	Reno	Nickerson	1,126.9	1,086.1	1,090.1	1,101.0	0.0	5.5	1,095.6	1,106.5	0.0	232.6	210.7	17.6	81.7	5.4	555	253.1	58.3	42	2.0	0.0	0.0	487.0	102.7
310	Reno	Fairfield	275.2	271.5	266.5	271.5	0.0	0.0	266.5	271.5	0.0	152.0	63.2	5.3	24.9	1.6	153	69.8	16.1	14	0.7	0.0	0.0	266.0	77.5
311	Reno	Pretty Prairie	265.0	272.5	273.2	273.2	0.0	0.0	273.2	273.2	0.0	151.7	105.5	8.8	0.0	0.0	77	35.1	0.0	17	0.8	0.0	0.0	105.0	32.0
312	Reno	Haven Public Schools	945.9	879.9	849.9	891.9	0.0	3.5	940.2	895.4	86.8	252.4	159.8	13.3	117.4	7.7	291	132.7	0.0	49	2.3	0.0	0.0	466.0	108.8
313	Reno	Buhler	2,120.9	2,117.1	2,138.5	2,138.5	0.0	24.5	2,163.0	2,163.0	0.0	75.8	607.5	50.6	71.5	4.7	695	316.9	0.0	101	4.7	0.0	0.0	1,112.0	182.1
314	Thomas	Brewster	91.5	68.5	89.2	89.2	0.0	0.0	89.2	89.2	0.0	90.5	0.0	0.0	0.0	0.0	24	10.9	0.0	3	0.1	0.0	0.0	25.0	11.8
315	Thomas	Colby Public Schools	905.4	886.9	943.9	943.9	0.0	0.0	946.9	943.9	3.0	250.5	220.2	18.4	23.6	1.6	294	134.1	0.0	65	3.0	0.0	0.0	227.0	69.5
316	Thomas	Golden Plains	201.6	190.5	193.5	195.2	0.0	3.0	196.5	198.2	0.0	149.4	14.6	1.2	71.3	4.7	95	43.3	8.6	7	0.3	0.0	0.0	87.5	28.7
320	Pottawatomie	Wamego	1,349.2	1,358.4	1,446.0	1,446.0	0.0	0.0	1,446.0	1,446.0	0.0	137.1	373.4	31.1	4.5	0.3	374	170.5	0.0	79	3.7	138.9	34.7	392.0	87.4
321	Pottawatomie	Kaw Valley	1,124.5	1,099.0	1,113.5	1,113.5	0.0	10.5	1,124.0	1,124.0	0.0	229.6	204.8	17.1	0.0	0.0	366	166.9	0.0	40	1.9	35.0	8.8	432.0	104.8
322	Pottawatomie	Onaga-Havensville-Wheaton	310.0	316.5	320.5	320.5	0.0	0.0	320.5	320.5	0.0	152.9	100.0	8.3	0.0	0.0	108	49.2	0.0	19	0.9	0.0	0.0	162.5	47.0
323	Pottawatomie	Rock Creek	849.6	861.2	857.6	861.2	0.0	0.0	857.6	861.2	0.0	252.8	110.3	9.2	0.0	0.0	156	71.1	0.0	25	1.2	0.0	0.0	539.5	116.7
325	Phillips	Phillipsburg	613.4	597.0	591.0	600.5	0.0	0.0	591.0	600.5	0.0	229.4	76.5	6.4	0.0	0.0	191	87.1	0.0	26	1.2	0.0	0.0	109.0	37.0
326	Phillips	Logan	175.0	180.0	182.0	182.0	0.0	0.0	182.0	182.0	0.0	145.0	92.6	7.7	0.0	0.0	71	32.4	2.0	6	0.3	0.0	0.0	57.0	22.1
327	Ellsworth	Ellsworth	614.5	575.6	575.6	588.6	0.0	0.0	575.6	588.6	0.0	227.3	109.9	9.2	0.0	0.0	178	81.2	0.0	24	1.1	0.0	0.0	202.0	62.4
329	Wabaunsee	Mill Creek Valley	457.1	451.6	456.0	456.0	0.0	0.0	456.0	456.0	0.0	196.6	189.3	15.8	0.0	0.0	113	51.5	0.0	28	1.3	0.0	0.0	286.0	80.4
330	Wabaunsee	Mission Valley	484.7	475.1	478.1	479.3	0.0	0.0	478.1	479.3	0.0	202.9	227.7	19.0	1.0	0.1	120	54.7	0.0	39	1.8	0.0	0.0	395.0	101.6
331	Kingman	Kingman - Norwich	1,005.7	962.2	958.8	975.6	0.0	0.0	958.8	975.6	0.0	248.4	282.5	23.5	0.0	0.0	356	162.3	3.7	72	3.3	0.0	0.0	268.6	83.0
332	Kingman	Cunningham	166.0	166.5	170.5	170.5	0.0	0.0	170.5	170.5	0.0	141.1	0.0	0.0	0.0	0.0	55	25.1	0.0	9	0.4	0.0	0.0	76.0	27.6
333	Cloud	Concordia	1,053.7	1,040.6	1,019.9	1,040.6	0.0	8.5	1,028.4	1,049.1	0.0	241.0	266.3	22.2	4.4	0.3	434	197.9	19.4	42	2.0	0.0	0.0	210.0	60.8

	Col 13	Col 14	Col 15	Col 16	Col 17	Col 18	Col 18(a)		Col 19	Col 20					Col 21	Col 21(a)	Col 21(b)				Col 21(c)	Col 21(d)	Col 22	Col 22(a)	Col 22(b)	Col 22(c)	Col 22(d)
USD #	Ancillary Weighted FTE	Declining Enroll Weighted FTE	Cost of Living FTE	Virtual Weighted FTE	KAMS FTE	FY 13 Spec Ed State Aid	Spec Ed Weighted FTE	2012-13 Subtotal Weighted FTE (exc Spec Ed)	2012-13 Total Weighted FTE	Authorized Transfers	Sequence Number	Audit	Republished		Computed General Fund (exc Spec Ed)	Computed General Fund (inc Spec Ed)	Adopted General Fund	2012-13 General Fund (Before reductions)	Budget Law Violation	2011-12 Trans Audit Adjust	2011-12 Bilingual Vocational At-Risk Audit Adj	2011-12 Total Reduction	2012-13 Adjusted Legal General Fund Budget	LOB Base General Fund	2012-13 LOB Authorized Percent	Max Computed LOB Authorized	Adopted LOB	Legal LOB
Total	5,921.9	183.2	5,118.7	5,828.0	56.0	443,617,781	115,586.0	675,855.6	791,441.6	10,731,194					2,611,114,504	3,054,733,568	3,117,228,871	3,045,758,785	0	-114,358	0	-114,358	3,045,644,427	3,452,459,321	85.93	1,042,281,490	1,002,491,010	995,792,745
256	0.0	0.0	0.0	0.0	0.0	563,400	146.8	602.0	748.8	150,500	14	A			2,460,976	3,024,394	3,181,782	3,024,394				0	3,024,394	3,232,066	30.00%	969,620	640,100	640,100
257	0.0	0.0	0.0	4.2	0.0	1,804,000	470.0	1,977.7	2,447.7	0	12	A			7,590,413	9,394,273	9,487,920	9,394,273				0	9,394,273	10,571,144	30.00%	3,171,343	3,203,793	3,171,343
258	0.0	0.0	0.0	132.2	0.0	744,189	193.9	1,087.9	1,281.8	0	4	A			4,175,360	4,919,548	4,506,580	4,506,580				0	4,506,580	5,566,850	30.00%	1,670,055	1,526,958	1,526,958
259	0.0	0.0	0.0	262.8	4.0	41,299,295	10,760.6	73,577.2	84,337.8	2,267,451	16	A	PX		284,656,745	325,955,927	325,958,230	325,955,927		-1,683		-1,683	325,954,244	367,449,291	30.00%	110,234,787	107,856,793	107,856,793
260	0.0	0.0	0.0	36.6	0.0	5,047,009	1,315.0	8,156.9	9,471.9	0	15	AM			31,306,182	36,353,152	35,807,005	35,807,005				0	35,807,005	41,251,807	30.00%	12,375,542	12,186,297	12,186,297
261	0.0	0.0	0.0	0.0	0.0	4,653,100	1,212.4	6,873.5	8,085.9	0	14	A	R		26,380,493	31,033,684	31,033,684	31,033,684				0	31,033,684	35,123,326	30.00%	10,536,998	10,392,970	10,392,970
262	0.0	0.0	0.0	50.0	0.0	2,460,897	641.2	3,487.9	4,129.1	50,000	16	A	R		13,436,560	15,897,486	15,897,486	15,897,486		-10,659		-10,659	15,886,827	17,922,758	30.00%	5,376,827	4,730,120	4,730,120
263	0.0	0.0	0.0	0.0	0.0	1,509,250	393.2	2,170.7	2,563.9	0	1	A			8,331,147	9,840,248	9,850,227	9,840,248				0	9,840,248	11,131,963	30.00%	3,339,589	3,343,047	3,339,589
264	0.0	0.0	0.0	0.0	0.0	1,188,118	309.6	1,636.9	1,946.5	0					6,282,422	7,470,667	7,604,997	7,470,667				0	7,470,667	8,444,496	30.00%	2,533,349	2,579,895	2,533,349
265	0.0	0.0	0.0	0.0	1.0	4,600,400	1,198.6	6,521.2	7,719.8	700,000					25,728,366	30,328,592	30,962,630	30,328,592				0	30,328,592	33,504,447	30.00%	10,051,334	10,272,363	10,051,334
266	0.0	0.0	0.0	314.5	2.0	5,904,035	1,538.3	8,260.3	9,798.6	100,000	10	A			31,803,031	37,707,027	38,780,132	37,707,027		-561		-561	37,706,466	42,513,079	30.00%	12,753,924	12,800,000	12,753,924
267	0.0	0.0	0.0	0.0	0.0	1,877,200	489.1	2,213.7	2,702.8	15,000	16	A			8,511,181	10,388,346	10,814,364	10,388,346				0	10,388,346	11,690,532	31.00%	3,624,065	3,776,604	3,624,065
268	0.0	0.0	0.0	0.0	0.0	709,025	184.7	1,157.1	1,341.8	125,000	12	A			4,565,950	5,274,828	5,189,625	5,189,625				0	5,189,625	5,838,449	30.00%	1,751,535	1,722,011	1,722,011
269	0.0	0.0	0.0	0.0	0.0	218,730	57.0	297.3	354.3	1,446	12	A			1,142,483	1,361,249	1,424,193	1,361,249				0	1,361,249	1,536,661	30.00%	460,998	482,809	460,998
270	0.0	0.0	0.0	0.0	0.0	507,707	132.3	629.3	761.6	0	9	A			2,415,253	2,923,021	2,916,112	2,916,112				0	2,916,112	3,297,394	30.00%	989,218	986,825	986,825
271	0.0	0.0	0.0	0.0	0.0	372,878	97.2	512.4	609.6	0	8	A			1,966,591	2,339,645	2,336,958	2,336,958				0	2,336,958	2,644,347	30.00%	793,304	792,373	792,373
272	0.0	0.0	0.0	2.1	0.0	460,296	119.9	626.5	746.4	0	6	A			2,404,507	2,864,683	3,119,526	2,864,683				0	2,864,683	3,237,571	30.00%	971,271	850,000	850,000
273	0.0	0.0	0.0	0.0	0.0	970,911	253.0	1,149.6	1,402.6	0	7	A			4,412,165	5,383,179	5,350,172	5,350,172				0	5,350,172	6,067,088	30.00%	1,820,126	1,808,689	1,808,689
274	0.0	0.0	0.0	0.0	0.0	534,160	139.2	686.7	825.9	0	16	A			2,635,555	3,169,804	3,188,610	3,169,804				0	3,169,804	3,578,301	30.00%	1,073,490	1,080,007	1,073,490
275	0.0	0.0	0.0	0.0	0.0	100,149	26.1	220.7	246.8	0	9	A			847,047	947,218	979,841	947,218				0	947,218	1,100,289	30.00%	330,087	341,391	330,087
281	0.0	0.0	0.0	0.0	0.0	399,344	104.1	669.4	773.5	0					2,569,157	2,968,693	3,034,323	2,968,693				0	2,968,693	3,420,229	30.00%	1,026,069	1,048,810	1,026,069
282	0.0	0.0	0.0	0.0	0.0	582,258	151.7	595.2	746.9	0					2,284,378	2,866,602	2,910,355	2,866,602				0	2,866,602	3,220,780	30.00%	966,234	932,500	932,500
283	0.0	0.0	0.0	0.0	0.0	307,280	80.1	391.7	471.8	0	1	A			1,503,345	1,810,768	1,861,046	1,810,768				0	1,810,768	2,043,686	30.00%	613,106	305,000	305,000
284	0.0	0.0	0.0	2.1	0.0	438,680	114.3	649.1	763.4	0	7	A			2,491,246	2,929,929	2,948,735	2,929,929				0	2,929,929	3,320,517	30.00%	996,155	1,002,672	996,155
285	0.0	0.0	0.0	0.0	0.0	216,676	56.5	378.2	434.7	0	6	A			1,451,532	1,668,379	1,632,301	1,632,301				0	1,632,301	1,893,237	30.00%	567,971	350,000	350,000
286	0.0	0.0	0.0	0.0	1.0	426,340	111.1	639.6	750.7	0	16	A			2,454,785	2,881,187	3,006,305	2,881,187				0	2,881,187	3,334,154	30.00%	1,000,246	789,731	789,731
287	0.0	0.0	0.0	2.1	0.0	839,247	218.7	1,122.4	1,341.1	0	12	A			4,307,771	5,147,142	5,231,962	5,147,142		-834		-834	5,146,308	5,903,723	30.00%	1,771,117	1,800,508	1,771,117
288	0.0	0.0	0.0	0.0	0.0	459,241	119.7	1,070.0	1,189.7	0	6	A			4,106,660	4,566,069	4,596,389	4,566,069				0	4,566,069	5,222,956	30.00%	1,566,887	1,300,000	1,300,000
289	0.0	0.0	0.0	0.0	0.0	831,000	216.5	1,208.7	1,425.2	0	6	A			4,638,991	5,469,918	5,490,643	5,469,918				0	5,469,918	6,189,167	30.00%	1,856,750	1,863,932	1,856,750
290	0.0	0.0	0.0	20.7	1.0	1,959,373	510.5	3,288.9	3,799.4	0	6	A			12,622,798	14,582,097	14,734,850	14,582,097				0	14,582,097	16,534,634	30.00%	4,960,390	5,013,320	4,960,390
291	0.0	0.0	0.0	0.0	0.0	90,928	23.7	198.9	222.6	0	14	A	R		763,378	854,339	856,642	854,339				0	854,339	972,652	30.00%	291,796	206,000	206,000
292	0.0	0.0	0.0	0.0	0.0	176,000	45.9	245.6	291.5	0	12	A			942,613	1,118,777	1,142,189	1,118,777				0	1,118,777	1,286,210	30.00%	385,863	367,000	367,000
293	0.0	0.0	0.0	0.0	0.0	548,138	142.8	503.0	645.8	0	10	A			1,930,514	2,478,580	2,519,263	2,478,580		-1,456		-1,456	2,477,124	2,777,937	30.00%	833,381	765,000	765,000
294	0.0	0.0	0.0	0.0	0.0	356,200	92.8	599.4	692.2	149,850	13	A			2,450,347	2,806,514	2,838,809	2,806,514				0	2,806,514	3,013,340	30.00%	904,002	914,508	904,002
297	0.0	0.0	0.0	0.0	0.0	261,000	68.0	507.6	575.6	0	12	A			1,948,169	2,209,153	2,289,751	2,209,153				0	2,209,153	2,511,191	30.00%	753,357	781,285	753,357
298	0.0	0.0	0.0	0.0	0.0	484,590	126.3	632.9	759.2	0	13	A			2,429,070	2,913,810	2,923,405	2,913,810				0	2,913,810	3,290,236	30.00%	987,071	990,395	987,071
299	0.0	0.0	10.5	0.0	0.0	200,000	52.1	483.2	535.3	0	12	A			1,854,522	2,054,481	2,095,548	2,054,481		-4,036		-4,036	2,050,445	2,342,026	30.00%	702,608	530,000	530,000
300	0.0	0.0	0.0	0.0	0.0	443,700	115.6	601.5	717.1	0	7	A			2,308,557	2,752,230	2,769,885	2,752,230				0	2,752,230	3,110,150	30.00%	933,045	939,162	933,045
303	0.0	0.0	0.0	0.0	0.0	282,758	73.7	536.2	609.9	0	12	A			2,057,936	2,340,796	2,405,275	2,340,796				0	2,340,796	2,659,733	30.00%	797,920	725,000	725,000
305	0.0	0.0	0.0	0.0	1.0	7,486,000	1,950.5	9,403.0	11,353.5	0	8	A			36,088,714	43,574,733	43,782,753	43,574,733		-1,147		-1,147	43,573,586	49,165,066	30.00%	14,749,520	14,822,930	14,749,520
306	0.0	0.0	0.0	0.0	0.0	699,225	182.2	1,125.5	1,307.7	0	9	A			4,319,669	5,018,953	5,061,938	5,018,953				0	5,018,953	5,688,567	30.00%	1,706,570	1,542,850	1,542,850
307	0.0	0.0	0.0	0.0	0.0	472,174	123.0	850.8	973.8	0	14	A	R		3,265,370	3,737,444	3,737,444	3,737,444				0	3,737,444	4,243,770	30.00%	1,273,131	1,221,675	1,221,675
308	0.0	0.0	0.0	6.3	0.0	4,287,950	1,117.2	6,764.6	7,881.8	380,211	8	A			26,342,746	30,630,559	30,566,849	30,566,849				0	30,566,849	34,275,422	30.00%	10,282,627	8,773,919	8,773,919
309	0.0	0.0	0.0	0.0	1.0	1,256,976	327.5	1,779.2	2,106.7	0	14	A	R		6,828,570	8,085,515	8,085,515	8,085,515				0	8,085,515	9,139,737	30.00%	2,741,921	2,699,630	2,699,630
310	0.0	0.0	0.0	0.0	0.0	408,400	106.4	594.5	700.9	0	9	A			2,281,691	2,690,054	2,743,786	2,690,054				0	2,690,054	3,043,819	30.00%	913,146	910,000	910,000
311	0.0	0.0	0.0	0.0	0.0	286,170	74.6	501.6	576.2	8,919	16	A	PX		1,934,060	2,220,375	2,231,505	2,220,375				0	2,220,375	2,509,763	30.00%	752,929	749,870	749,870
312	0.0	0.0	0.0	91.1	0.0	981,325	255.7	1,503.7	1,759.4	27,258	9	A			5,798,459	6,779,835	6,672,755	6,672,755				0	6,672,755	7,650,193	30.00%	2,295,058	2,257,954	2,257,954
313	0.0	0.0	0.0	0.0	1.0	2,524,478	657.8	2,798.8	3,456.6	0	12	A			10,741,794	13,266,431	13,401,912	13,266,431		-2,387		-2,387	13,264,044	14,927,125	30.00%	4,478,138	4,526,413	4,478,138
314	0.0	0.0	0.0	0.0	0.0	107,526	28.0	202.5	230.5	30,414	16	A	R		807,609	915,073	915,073	915,073				0	915,073	1,014,812	30.00%	304,444	274,787	274,787
315	0.0	0.0	0.0	3.2	0.0	963,127	250.9	1,424.2	1,675.1	44,450	9	A			5,510,530	6,473,484	6,232,074	6,232,074				0	6,232,074	7,359,741	30.00%	2,207,922	2,124,272	2,124,272
316	0.0	0.0	0.0	0.0	0.0	278,457	72.6	434.4	507.0	0	6	A			1,667,227	1,945,866	1,885,226	1,885,226				0	1,885,226	2,267,556	30.00%	680,267	550,000	550,000
320	0.0	0.0	0.0	0.0	1.0	1,917,924	499.7	1,911.8	2,411.5	0	10	A			7,337,488	9,255,337	8,991,283	8,991,283				0	8,991,283	10,388,500	30.00%	3,116,550	3,025,053	3,025,053
321	0.0	0.0	0.0	0.0	0.0	1,484,540	386.8	1,653.1	2,039.9	0					6,344,598	7,829,136	7,878,263	7,829,136				0	7,829,136	8,812,732	30.00%	2,643,820	2,660,843	2,643,820
322	0.0	0.0	0.0	0.0	0.0	291,901	76.1	578.8	654.9	0	11	A			2,221,434	2,513,506	2,483,186	2,483,186				0	2,483,186	2,857,721	30.00%	857,316	846,810	846,810
323	0.0	0.0	0.0	0.0	0.0	1,030,434	268.5	1,312.2	1,580.7	0	11	A			5,036,224	6,066,727	6,105,490	6,066,727				0	6,066,727	6,847,417	30.00%	2,054,225	1,539,750	1,539,750
325	0.0	0.0	0.0	0.0	0.0	835,800	217.8	961.6	1,179.4	0	11	A			3,690,621	4,526,537	4,534,213	4,526,537				0	4,526,537	5,098,573	30.00%	1,529,572	1,532,232	1,529,572
326	0.0	0.0	0.0	0.0	0.0	249,145	64.9	391.5	456.4	0					1,502,577	1,751,663	1,792,346	1,751,663				0	1,751,663	1,984,665	30.00%	595,400	570,000	570,000
327	0.0	0.0	0.0	0.0	0.0	604,080	157.4	969.8	1,127.2	0	8	A			3,722,092	4,326,194	4,341,162	4,326,194				0	4,326,194	4,903,203	30.00%	1,470,961	1,475,000	1,470,961
329	0.0	0.0	0.0	0.0	0.0	574,015	149.6	801.6	951.2	55,000	11	A			3,131,541	3,705,706	3,731,036	3,705,706				0	3,705,706	4,127,508	30.00%	1,238,252	1,247,030	1,238,252
330	0.0	0.0	0.0	0.0	1.0	725,132	188.9	860.4	1,049.3	0	11	A			3,302,215	4,027,213	4,032,970	4,027,213				0	4,027,213	4,534,852	30.00%	1,360,456	1,138,000	1,138,000
331	0.0	0.0	0.0	0.0	0.0	1,292,310	336.7	1,499.8	1,836.5	0	14	A	R		5,756,232	7,048,487	7,048,487	7,048,487				0	7,048,487	7,940,923	30.00%	2,382,277	2,373,899	2,373,899
332	0.0	0.0	0.0	0.0	0.0	278,560	72.6	364.7	437.3	6,221	1	A			1,405,940	1,684,578	1,795,497	1,684,578				0	1,684,578	1,895,275	30.00%	568,583	607,017	568,583
333	0.0	0.0	0.0	0.0	1.0	1,152,368	300.3	1,593.7	1,894.0	0	12	A			6,116,621	7,269,172	7,461,456	7,269,172		-1,072		-1,072	7,268,100	8,235,229	30.00%	2,470,569	2,537,197	2,470,569

			Col 1	Col 2	Col 3	Col 4	Col 4(a)	Col 4(b)		Col 4(c)	Col 5	Col 6	Col 7	Col 7(a)	Col 8	Col 8(a)	Col 9	Col 9(a)	Col 9(b)	Col 10	Col 10(a)	Col 11	Col 11(a)	Col 12	Col 12(a)
	4/29/2013																								
USD #	County	District Name	FTE Enroll (exc 4 yr old at-risk exc virtual) 9/20/2010 2/20/2011	FTE Enroll (exc 4 yr old at-risk exc virtual) 9/20/2011 2/20/2012	FTE Enroll (exc 4 yr old at-risk exc virtual) 9/20/2012	Declining Enrollment Provision	FTE Enroll (exc 4 yr old at-risk) 2/20/2013	4 yr old at-risk (inc 9/20 inc 2/20)	FTE Enroll (inc 4 yr old at-risk inc virtual inc 2/20) 9/20/2012	Total Adjusted Enrollment	Virtual FTE (Info Only) 9/20/12	Low and High Enroll Weighted FTE	Vocational Contact Hrs	Vocational Weighted FTE	Bilingual Contact Hrs	Bilingual Weighted FTE	At-Risk Headcount	At-Risk Weighted FTE	High At-Risk Weighted FTE	2011-12 Non-Proficient Headcount	Non-Proficient Weighted FTE	New Facilities FTE	New Facilities Weighted FTE	Transp Over 2.5 Current Year	Transp Weighted FTE
Total		STATE TOTALS	446,403.1	447,305.6	447,904.0	452,298.7	599.2	3,552.0	457,502.5	456,449.9	5,447.3	54,410.9	86,192.6	7,184.7	140,837.3	9,272.3	190,965.0	87,080.7	12,917.3	22,112.0	1,027.6	18,035.6	4,509.4	134,039.2	25,895.0
334	Cloud	Southern Cloud	250.0	246.5	211.0	246.5	0.0	0.0	211.0	246.5	0.0	154.3	29.1	2.4	0.0	0.0	105	47.9	5.6	14	0.7	12.9	3.2	26.0	11.3
335	Jackson	North Jackson	391.0	375.5	369.0	378.5	0.0	0.0	369.0	378.5	0.0	173.2	113.2	9.4	0.0	0.0	100	45.6	0.0	23	1.1	0.0	0.0	283.0	69.3
336	Jackson	Holton	1,073.0	1,112.6	1,102.1	1,112.6	0.0	0.0	1,102.1	1,112.6	0.0	231.5	380.6	31.7	5.4	0.4	400	182.4	2.8	35	1.6	0.0	0.0	382.0	82.7
337	Jackson	Royal Valley	912.1	904.5	911.1	911.1	0.0	0.0	911.1	911.1	0.0	252.0	174.4	14.5	0.0	0.0	342	156.0	6.0	62	2.9	0.0	0.0	691.0	131.7
338	Jefferson	Valley Falls	392.5	393.5	373.0	393.5	0.0	4.0	377.0	397.5	0.0	179.3	89.4	7.5	0.0	0.0	128	58.4	0.0	13	0.6	0.0	0.0	137.0	34.4
339	Jefferson	Jefferson County North	474.0	459.0	437.5	459.0	0.0	5.0	442.5	464.0	0.0	198.8	112.0	9.3	0.0	0.0	123	56.1	0.0	32	1.5	0.0	0.0	232.0	51.7
340	Jefferson	Jefferson West	862.0	850.1	858.6	858.6	0.0	0.0	858.6	858.6	0.0	252.8	265.0	22.1	0.0	0.0	189	86.2	0.0	84	3.9	0.0	0.0	517.5	85.9
341	Jefferson	Oskaloosa Public Schools	500.1	493.5	492.5	495.4	0.0	12.5	505.0	507.9	0.0	210.0	74.5	6.2	0.0	0.0	242	110.4	21.3	35	1.6	0.0	0.0	286.0	58.7
342	Jefferson	McLouth	477.6	488.7	485.5	488.7	0.0	4.0	489.5	492.7	0.0	206.3	97.8	8.2	0.0	0.0	168	76.6	0.0	36	1.7	0.0	0.0	258.1	53.2
343	Jefferson	Perry Public Schools	927.6	855.6	843.8	875.7	0.0	2.5	846.3	878.2	0.0	252.7	217.3	18.1	0.4	0.0	255	116.3	0.0	58	2.7	0.0	0.0	566.5	110.5
344	Linn	Pleasanton	317.7	318.0	328.0	328.0	0.0	6.0	334.0	334.0	0.0	157.9	109.9	9.2	0.0	0.0	186	84.8	19.5	25	1.2	0.0	0.0	75.0	20.5
345	Shawnee	Seaman	3,575.6	3,675.2	3,709.3	3,709.3	0.0	19.5	3,744.3	3,728.8	15.5	130.7	568.1	47.3	27.5	1.8	1,024	466.9	0.0	215	10.0	0.0	0.0	1,700.0	254.7
346	Linn	Jayhawk	489.6	488.0	517.3	517.3	0.0	7.5	524.8	524.8	0.0	214.0	175.5	14.6	1.4	0.1	254	115.8	23.8	29	1.3	0.0	0.0	315.0	81.5
347	Edwards	Kinsley-Offerle	356.5	354.5	339.5	354.5	0.0	3.0	342.5	357.5	0.0	166.1	42.7	3.6	288.2	19.0	143	65.2	5.0	22	1.0	0.0	0.0	165.5	50.7
348	Douglas	Baldwin City	1,329.4	1,321.2	1,311.2	1,321.2	0.0	18.5	1,330.7	1,339.7	1.0	175.4	250.2	20.9	4.9	0.3	361	164.6	0.0	57	2.7	23.8	6.0	478.0	94.7
349	Stafford	Stafford	269.6	267.1	259.4	267.1	0.0	0.0	259.4	267.1	0.0	152.6	92.0	7.7	4.1	0.3	148	67.5	15.5	13	0.6	0.0	0.0	43.0	16.5
350	Stafford	St John-Hudson	304.5	301.5	324.5	324.5	0.0	0.0	324.5	324.5	0.0	154.4	72.7	6.1	159.2	10.5	134	61.1	5.9	16	0.7	0.0	0.0	30.0	13.1
351	Stafford	Macksville	271.5	272.6	261.3	272.6	0.0	5.5	266.8	278.1	0.0	150.8	16.2	1.4	193.4	12.7	135	61.6	12.8	21	1.0	0.0	0.0	99.0	34.3
352	Sherman	Goodland	924.5	981.7	1,023.1	1,023.1	0.0	0.0	1,024.1	1,023.1	1.0	244.0	191.3	15.9	290.7	19.1	391	178.3	8.8	31	1.4	0.0	0.0	179.0	66.9
353	Sumner	Wellington	1,649.8	1,607.6	1,571.5	1,609.6	0.0	6.5	1,578.0	1,616.1	0.0	59.9	434.1	36.2	7.7	0.5	725	330.6	50.2	85	4.0	0.0	0.0	160.0	45.2
355	Barton	Ellinwood Public Schools	390.7	379.5	403.4	403.4	0.0	0.0	403.4	403.4	0.0	181.1	128.3	10.7	0.0	0.0	160	73.0	5.3	24	1.1	0.0	0.0	77.3	23.6
356	Sumner	Conway Springs	503.8	513.7	514.7	514.7	0.0	0.0	514.7	514.7	0.0	211.7	158.3	13.2	0.0	0.0	160	73.0	0.0	33	1.5	0.0	0.0	169.9	43.7
357	Sumner	Belle Plaine	605.5	591.5	601.5	601.5	0.0	15.0	616.5	616.5	0.0	232.2	107.9	9.0	0.0	0.0	232	105.8	4.2	32	1.5	0.0	0.0	201.5	43.3
358	Sumner	Oxford	332.7	313.3	346.9	346.9	0.0	2.5	349.4	349.4	0.0	163.3	79.1	6.6	0.0	0.0	143	65.2	5.9	12	0.6	0.0	0.0	121.0	32.4
359	Sumner	Argonia Public Schools	169.9	168.0	161.5	168.0	0.0	2.0	163.5	170.0	0.0	140.9	24.9	2.1	0.0	0.0	48	21.9	0.0	12	0.6	0.0	0.0	52.0	17.8
360	Sumner	Caldwell	236.5	229.5	239.0	239.0	0.0	4.0	243.0	243.0	0.0	154.4	90.4	7.5	0.0	0.0	114	52.0	9.5	9	0.4	0.0	0.0	46.0	16.5
361	Harper	Anthony-Harper	825.1	804.5	828.6	828.6	0.0	13.5	842.1	842.1	0.0	252.6	172.8	14.4	140.4	9.2	478	218.0	50.2	31	1.4	0.0	0.0	332.5	98.8
362	Linn	Prairie View	944.5	927.0	913.0	928.2	0.0	0.0	916.7	928.2	3.7	251.3	249.0	20.8	5.0	0.3	352	160.5	7.1	50	2.3	0.0	0.0	647.5	144.5
363	Finney	Holcomb	944.0	939.0	941.2	941.4	0.0	12.0	958.8	953.4	5.6	250.0	137.6	11.5	653.9	43.0	409	186.5	22.6	29	1.3	0.0	0.0	102.0	32.0
364	Marshall	Marysville	687.5	680.3	701.0	701.0	0.0	12.5	713.5	713.5	0.0	245.2	244.9	20.4	0.0	0.0	229	104.4	0.0	24	1.1	0.0	0.0	215.0	61.6
365	Anderson	Garnett	1,081.7	1,046.8	1,050.0	1,059.5	0.0	0.0	1,050.0	1,059.5	0.0	239.6	322.8	26.9	0.0	0.0	404	184.2	8.8	44	2.0	399.5	99.9	399.2	105.9
366	Woodson	Woodson	421.2	431.5	445.5	445.5	0.0	6.0	451.5	451.5	0.0	195.4	94.6	7.9	0.0	0.0	222	101.2	22.1	9	0.4	0.0	0.0	178.0	56.4
367	Miami	Osawatomie	1,110.0	1,089.2	1,089.0	1,096.1	0.0	12.0	1,101.0	1,108.1	0.0	232.3	159.5	13.3	0.0	0.0	651	296.9	68.4	53	2.5	0.0	0.0	237.0	51.4
368	Miami	Paola	2,010.3	1,986.6	1,953.3	1,986.6	0.0	0.0	1,953.3	1,986.6	0.0	69.6	538.6	44.9	6.2	0.4	589	268.6	0.0	112	5.2	0.0	0.0	783.6	150.8
369	Harvey	Burrton	237.0	246.5	223.8	246.5	0.0	4.0	227.8	250.5	0.0	154.2	65.3	5.4	0.3	0.0	116	52.9	9.2	17	0.8	0.0	0.0	47.0	14.4
371	Gray	Montezuma	210.4	220.0	224.9	224.9	0.0	4.0	228.9	228.9	0.0	154.0	38.3	3.2	261.0	17.2	68	31.0	0.0	11	0.5	0.0	0.0	81.0	25.9
372	Shawnee	Silver Lake	708.6	695.4	679.0	695.4	0.0	6.5	686.9	701.9	1.4	244.0	86.2	7.2	0.0	0.0	96	43.8	0.0	22	1.0	0.0	0.0	293.5	59.4
373	Harvey	Newton	3,310.1	3,389.7	3,349.9	3,389.7	0.0	28.0	3,441.2	3,417.7	63.3	119.8	667.4	55.6	484.8	31.9	1,577	719.1	122.5	162	7.5	0.0	0.0	367.0	76.4
374	Haskell	Sublette	478.4	466.7	450.7	466.7	0.0	8.5	459.2	475.2	0.0	201.8	0.0	0.0	936.6	61.7	273	124.5	28.7	12	0.6	0.0	0.0	92.0	32.4
375	Butler	Circle	1,735.6	1,789.8	1,811.0	1,811.0	0.0	0.0	1,838.4	1,811.0	27.4	63.5	484.1	40.3	3.0	0.2	410	187.0	0.0	120	5.6	84.1	21.0	709.0	135.5
376	Rice	Sterling	518.7	500.8	479.5	500.8	0.0	4.0	483.5	504.8	0.0	209.3	102.9	8.6	3.0	0.2	147	67.0	0.0	32	1.5	41.0	10.3	126.5	34.7
377	Atchison	Atchison Co Comm Schools	624.6	613.1	599.2	613.1	0.0	4.5	604.7	617.6	1.0	232.4	53.8	4.5	0.0	0.0	239	109.0	6.2	56	2.6	0.0	0.0	405.0	102.3
378	Riley	Riley County	675.6	692.0	698.0	698.0	0.0	0.0	698.0	698.0	0.0	243.6	177.2	14.8	0.9	0.1	127	57.9	0.0	52	2.4	0.0	0.0	427.0	89.5
379	Clay	Clay Center	1,332.5	1,329.1	1,316.0	1,329.1	12.0	0.0	1,334.7	1,341.1	6.7	175.0	434.6	36.2	13.9	0.9	409	186.5	0.0	69	3.2	27.1	6.8	427.0	121.5
380	Marshall	Vermillion	505.3	486.1	502.0	502.0	0.0	9.0	511.0	511.0	0.0	210.8	113.7	9.5	0.0	0.0	129	58.8	0.0	7	0.3	0.0	0.0	297.0	82.9
381	Ford	Spearville	362.0	347.0	344.5	351.2	0.0	0.0	344.5	351.2	0.0	163.9	30.4	2.5	33.0	2.2	75	34.2	0.0	26	1.2	3.8	1.0	54.0	18.4
382	Pratt	Pratt	1,072.1	1,080.0	1,137.1	1,137.1	0.0	8.0	1,145.1	1,145.1	0.0	225.7	139.2	11.6	188.5	12.4	415	189.2	3.5	50	2.3	109.2	27.3	143.0	42.8
383	Riley	Manhattan-Ogden	5,671.1	5,786.6	5,641.9	5,786.6	125.0	28.5	6,079.8	5,940.1	284.4	208.1	685.9	57.2	954.5	62.8	1,775	809.4	0.0	280	13.0	260.7	65.2	2,461.0	368.7
384	Riley	Blue Valley	212.2	201.0	187.5	201.0	0.0	0.5	188.0	201.5	0.0	150.2	66.0	5.5	0.0	0.0	31	14.1	0.0	15	0.7	0.0	0.0	129.0	41.3
385	Butler	Andover	4,776.3	4,782.1	4,818.6	4,818.6	0.0	19.0	5,200.6	4,837.6	363.0	169.5	577.5	48.1	125.5	8.3	627	285.9	0.0	138	6.4	0.0	0.0	1,665.0	249.4
386	Greenwood	Madison-Virgil	236.1	246.0	228.0	246.0	0.0	2.5	230.5	248.5	0.0	154.2	35.8	3.0	0.0	0.0	71	32.4	0.0	17	0.8	0.0	0.0	83.5	27.9
387	Wilson	Altoona-Midway	173.0	157.0	195.5	195.5	0.0	4.5	200.0	200.0	0.0	149.9	19.8	1.7	0.0	0.0	114	52.0	12.0	25	1.2	0.0	0.0	113.0	33.2
388	Ellis	Ellis	396.5	373.6	410.9	410.9	0.0	0.0	410.9	410.9	0.0	183.5	132.3	11.0	0.0	0.0	123	56.1	0.0	19	0.9	0.0	0.0	42.8	17.1
389	Greenwood	Eureka	608.9	607.7	621.0	621.0	0.0	14.5	635.5	635.5	0.0	235.3	88.1	7.3	2.4	0.2	347	158.2	36.4	22	1.0	0.0	0.0	197.0	65.4
390	Greenwood	Hamilton	89.5	84.0	82.5	85.3	0.0	1.0	83.5	86.3	0.0	87.5	0.0	0.0	0.0	0.0	52	23.7	5.5	8	0.4	0.0	0.0	19.0	8.5
392	Osborne	Osborne County	310.8	298.3	297.0	302.0	0.0	0.0	297.0	302.0	0.0	146.0	38.7	3.2	0.0	0.0	150	68.4	15.4	10	0.5	0.0	0.0	86.0	33.4
393	Dickinson	Solomon	348.7	341.0	336.2	342.0	4.0	0.0	340.2	346.0	0.0	162.1	45.6	3.8	0.0	0.0	150	68.4	8.8	20	0.9	0.0	0.0	106.5	31.5
394	Butler	Rose Hill Public Schools	1,700.4	1,666.7	1,624.1	1,666.7	0.0	12.0	1,638.1	1,678.7	2.0	58.8	366.9	30.6	28.0	1.8	387	176.5	0.0	125	5.8	0.0	0.0	600.0	91.9
395	Rush	LaCrosse	293.0	288.5	277.5	288.5	0.0	0.0	277.5	288.5	0.0	148.5	20.3	1.7	0.0	0.0	100	45.6	0.0	7	0.3	0.0	0.0	72.0	28.7
396	Butler	Douglass Public Schools	700.5	698.0	683.8	698.0	0.0	4.5	711.8	702.5	23.5	244.1	180.8	15.1	1.3	0.1	201	91.7	0.0	62	2.9	0.0	0.0	208.0	48.5
397	Marion	Centre	243.5	246.0	230.5	246.0	0.0	0.0	315.4	246.0	84.9	154.3	140.2	11.7	0.0	0.0	62	28.3	0.0	17	0.8	0.0	0.0	195.0	59.7
398	Marion	Peabody-Burns	301.5	291.3	271.1	291.3	0.0	5.0	277.1	296.3	1.0	146.4	147.7	12.3	0.0	0.0	130	59.3	8.1	20	0.9	0.0	0.0	83.0	27.4
399	Russell	Paradise	146.5	126.0	139.5	139.5	0.0	3.5	143.0	143.0	0.0	128.8	74.4	6.2	0.0	0.0	42	19.2	0.0	12	0.6	0.0	0.0	54.0	22.6

	Col 13	Col 14	Col 15	Col 16	Col 17	Col 18	Col 18(a)		Col 19	Col 20					Col 21	Col 21(a)	Col 21(b)				Col 21(c)	Col 21(d)	Col 22	Col 22(a)	Col 22(b)	Col 22(c)	Col 22(d)
USD #	Ancillary Weighted FTE	Declining Enroll Weighted FTE	Cost of Living FTE	Virtual Weighted FTE	KAMS FTE	FY 13 Spec Ed State Aid	Spec Ed Weighted FTE	2012-13 Subtotal Weighted FTE (exc Spec Ed)	2012-13 Total Weighted FTE	Authorized Transfers	Sequence Number	Audit	Republished		Computed General Fund (exc Spec Ed)	Computed General Fund (inc Spec Ed)	Adopted General Fund	2012-13 General Fund (Before reductions)	Budget Law Violation	2011-12 Trans Audit Adjust	2011-12 Bilingual Vocational At-Risk Audit Adj	2011-12 Total Reduction	2012-13 Adjusted Legal General Fund Budget	LOB Base General Fund	2012-13 LOB Authorized Percent	Max Computed LOB Authorized	Adopted LOB	Legal LOB
Total	5,921.9	183.2	5,118.7	5,828.0	56.0	443,617,781	115,586.0	675,855.6	791,441.6	10,731,194					2,611,114,504	3,054,733,568	3,117,228,871	3,045,758,785	0	-114,358	0	-114,358	3,045,644,427	3,452,459,321	85.93	1,042,281,490	1,002,491,010	995,792,745
334	0.0	0.0	0.0	0.0	0.0	405,257	105.6	471.9	577.5	55,000	6	A			1,866,152	2,271,445	2,279,121	2,271,445				0	2,271,445	2,497,190	30.00%	749,157	680,000	680,000
335	0.0	0.0	0.0	0.0	0.0	317,839	82.8	677.1	759.9	0	11	A			2,598,710	2,916,496	2,975,218	2,916,496				0	2,916,496	3,319,423	30.00%	995,827	865,000	865,000
336	0.0	0.0	0.0	0.0	1.0	1,177,533	306.8	1,646.7	1,953.5	0	4	A			6,320,035	7,497,533	7,390,069	7,390,069		-4,059		-4,059	7,386,010	8,472,921	30.00%	2,541,876	2,503,309	2,503,309
337	0.0	0.0	0.0	0.0	1.0	981,220	255.7	1,475.2	1,730.9	0	3	A			5,661,818	6,643,194	6,553,385	6,553,385				0	6,553,385	7,516,349	30.00%	2,254,905	2,220,000	2,220,000
338	0.0	0.0	0.0	0.0	0.0	540,062	140.7	677.7	818.4	0	3	A			2,601,013	3,141,019	3,205,114	3,141,019				0	3,141,019	3,544,306	30.00%	1,063,292	1,010,000	1,010,000
339	0.0	0.0	0.0	0.0	0.0	736,320	191.8	781.4	973.2	0	16	A			2,999,013	3,735,142	3,821,880	3,735,142				0	3,735,142	4,200,266	30.00%	1,260,080	1,290,136	1,260,080
340	0.0	0.0	0.0	0.0	0.0	1,132,333	295.0	1,309.5	1,604.5	0	1	A			5,025,861	6,158,071	6,117,388	6,117,388				0	6,117,388	6,937,347	30.00%	2,081,204	2,067,107	2,067,107
341	0.0	0.0	0.0	0.0	0.0	940,237	245.0	916.1	1,161.1	0	8	A			3,515,992	4,456,302	4,519,629	4,456,302				0	4,456,302	5,001,308	30.00%	1,500,392	1,420,000	1,420,000
342	0.0	0.0	0.0	0.0	0.0	722,479	188.2	838.7	1,026.9	0	12	A			3,218,931	3,941,242	4,020,689	3,941,242		-2,247		-2,247	3,938,995	4,440,436	30.00%	1,332,131	1,286,800	1,286,800
343	0.0	0.0	0.0	0.0	0.0	1,154,576	300.8	1,378.5	1,679.3	65,000	12	A			5,355,683	6,510,153	6,523,203	6,510,153				0	6,510,153	7,265,467	30.00%	2,179,640	2,184,162	2,179,640
344	0.0	0.0	0.0	0.0	0.0	271,478	70.7	627.1	697.8	0	8	A	R		2,406,810	2,678,156	2,677,005	2,677,005				0	2,677,005	3,051,412	30.00%	915,424	730,000	730,000
345	0.0	0.0	0.0	16.3	2.0	3,490,340	909.4	4,658.5	5,567.9	0	12	A			17,879,323	21,369,600	21,307,808	21,307,808				0	21,307,808	24,132,605	30.00%	7,239,782	7,221,030	7,221,030
346	0.0	0.0	0.0	0.0	0.0	417,541	108.8	975.9	1,084.7	16,020	16	A	R		3,761,524	4,179,099	4,179,099	4,179,099				0	4,179,099	4,813,194	30.00%	1,443,958	1,432,787	1,432,787
347	0.0	0.0	0.0	0.0	0.0	575,600	150.0	668.1	818.1	0	1	A			2,564,168	3,139,868	3,197,054	3,139,868				0	3,139,868	3,537,287	30.00%	1,061,186	1,036,000	1,036,000
348	0.0	0.0	0.0	1.1	1.0	1,493,855	389.2	1,806.4	2,195.6	179,774	12	A			7,112,737	8,606,487	8,671,733	8,606,487		-732		-732	8,605,755	9,497,193	30.00%	2,849,158	2,871,766	2,849,158
349	0.0	0.0	0.0	0.0	0.0	296,233	77.2	527.8	605.0	0	1	A			2,025,696	2,321,990	2,369,197	2,321,990				0	2,321,990	2,635,970	30.00%	790,791	760,000	760,000
350	0.0	0.0	0.0	0.0	0.0	383,888	100.0	576.3	676.3	130,000	14	A	R		2,341,839	2,725,639	2,725,639	2,725,639				0	2,725,639	2,948,279	30.00%	884,484	855,359	855,359
351	0.0	0.0	0.0	0.0	0.0	380,000	99.0	552.7	651.7	0	1	A			2,121,263	2,501,225	2,556,876	2,501,225				0	2,501,225	2,830,119	30.00%	849,036	680,000	680,000
352	0.0	0.0	0.0	1.1	1.0	963,083	250.9	1,559.6	1,810.5	0	12	A			5,985,745	6,948,699	6,850,830	6,850,830				0	6,850,830	7,872,357	30.00%	2,361,707	2,303,858	2,303,858
353	0.0	0.0	0.0	0.0	0.0	2,276,436	593.1	2,142.7	2,735.8	0	12	A			8,223,683	10,500,000	10,603,626	10,500,000				0	10,500,000	11,775,025	30.00%	3,532,508	3,568,415	3,532,508
355	0.0	0.0	0.0	0.0	0.0	489,778	127.6	698.2	825.8	0	11	A			2,679,692	3,169,420	3,242,342	3,169,420				0	3,169,420	3,584,899	30.00%	1,075,470	1,100,738	1,075,470
356	0.0	0.0	0.0	0.0	0.0	507,897	132.3	857.8	990.1	0	16	A			3,292,236	3,800,004	3,975,400	3,800,004				0	3,800,004	4,313,909	30.00%	1,294,173	1,140,000	1,140,000
357	0.0	0.0	0.0	0.0	0.0	950,000	247.5	1,012.5	1,260.0	0	1	A			3,885,975	4,835,880	4,918,781	4,835,880				0	4,835,880	5,438,413	30.00%	1,631,524	1,660,250	1,631,524
358	0.0	0.0	0.0	0.0	0.0	550,000	143.3	623.4	766.7	9,000	14	A	R		2,401,609	2,951,595	2,951,595	2,951,595				0	2,951,595	3,313,532	30.00%	994,060	900,000	900,000
359	0.0	0.0	0.0	0.0	0.0	277,000	72.2	353.3	425.5	0	6	A			1,355,965	1,633,069	1,628,463	1,628,463				0	1,628,463	1,843,179	30.00%	552,954	400,032	400,032
360	0.0	0.0	0.0	0.0	0.0	345,000	89.9	483.3	573.2	0	1	A			1,854,905	2,199,942	2,163,864	2,163,864				0	2,163,864	2,487,469	30.00%	746,241	733,740	733,740
361	0.0	0.0	0.0	0.0	0.0	1,068,698	278.5	1,486.7	1,765.2	0	14	A	R		5,705,955	6,774,838	6,774,838	6,774,838				0	6,774,838	7,659,239	30.00%	2,297,772	2,239,788	2,239,788
362	0.0	0.0	0.0	3.9	0.0	1,500,000	390.8	1,518.9	1,909.7	0					5,829,538	7,329,429	7,474,121	7,329,429				0	7,329,429	8,233,284	30.00%	2,469,985	2,520,122	2,469,985
363	0.0	0.0	0.0	5.9	0.0	569,243	148.3	1,506.2	1,654.5	0	16	A			5,780,796	6,349,971	6,457,051	6,349,971				0	6,349,971	7,246,228	30.00%	2,173,868	2,150,000	2,150,000
364	0.0	0.0	0.0	0.0	0.0	816,142	212.6	1,146.2	1,358.8	0	4	A	R		4,399,116	5,215,074	5,212,004	5,212,004				0	5,212,004	5,944,656	30.00%	1,783,397	1,755,070	1,755,070
365	0.0	0.0	0.0	0.0	1.0	1,105,439	288.0	1,727.8	2,015.8	0	9	A			6,631,296	7,736,640	7,746,619	7,736,640				0	7,736,640	8,760,343	30.00%	2,628,103	2,360,000	2,360,000
366	0.0	0.0	0.0	0.0	0.0	602,210	156.9	834.9	991.8	0	1	A			3,204,346	3,806,528	3,752,796	3,752,796				0	3,752,796	4,303,322	30.00%	1,290,997	1,205,000	1,205,000
367	0.0	0.0	0.0	0.0	0.0	1,689,738	440.3	1,772.9	2,213.2	0	6	A			6,804,390	8,494,262	8,376,051	8,376,051				0	8,376,051	9,549,004	30.00%	2,864,701	2,400,000	2,400,000
368	0.0	0.0	0.0	0.0	0.0	1,732,966	451.5	2,526.1	2,977.6	0	6	A			9,695,172	11,428,029	11,514,768	11,428,029				0	11,428,029	12,931,167	30.00%	3,879,350	3,909,406	3,879,350
369	0.0	0.0	0.0	0.0	0.0	261,400	68.1	487.4	555.5	0	10	A			1,870,641	2,132,009	2,145,442	2,132,009				0	2,132,009	2,422,044	30.00%	726,613	731,268	726,613
371	0.0	0.0	0.0	0.0	0.0	176,000	45.9	460.7	506.6	0	10	A			1,768,167	1,944,331	1,972,732	1,944,331		-3,568		-3,568	1,940,763	2,218,283	30.00%	665,485	675,326	665,485
372	0.0	0.0	0.0	1.5	0.0	527,392	137.4	1,058.8	1,196.2	0	11	A			4,063,674	4,591,016	4,583,723	4,583,723				0	4,583,723	5,313,881	30.00%	1,594,164	1,591,638	1,591,638
373	0.0	0.0	0.0	66.5	0.0	3,018,915	786.6	4,617.0	5,403.6	0	13	A			17,720,046	20,739,017	21,098,637	20,739,017				0	20,739,017	23,497,934	30.00%	7,049,380	6,920,000	6,920,000
374	0.0	0.0	0.0	0.0	0.0	293,256	76.4	924.9	1,001.3	0	3	A			3,549,766	3,842,989	3,877,148	3,842,989				0	3,842,989	4,411,124	30.00%	1,323,337	1,335,173	1,323,337
375	0.0	0.0	0.0	28.8	1.0	1,563,418	407.4	2,293.9	2,701.3	99,694	12	A			8,903,682	10,467,283	10,512,956	10,467,283		-6,183		-6,183	10,461,100	11,727,844	30.00%	3,518,353	3,534,179	3,518,353
376	0.0	0.0	0.0	0.0	0.0	697,378	181.7	836.4	1,018.1	0	11	A			3,210,103	3,907,468	4,031,819	3,907,468				0	3,907,468	4,405,139	30.00%	1,321,542	1,234,500	1,234,500
377	0.0	0.0	0.0	1.1	1.0	963,402	251.0	1,076.7	1,327.7	70,355	6	A			4,202,730	5,166,068	5,237,454	5,166,068				0	5,166,068	5,731,980	30.00%	1,719,594	1,744,330	1,719,594
378	0.0	0.0	0.0	0.0	0.0	760,361	198.1	1,106.3	1,304.4	0	14	A	R		4,245,979	5,006,287	5,006,287	5,006,287				0	5,006,287	5,664,589	30.00%	1,699,377	1,695,786	1,695,786
379	0.0	0.0	0.0	7.0	1.0	1,397,068	364.0	1,879.2	2,243.2	0					7,212,370	8,609,402	8,644,327	8,609,402				0	8,609,402	9,723,129	30.00%	2,916,939	2,878,000	2,878,000
380	0.0	0.0	0.0	0.0	0.0	444,116	115.7	873.3	989.0	0	3	A			3,351,725	3,795,782	3,708,659	3,708,659				0	3,708,659	4,315,455	30.00%	1,294,637	1,125,000	1,125,000
381	0.0	0.0	0.0	0.0	0.0	301,536	78.6	574.6	653.2	0	3	A			2,205,315	2,506,982	2,508,901	2,506,982				0	2,506,982	2,848,738	30.00%	854,621	855,286	854,621
382	0.0	0.0	0.0	0.0	0.0	1,161,622	302.7	1,659.9	1,962.6	0	14	A	PX		6,370,696	7,532,459	7,532,459	7,532,459				0	7,532,459	8,519,959	30.00%	2,555,988	2,491,754	2,491,754
383	0.0	0.0	0.0	315.7	1.0	6,500,000	1,693.6	7,841.2	9,534.8	620,950					30,715,476	37,215,512	37,639,228	37,215,512				0	37,215,512	41,255,607	30.00%	12,376,682	10,575,763	10,575,763
384	0.0	0.0	0.0	0.0	1.0	354,940	92.5	414.3	506.8	0	13	A			1,590,083	1,945,098	1,970,813	1,945,098				0	1,945,098	2,187,099	30.00%	656,130	665,040	656,130
385	0.0	0.0	0.0	381.2	1.0	4,103,278	1,069.1	5,987.4	7,056.5	0	16	A	PX		22,979,641	27,082,847	27,097,815	27,082,847		-1,683		-1,683	27,081,164	30,640,989	31.00%	9,498,707	9,463,114	9,463,114
386	0.0	0.0	0.0	0.0	0.0	294,089	76.6	466.8	543.4	0					1,791,578	2,085,569	2,117,041	2,085,569				0	2,085,569	2,363,413	30.00%	709,024	607,875	607,875
387	0.0	0.0	0.0	0.0	0.0	222,130	57.9	450.0	507.9	0	14	A	R		1,727,100	1,949,320	1,970,045	1,949,320				0	1,949,320	2,261,016	30.00%	678,305	520,000	520,000
388	0.0	0.0	0.0	0.0	0.0	349,057	90.9	679.5	770.4	0	7	A			2,607,921	2,956,795	2,784,853	2,784,853				0	2,784,853	3,394,706	30.00%	1,018,412	958,832	958,832
389	0.0	0.0	0.0	0.0	0.0	604,950	157.6	1,139.3	1,296.9	0	14	A	R		4,372,633	4,977,502	49,977,502	4,977,502				0	4,977,502	5,655,467	30.00%	1,696,640	1,652,886	1,652,886
390	0.0	0.0	0.0	0.0	0.0	167,400	43.6	211.9	255.5	0	6	A			813,272	980,609	1,085,386	980,609				0	980,609	1,106,753	30.00%	332,026	300,000	300,000
392	0.0	0.0	0.0	0.0	0.0	403,602	105.2	568.9	674.1	0	7	A			2,183,438	2,587,196	2,609,840	2,587,196				0	2,587,196	2,925,536	30.00%	877,661	885,507	877,661
393	0.0	0.0	0.0	0.0	0.0	361,284	94.1	621.5	715.6	147,375	11	AM			2,532,692	2,893,848	2,771,032	2,771,032				0	2,771,032	3,119,058	30.00%	935,717	710,000	710,000
394	0.0	0.0	0.0	2.1	0.0	1,585,120	413.0	2,046.2	2,459.2	0	11	A			7,853,316	9,438,410	9,563,528	9,438,410				0	9,438,410	10,655,925	30.00%	3,196,778	3,240,132	3,196,778
395	0.0	0.0	0.0	0.0	1.0	310,237	80.8	514.3	595.1	0	13	A			1,973,883	2,283,994	2,394,912	2,283,994				0	2,283,994	2,641,379	30.00%	792,414	800,000	792,414
396	0.0	0.0	0.0	24.7	0.0	878,250	228.8	1,129.6	1,358.4	0	2	A			4,335,405	5,213,539	5,186,673	5,186,673				0	5,186,673	5,885,767	30.00%	1,765,730	1,756,421	1,756,421
397	0.0	0.0	0.0	89.1	0.0	393,399	102.5	589.9	692.4	0	3	A			2,264,036	2,657,431	2,798,670	2,657,431				0	2,657,431	3,008,426	30.00%	902,528	600,000	600,000
398	0.0	0.0	0.0	1.1	0.0	494,298	128.8	551.8	680.6	0	11	A			2,117,808	2,612,143	2,620,203	2,612,143				0	2,612,143	2,940,427	30.00%	882,128	884,921	882,128
399	0.0	0.0	0.0	0.0	0.0	185,000	48.2	320.4	368.6	0	9	A			1,229,695	1,414,687	1,403,940	1,403,940				0	1,403,940	1,605,333	30.00%	481,600	477,876	477,876

			Col 1	Col 2	Col 3	Col 4	Col 4(a)	Col 4(b)		Col 4(c)	Col 5	Col 6	Col 7	Col 7(a)	Col 8	Col 8(a)	Col 9	Col 9(a)	Col 9(b)	Col 10	Col 10(a)	Col 11	Col 11(a)	Col 12	Col 12(a)
	4/29/2013																								
USD #	County	District Name	FTE Enroll (exc 4 yr old at-risk exc virtual) 9/20/2010 2/20/2011	FTE Enroll (exc 4 yr old at-risk exc virtual) 9/20/2011 2/20/2012	FTE Enroll (exc 4 yr old at-risk exc virtual) 9/20/2012	Declining Enrollment Provision	FTE Enroll (exc 4 yr old at-risk) 2/20/2013	4 yr old at-risk (inc 9/20 inc 2/20)	FTE Enroll (inc 4 yr old at-risk inc virtual inc 2/20) 9/20/2012	Total Adjusted Enrollment	Virtual FTE (Info Only) 9/20/12	Low and High Enroll Weighted FTE	Vocational Contact Hrs	Vocational Weighted FTE	Bilingual Contact Hrs	Bilingual Weighted FTE	At-Risk Headcount	At-Risk Weighted FTE	High At-Risk Weighted FTE	2011-12 Non-Proficient Headcount	Non-Proficient Weighted FTE	New Facilities FTE	New Facilities Weighted FTE	Transp Over 2.5 Current Year	Transp Weighted FTE
Total		STATE TOTALS	446,403.1	447,305.6	447,904.0	452,298.7	599.2	3,552.0	457,502.5	456,449.9	5,447.3	54,410.9	86,192.6	7,184.7	140,837.3	9,272.3	190,965.0	87,080.7	12,917.3	22,112.0	1,027.6	18,035.6	4,509.4	134,039.2	25,895.0
400	McPherson	Smoky Valley	914.8	922.7	861.7	922.7	0.0	12.0	942.1	934.7	68.4	251.0	201.0	16.8	0.0	0.0	203	92.6	0.0	48	2.2	0.0	0.0	300.0	83.3
401	Rice	Chase-Raymond	144.3	145.0	146.0	146.0	0.0	3.0	149.0	149.0	0.0	131.8	29.7	2.5	0.9	0.1	96	43.8	10.1	13	0.6	0.0	0.0	40.0	15.0
402	Butler	Augusta	2,128.5	2,118.6	2,131.8	2,131.8	0.0	15.0	2,146.8	2,146.8	0.0	75.2	365.7	30.5	19.3	1.3	779	355.2	7.1	103	4.8	355.9	89.0	459.5	78.7
403	Rush	Otis-Bison	179.0	177.5	187.5	187.5	0.0	0.0	187.5	187.5	0.0	146.7	56.3	4.7	0.0	0.0	56	25.5	0.0	22	1.0	0.0	0.0	131.0	42.2
404	Cherokee	Riverton	758.0	770.5	745.0	770.5	0.0	7.0	752.0	777.5	0.0	250.3	207.8	17.3	0.0	0.0	337	153.7	19.6	68	3.2	0.0	0.0	261.0	49.1
405	Rice	Lyons	772.1	754.2	744.5	756.9	0.0	14.0	761.5	770.9	3.0	249.9	98.3	8.2	498.3	32.8	487	222.1	51.1	19	0.9	0.0	0.0	39.0	13.0
407	Russell	Russell County	819.7	773.5	772.5	788.6	0.0	0.0	772.5	788.6	0.0	250.9	137.8	11.5	0.0	0.0	306	139.5	8.1	46	2.1	0.0	0.0	122.0	43.4
408	Marion	Marion-Florence	563.3	531.1	533.9	542.8	0.0	0.0	533.9	542.8	0.0	218.0	237.3	19.8	0.0	0.0	180	82.1	0.0	20	0.9	0.0	0.0	154.0	44.3
409	Atchison	Atchison Public Schools	1,618.4	1,600.8	1,584.0	1,601.1	0.0	17.0	1,601.0	1,618.1	0.0	58.8	215.8	18.0	2.1	0.1	945	430.9	99.2	60	2.8	27.5	6.9	244.0	45.2
410	Marion	Durham-Hillsboro-Lehigh	557.0	556.9	577.4	577.4	0.0	5.0	587.8	582.4	5.4	226.1	407.3	33.9	4.5	0.3	192	87.6	0.0	26	1.2	0.0	0.0	162.0	45.8
411	Marion	Goessel	248.5	257.0	254.0	257.0	0.0	0.0	254.0	257.0	0.0	153.7	76.0	6.3	0.0	0.0	49	22.3	0.0	21	1.0	0.0	0.0	116.0	30.0
412	Sheridan	Hoxie Community Schools	305.5	320.0	326.5	326.5	0.0	0.0	326.5	326.5	0.0	155.1	50.6	4.2	0.0	0.0	78	35.6	0.0	32	1.5	0.0	0.0	101.5	40.5
413	Neosho	Chanute Public Schools	1,833.5	1,768.5	1,780.7	1,794.2	0.0	17.0	1,807.4	1,811.2	9.7	63.5	415.7	34.6	77.8	5.1	996	454.2	104.6	70	3.3	0.0	0.0	626.0	114.1
415	Brown	Hiawatha	841.8	844.7	847.1	847.1	0.0	0.0	847.1	847.1	0.0	252.7	203.2	16.9	0.0	0.0	367	167.4	21.3	41	1.9	0.0	0.0	255.5	70.7
416	Miami	Louisburg	1,652.8	1,673.4	1,706.7	1,706.7	0.0	0.0	1,706.7	1,706.7	0.0	59.8	263.4	22.0	38.8	2.6	304	138.6	0.0	51	2.4	0.0	0.0	725.0	134.3
417	Morris	Morris County	733.0	745.2	703.8	745.2	0.0	7.5	711.3	752.7	0.0	248.7	182.5	15.2	52.8	3.5	292	133.2	7.8	30	1.4	0.0	0.0	260.0	80.0
418	McPherson	McPherson	2,283.8	2,264.9	2,254.2	2,267.6	0.0	15.5	2,269.7	2,283.1	0.0	80.0	281.4	23.5	56.3	3.7	803	366.2	1.1	319	14.8	0.0	0.0	181.0	45.7
419	McPherson	Canton-Galva	364.8	372.5	372.5	372.5	0.0	0.0	372.5	372.5	0.0	171.2	86.4	7.2	0.0	0.0	120	54.7	0.0	20	0.9	0.0	0.0	201.0	50.4
420	Osage	Osage City	672.1	647.6	607.3	647.6	0.0	0.0	607.3	647.6	0.0	237.1	76.8	6.4	0.0	0.0	260	118.6	9.3	24	1.1	0.0	0.0	75.0	22.0
421	Osage	Lyndon	453.5	427.5	421.0	434.0	0.0	0.0	421.0	434.0	0.0	190.4	115.3	9.6	0.0	0.0	88	40.1	0.0	26	1.2	0.0	0.0	179.0	41.9
422	Kiowa	Kiowa County	260.5	242.5	240.5	247.8	0.0	0.0	458.9	247.8	218.4	154.3	0.0	0.0	0.0	0.0	84	38.3	0.0	13	0.6	0.0	0.0	85.0	32.5
423	McPherson	Moundridge	400.0	413.5	394.0	413.5	0.0	5.0	399.0	418.5	0.0	185.8	87.3	7.3	0.0	0.0	92	42.0	0.0	31	1.4	0.0	0.0	100.0	28.8
426	Republic	Pike Valley	241.0	235.0	221.5	235.0	0.0	0.0	221.5	235.0	0.0	154.3	43.7	3.6	0.0	0.0	66	30.1	0.0	9	0.4	0.0	0.0	104.0	31.3
428	Barton	Great Bend	3,008.6	3,000.9	3,019.3	3,019.3	0.0	15.0	3,034.3	3,034.3	0.0	106.3	632.1	52.7	2,500.7	164.6	1,793	817.6	188.3	110	5.1	0.0	0.0	175.0	46.6
429	Doniphan	Troy Public Schools	347.5	350.0	337.0	350.0	0.0	0.0	337.0	350.0	0.0	163.5	48.6	4.1	0.0	0.0	105	47.9	0.0	26	1.2	0.0	0.0	97.0	25.2
430	Brown	South Brown County	580.5	566.5	556.5	567.8	0.0	0.0	556.5	567.8	0.0	223.3	172.1	14.3	148.4	9.8	311	141.8	32.7	32	1.5	0.0	0.0	287.5	65.5
431	Barton	Hoisington	634.5	636.3	624.5	636.3	0.0	13.5	638.0	649.8	0.0	237.4	160.1	13.3	0.8	0.1	261	119.0	9.5	41	1.9	0.0	0.0	94.0	31.6
432	Ellis	Victoria	257.0	249.5	250.5	252.3	0.0	0.0	250.5	252.3	0.0	154.1	52.2	4.4	0.0	0.0	33	15.0	0.0	7	0.3	26.9	6.7	67.0	22.1
434	Osage	Santa Fe Trail	1,035.4	1,044.0	1,013.1	1,044.0	0.0	12.0	1,027.7	1,056.0	2.6	240.1	105.1	8.8	0.0	0.0	397	181.0	7.2	54	2.5	0.0	0.0	814.0	155.6
435	Dickinson	Abilene	1,518.3	1,490.9	1,479.8	1,496.3	21.5	0.0	1,524.8	1,517.8	23.5	106.9	571.2	47.6	31.3	2.1	488	222.5	0.0	83	3.9	0.0	0.0	214.9	47.4
436	Montgomery	Caney Valley	805.9	798.0	751.5	798.0	0.0	11.5	778.6	809.5	15.6	251.8	111.8	9.3	5.9	0.4	303	138.2	5.1	49	2.3	0.0	0.0	313.0	71.1
437	Shawnee	Auburn Washburn	5,507.4	5,594.5	5,707.0	5,707.0	0.0	29.0	5,736.0	5,736.0	0.0	201.0	561.1	46.8	138.0	9.1	1,594	726.9	0.0	200	9.3	201.6	50.4	3,284.0	491.9
438	Pratt	Skyline Schools	362.2	367.5	388.5	388.5	0.0	0.0	403.2	388.5	14.7	176.4	63.0	5.3	12.2	0.8	78	35.6	0.0	36	1.7	0.0	0.0	152.0	51.5
439	Harvey	Sedgwick Public Schools	536.6	524.1	496.0	524.1	0.0	0.0	496.0	524.1	0.0	213.9	160.4	13.4	0.0	0.0	125	57.0	0.0	26	1.2	0.0	0.0	66.0	15.6
440	Harvey	Halstead	772.0	747.0	744.0	754.3	0.0	10.0	754.3	764.3	0.3	249.5	329.1	27.4	0.0	0.0	299	136.3	8.6	24	1.1	0.0	0.0	371.0	76.7
443	Ford	Dodge City	5,949.2	5,994.0	6,154.3	6,154.3	0.0	74.5	6,231.4	6,228.8	2.6	218.3	1,585.2	132.1	12,461.7	820.4	4,558	2,078.4	478.6	240	11.2	0.0	0.0	2,424.0	429.3
444	Rice	Little River	326.5	334.2	356.5	356.5	0.0	5.0	365.9	361.5	4.4	167.5	64.7	5.4	1.0	0.1	127	57.9	0.1	16	0.7	0.0	0.0	180.5	50.4
445	Montgomery	Coffeyville	1,780.7	1,753.2	1,748.8	1,760.9	0.0	27.5	1,776.3	1,788.4	0.0	62.7	638.2	53.2	44.4	2.9	1,166	531.7	122.4	106	4.9	0.0	0.0	452.0	87.7
446	Montgomery	Independence	1,791.2	1,886.4	1,935.3	1,935.3	0.0	14.0	1,949.3	1,949.3	0.0	68.3	334.4	27.9	46.3	3.0	1,069	487.5	112.2	92	4.3	581.0	145.3	399.4	90.5
447	Montgomery	Cherryvale	783.5	786.1	823.5	823.5	0.0	12.0	936.8	835.5	101.3	252.5	219.8	18.3	0.0	0.0	462	210.7	48.5	47	2.2	0.0	0.0	153.0	39.2
448	McPherson	Inman	408.5	420.3	399.3	420.3	0.0	9.0	408.3	429.3	0.0	189.0	57.2	4.8	3.9	0.3	68	31.0	0.0	31	1.4	0.0	0.0	111.0	30.7
449	Leavenworth	Easton	679.6	669.8	657.9	669.8	0.0	0.0	657.9	669.8	0.0	240.2	198.6	16.6	0.0	0.0	161	73.4	0.0	51	2.4	0.0	0.0	436.0	84.8
450	Shawnee	Shawnee Heights	3,397.7	3,457.5	3,435.3	3,457.5	0.0	0.0	3,435.3	3,457.5	0.0	121.2	491.7	41.0	249.9	16.5	952	434.1	0.0	261	12.1	0.0	0.0	2,318.0	347.2
452	Stanton	Stanton County	463.6	449.7	437.5	450.3	0.0	11.5	450.8	461.8	1.8	198.2	66.8	5.6	513.8	33.8	211	96.2	15.8	35	1.6	0.0	0.0	123.5	47.3
453	Leavenworth	Leavenworth	3,387.0	3,366.8	3,462.6	3,462.6	28.8	56.5	3,640.0	3,547.9	92.1	124.3	536.5	44.7	42.9	2.8	1,987	906.1	208.6	231	10.7	0.0	0.0	676.0	101.3
454	Osage	Burlingame Public School	337.0	311.2	310.5	319.6	0.0	3.5	314.0	323.1	0.0	153.9	78.6	6.6	0.0	0.0	120	54.7	1.8	17	0.8	0.0	0.0	71.0	18.7
456	Osage	Marais Des Cygnes Valley	259.0	280.5	289.8	289.8	0.0	0.0	289.8	289.8	0.0	148.2	93.8	7.8	0.0	0.0	175	79.8	18.4	7	0.3	0.0	0.0	161.0	40.3
457	Finney	Garden City	6,926.7	6,969.8	7,003.7	7,003.7	0.0	98.5	7,102.2	7,102.2	0.0	248.9	1,363.4	113.6	9,434.0	621.1	4,310	1,965.4	452.6	347	16.1	2,008.5	502.1	2,274.0	486.2
458	Leavenworth	Basehor-Linwood	1,858.8	1,924.0	1,948.8	1,948.8	0.0	0.0	2,118.0	1,948.8	169.2	68.3	424.5	35.4	26.8	1.8	306	139.5	0.0	58	2.7	0.0	0.0	1,109.0	166.1
459	Ford	Bucklin	239.7	243.3	241.9	243.3	0.0	2.5	244.4	245.8	0.0	154.3	0.0	0.0	2.5	0.2	117	53.4	10.3	15	0.7	0.0	0.0	75.5	27.9
460	Harvey	Hesston	818.6	810.3	817.8	817.8	0.0	0.0	817.8	817.8	0.0	252.1	212.5	17.7	79.3	5.2	182	83.0	0.0	31	1.4	0.0	0.0	78.5	19.3
461	Wilson	Neodesha	689.5	709.5	687.5	709.5	0.0	8.0	695.5	717.5	0.0	245.6	176.0	14.7	0.0	0.0	368	167.8	38.6	27	1.3	0.0	0.0	87.5	24.4
462	Cowley	Central	356.9	331.9	324.9	337.9	0.0	0.0	325.9	337.9	1.0	159.3	95.4	8.0	0.0	0.0	163	74.3	15.1	3	0.1	0.0	0.0	146.0	45.1
463	Cowley	Udall	349.0	365.5	356.0	365.5	0.0	0.0	356.0	365.5	0.0	168.8	82.5	6.9	0.0	0.0	66	30.1	0.0	34	1.6	0.0	0.0	103.0	28.8
464	Leavenworth	Tonganoxie	1,837.8	1,803.3	1,851.6	1,851.6	0.0	0.0	1,857.7	1,851.6	6.1	64.9	327.8	27.3	0.0	0.0	503	229.4	0.0	125	5.8	0.0	0.0	852.0	149.1
465	Cowley	Winfield	2,329.3	2,290.0	2,287.7	2,302.3	0.0	15.0	2,302.7	2,317.3	0.0	81.2	695.7	58.0	92.4	6.1	1,147	523.0	116.4	97	4.5	0.0	0.0	610.5	132.0
466	Scott	Scott County	824.9	825.6	870.7	870.7	0.0	11.5	895.2	882.2	13.0	252.6	114.6	9.6	600.7	39.5	350	159.6	11.5	39	1.8	0.0	0.0	170.0	62.2
467	Wichita	Leoti	410.5	399.1	378.0	399.1	0.0	8.0	386.0	407.1	0.0	182.3	71.0	5.9	696.3	45.8	180	82.1	11.6	21	1.0	60.0	15.0	79.0	34.5
468	Lane	Healy Public Schools	74.0	68.0	71.0	71.0	1.5	0.0	72.5	72.5	0.0	73.5	0.0	0.0	14.6	1.0	45	20.5	4.7	7	0.3	0.0	0.0	6.0	3.4
469	Leavenworth	Lansing	2,547.2	2,534.8	2,576.0	2,576.0	0.0	0.0	2,576.0	2,576.0	0.0	90.3	160.0	13.3	61.9	4.1	554	252.6	0.0	161	7.5	0.0	0.0	533.0	81.7
470	Cowley	Arkansas City	2,548.3	2,601.8	2,582.8	2,601.8	0.0	36.5	2,619.3	2,638.3	0.0	92.4	630.5	52.5	836.9	55.1	1,673	762.9	175.7	79	3.7	26.7	6.7	809.0	154.6
471	Cowley	Dexter	139.3	153.0	157.2	157.2	0.0	0.0	157.2	157.2	0.0	135.6	0.0	0.0	0.0	0.0	71	32.4	5.1	13	0.6	0.0	0.0	49.0	17.8
473	Dickinson	Chapman	946.3	1,073.2	1,024.0	1,073.2	14.0	0.0	1,038.0	1,087.2	0.0	235.6	320.7	26.7	3.9	0.3	328	149.6	0.0	46	2.1	762.8	190.7	470.0	127.2

	Col 13	Col 14	Col 15	Col 16	Col 17	Col 18	Col 18(a)		Col 19	Col 20					Col 21	Col 21(a)	Col 21(b)				Col 21(c)	Col 21(d)	Col 22	Col 22(a)	Col 22(b)	Col 22(c)	Col 22(d)
USD #	Ancillary Weighted FTE	Declining Enroll Weighted FTE	Cost of Living FTE	Virtual Weighted FTE	KAMS FTE	FY 13 Spec Ed State Aid	Spec Ed Weighted FTE	2012-13 Subtotal Weighted FTE (exc Spec Ed)	2012-13 Total Weighted FTE	Authorized Transfers	Sequence Number	Audit	Republished		Computed General Fund (exc Spec Ed)	Computed General Fund (inc Spec Ed)	Adopted General Fund	2012-13 General Fund (Before reductions)	Budget Law Violation	2011-12 Trans Audit Adjust	2011-12 Bilingual Vocational At-Risk Audit Adj	2011-12 Total Reduction	2012-13 Adjusted Legal General Fund Budget	LOB Base General Fund	2012-13 LOB Authorized Percent	Max Computed LOB Authorized	Adopted LOB	Legal LOB
Total	5,921.9	183.2	5,118.7	5,828.0	56.0	443,617,781	115,586.0	675,855.6	791,441.6	10,731,194					2,611,114,504	3,054,733,568	3,117,228,871	3,045,758,785	0	-114,358	0	-114,358	3,045,644,427	3,452,459,321	85.93	1,042,281,490	1,002,491,010	995,792,745
400	0.0	0.0	0.0	73.1	0.0	1,271,659	331.3	1,453.7	1,785.0	0	14	A	R		5,579,301	6,850,830	6,850,830	6,850,830		-3,987		-3,987	6,846,843	7,715,911	31.00%	2,391,932	2,364,860	2,364,860
401	0.0	0.0	0.0	0.0	0.0	175,447	45.7	352.9	398.6	0	13	A			1,354,430	1,529,827	1,565,520	1,529,827				0	1,529,827	1,739,853	30.00%	521,956	534,324	521,956
402	0.0	0.0	0.0	0.0	1.0	1,805,200	470.3	2,789.6	3,259.9	0	12	A			10,706,485	12,511,496	12,506,507	12,506,507				0	12,506,507	14,167,064	30.00%	4,250,119	4,248,390	4,248,390
403	0.0	0.0	0.0	0.0	0.0	261,631	68.2	407.6	475.8	97,550	14	A	R		1,661,919	1,923,670	1,923,670	1,923,670				0	1,923,670	2,068,522	30.00%	620,557	520,000	520,000
404	0.0	0.0	0.0	0.0	0.0	725,600	189.1	1,270.7	1,459.8	0	2	A			4,876,947	5,602,712	5,670,645	5,602,712				0	5,602,712	6,358,613	30.00%	1,907,584	1,931,123	1,907,584
405	0.0	0.0	3.2	2.0	1,084,880	282.7	1,354.1	1,636.8	0	16	A				5,197,036	6,282,038	6,543,790	6,282,038				0	6,282,038	7,078,739	30.00%	2,123,622	1,700,000	1,700,000
407	0.0	0.0	0.0	0.0	0.0	805,810	210.0	1,244.1	1,454.1	0	9	A			4,774,856	5,580,836	5,430,002	5,430,002				0	5,430,002	6,348,226	31.00%	1,967,950	1,913,943	1,913,943
408	0.0	0.0	0.0	0.0	0.0	841,600	219.3	907.9	1,127.2	0					3,484,520	4,326,194	4,455,534	4,326,194				0	4,326,194	4,866,321	30.00%	1,459,896	940,000	940,000
409	0.0	0.0	0.0	0.0	0.0	1,916,344	499.3	2,280.0	2,779.3	0	16	A			8,750,640	10,666,953	10,702,263	10,666,953				0	10,666,953	12,023,584	30.00%	3,607,075	3,619,310	3,607,075
410	0.0	0.0	5.7	0.0	844,869	220.1	983.0	1,203.1	0	7	A				3,772,754	4,617,498	4,578,350	4,578,350				0	4,578,350	5,202,508	30.00%	1,560,752	1,547,187	1,547,187
411	0.0	0.0	0.0	0.0	0.0	394,585	102.8	470.3	573.1	0	8	A	R		1,805,011	2,199,558	2,199,558	2,199,558				0	2,199,558	2,479,425	30.00%	743,828	677,000	677,000
412	0.0	0.0	0.0	0.0	0.0	330,474	86.1	563.4	649.5	0	10	A			2,162,329	2,492,781	2,502,376	2,492,781		-1,496		-1,496	2,491,285	2,871,240	30.00%	861,372	864,697	861,372
413	0.0	0.0	10.2	0.0	2,410,561	628.1	2,600.8	3,228.9	0	11	A				9,981,870	12,392,518	12,207,910	12,207,910				0	12,207,910	13,939,907	30.00%	4,181,972	4,118,004	4,118,004
415	0.0	0.0	0.0	0.0	2.0	1,055,588	275.0	1,380.0	1,655.0	0	12	A			5,296,440	6,351,890	6,459,738	6,351,890				0	6,351,890	7,164,262	30.00%	2,149,279	2,187,979	2,149,279
416	0.0	0.0	0.0	0.0	0.0	1,546,890	403.0	2,066.4	2,469.4	0	16	A	R		7,930,843	9,477,557	9,477,557	9,477,557				0	9,477,557	10,707,241	30.00%	3,212,172	3,203,262	3,203,262
417	0.0	0.0	0.0	1.0	821,049	213.9	1,243.5	1,457.4	0	14	A	PX			4,772,553	5,593,501	5,593,501	5,593,501				0	5,593,501	6,329,052	30.00%	1,898,716	1,885,550	1,885,550
418	0.0	0.0	0.0	0.0	0.0	3,102,544	808.4	2,818.1	3,626.5	149,800	10	A			10,965,668	14,068,307	14,422,171	14,068,307				0	14,068,307	15,595,181	30.00%	4,678,554	4,801,171	4,678,554
419	0.0	0.0	0.0	0.0	0.0	511,760	133.3	656.9	790.2	0	14	A			2,521,182	3,032,788	3,146,009	3,032,788				0	3,032,788	3,423,798	30.00%	1,027,139	1,066,371	1,027,139
420	0.0	0.0	0.0	0.0	0.0	788,346	205.4	1,042.1	1,247.5	0	16	A			3,999,580	4,787,905	4,818,609	4,787,905				0	4,787,905	5,441,745	30.00%	1,632,524	1,353,531	1,353,531
421	0.0	0.0	0.0	0.0	0.0	493,349	128.5	717.2	845.7	0	14	A	R		2,752,614	3,245,797	3,244,261	3,244,261				0	3,244,261	3,708,385	30.00%	1,112,516	900,000	900,000
422	0.0	0.0	0.0	229.3	0.0	379,200	98.8	702.8	801.6	174,525	6	A			3,320,980	3,700,174	3,700,174	3,700,174				0	3,700,174	3,494,712	30.00%	1,048,414	1,042,163	1,042,163
423	0.0	0.0	0.0	0.0	0.0	557,080	145.1	683.8	828.9	12,000	16	A			2,636,424	3,193,318	3,278,522	3,193,318				0	3,193,318	3,588,365	30.00%	1,076,510	1,106,033	1,076,510
426	0.0	0.0	0.0	0.0	0.0	280,000	73.0	454.7	527.7	0	12	A			1,745,139	2,025,313	2,027,615	2,025,313				0	2,025,313	2,307,043	30.00%	692,113	645,000	645,000
428	0.0	0.0	0.0	0.0	0.0	2,322,857	605.2	4,415.5	5,020.7	0	8	A			16,946,689	19,269,447	19,112,856	19,112,856				0	19,112,856	21,896,769	30.00%	6,569,031	5,958,000	5,958,000
429	0.0	0.0	0.0	0.0	0.0	431,927	112.5	591.9	704.4	0	11	A			2,271,712	2,703,487	2,714,617	2,703,487				0	2,703,487	3,055,820	30.00%	916,746	717,000	717,000
430	0.0	0.0	0.0	0.0	0.0	828,470	215.9	1,056.7	1,272.6	0	1	A			4,055,615	4,884,239	4,893,066	4,884,239				0	4,884,239	5,514,744	30.00%	1,654,423	1,657,482	1,654,423
431	0.0	0.0	0.0	0.0	0.0	738,943	192.5	1,062.6	1,255.1	0	16	A			4,078,259	4,817,074	4,935,668	4,817,074				0	4,817,074	5,449,449	30.00%	1,634,835	1,675,929	1,634,835
432	0.0	0.0	0.0	0.0	0.0	229,097	59.7	454.9	514.6	0	16	A	R		1,745,906	1,975,035	1,975,035	1,975,035				0	1,975,035	2,287,239	30.00%	686,172	679,655	679,655
434	0.0	0.0	0.0	2.7	0.0	1,322,708	344.6	1,653.9	1,998.5	0	1	A			6,347,668	7,670,243	7,648,366	7,648,366				0	7,648,366	8,743,534	30.00%	2,623,060	2,615,480	2,615,480
435	0.0	0.0	0.0	24.7	1.0	1,463,130	381.2	1,973.9	2,355.1	492,550	16	AM			8,068,378	9,531,424	9,517,223	9,517,223				0	9,517,223	10,208,996	30.00%	3,062,699	3,056,448	3,056,448
436	0.0	0.0	0.0	16.4	0.0	575,571	150.0	1,304.1	1,454.1	196,481	6	A			5,201,617	5,777,317	6,128,110	5,777,317				0	5,777,317	6,356,646	30.00%	1,906,994	1,065,000	1,065,000
437	0.0	0.0	0.0	0.0	3.0	5,803,700	1,512.2	7,274.4	8,786.6	552,867	2	A			28,472,014	34,275,838	33,504,400	33,504,400				0	33,504,400	38,037,816	30.00%	11,411,345	11,146,695	11,146,695
438	0.0	0.0	0.0	15.4	0.0	492,970	128.4	675.2	803.6	50,000	16	A			2,641,418	3,134,217	3,468,123	3,134,217				0	3,134,217	3,486,132	30.00%	1,045,840	1,161,541	1,045,840
439	0.0	0.0	0.0	0.0	0.0	524,305	136.6	825.2	961.8	100,000	16	A	R		3,267,118	3,791,388	3,791,388	3,791,388				0	3,791,388	4,182,417	30.00%	1,254,725	775,000	775,000
440	0.0	0.0	0.0	0.3	0.0	747,596	194.8	1,264.2	1,459.0	129,971	16	A	R		4,981,971	5,729,613	5,729,613	5,729,613				0	5,729,613	6,351,795	30.00%	1,905,539	1,650,000	1,650,000
443	0.0	0.0	0.0	2.7	0.0	5,149,916	1,341.8	10,399.8	11,741.6	0	16	A			39,914,432	45,064,261	44,088,257	44,088,257		-16,199		-16,199	44,072,058	51,252,229	30.00%	15,375,669	14,936,164	14,936,164
444	0.0	0.0	0.0	4.6	0.0	450,974	117.5	648.2	765.7	0	6	A			2,487,792	2,938,757	2,707,325	2,707,325				0	2,707,325	3,324,445	30.00%	997,334	710,000	710,000
445	0.0	0.0	0.0	0.0	0.0	1,728,330	450.3	2,653.9	3,104.2	0					10,185,668	11,913,920	11,906,627	11,906,627				0	11,906,627	13,493,069	30.00%	4,047,921	4,045,394	4,045,394
446	0.0	0.0	0.0	0.0	0.0	1,615,002	420.8	2,888.3	3,309.1	0	10	A			11,085,295	12,700,326	12,356,057	12,356,057				0	12,356,057	14,418,836	30.00%	4,325,651	3,550,400	3,550,400
447	0.0	0.0	0.0	106.4	0.0	684,094	178.2	1,513.3	1,691.5	0	16	A	R		5,808,045	6,491,977	6,549,125	6,491,977				0	6,491,977	7,392,553	30.00%	2,217,766	1,560,000	1,560,000
448	0.0	0.0	0.0	0.0	0.0	546,755	142.5	686.5	829.0	0	9	A			2,634,787	3,181,702	3,214,709	3,181,702				0	3,181,702	3,590,010	31.00%	1,112,903	1,124,721	1,112,903
449	0.0	0.0	0.0	0.0	0.0	777,300	202.5	1,087.2	1,289.7	0	16	A			4,172,674	4,949,869	5,143,304	4,949,869				0	4,949,869	5,596,858	30.00%	1,679,057	1,746,084	1,679,057
450	0.0	0.0	0.0	0.0	0.0	3,042,540	792.7	4,429.6	5,222.3	0	9	A			17,000,805	20,043,187	20,291,122	20,043,187				0	20,043,187	22,678,957	30.00%	6,803,687	6,889,599	6,803,687
452	0.0	0.0	0.0	1.9	0.0	290,375	75.7	862.2	937.9	0	11	A			3,309,124	3,599,660	3,815,356	3,599,660				0	3,599,660	4,112,508	30.00%	1,233,752	1,308,493	1,233,752
453	0.0	0.0	0.0	96.7	0.0	4,073,661	1,061.4	5,043.1	6,104.5	800,000	16	AM			20,155,418	24,229,071	23,845,271	23,845,271				0	23,845,271	26,429,723	30.00%	7,928,917	7,795,927	7,795,927
454	0.0	0.0	0.0	0.0	0.0	405,000	105.5	559.6	665.1	0	14	A	R		2,147,745	2,552,654	2,552,654	2,552,654				0	2,552,654	2,885,707	30.00%	865,712	529,000	529,000
456	0.0	0.0	0.0	0.0	0.0	332,589	86.7	584.6	671.3	0	1	A			2,243,695	2,576,449	2,454,785	2,454,785				0	2,454,785	2,932,980	30.00%	879,894	486,000	486,000
457	0.0	0.0	0.0	0.0	0.0	5,843,587	1,522.6	11,508.2	13,030.8	0	14	A			44,168,472	50,012,210	49,999,929	49,999,929				0	49,999,929	56,859,438	30.00%	17,057,831	12,500,000	12,500,000
458	0.0	0.0	0.0	177.7	0.0	1,733,207	451.6	2,540.3	2,991.9	13,622	16	A			9,763,293	11,496,534	11,714,916	11,496,534				0	11,496,534	12,994,357	30.00%	3,898,307	3,973,979	3,898,307
459	0.0	0.0	0.0	0.0	1.0	215,700	56.2	493.6	549.8	0	1	A			1,894,437	2,110,132	2,107,830	2,107,830				0	2,107,830	2,399,396	30.00%	719,819	588,000	588,000
460	0.0	0.0	0.0	0.0	0.0	727,400	189.5	1,196.5	1,386.0	0	9	A			4,592,167	5,319,468	5,269,574	5,269,574				0	5,269,574	6,031,485	30.00%	1,809,446	1,792,157	1,792,157
461	0.0	0.0	0.0	0.0	0.0	639,739	166.7	1,209.9	1,376.6	0	14	A	R		4,643,596	5,283,391	5,283,391	5,283,391				0	5,283,391	6,003,226	30.00%	1,800,968	1,800,303	1,800,303
462	0.0	0.0	0.0	1.1	0.0	326,722	85.1	640.9	726.0	0	8	A	R		2,459,774	2,786,388	2,786,388	2,786,388				0	2,786,388	3,167,832	30.00%	950,350	927,741	927,741
463	0.0	0.0	0.0	0.0	0.0	399,371	104.1	601.7	705.8	0	16	A			2,309,325	2,708,860	2,801,356	2,708,860				0	2,708,860	3,066,707	30.00%	920,012	952,063	920,012
464	0.0	0.0	0.0	6.4	0.0	1,738,200	452.9	2,334.5	2,787.4	10,000	16	A			8,969,811	10,708,041	10,658,147	10,658,147				0	10,658,147	12,087,039	30.00%	3,626,112	3,608,823	3,608,823
465	0.0	0.0	0.0	0.0	0.0	2,376,086	619.1	3,238.5	3,857.6	0	11	A			12,429,363	14,805,469	14,536,425	14,536,425				0	14,536,425	16,732,357	30.00%	5,019,707	4,926,481	4,926,481
466	0.0	0.0	0.0	13.7	1.0	515,000	134.2	1,433.7	1,567.9	0					5,502,541	6,017,600	6,088,987	6,017,600				0	6,017,600	6,886,588	30.00%	2,065,976	2,090,713	2,065,976
467	0.0	0.0	0.0	0.0	0.0	253,643	66.1	785.3	851.4	0	12	A			3,013,981	3,267,673	3,347,120	3,267,673				0	3,267,673	3,760,141	30.00%	1,128,042	1,150,000	1,128,042
468	0.0	10.4	0.0	0.0	0.0	133,800	34.9	186.3	221.2	5,994	14	AM	R		721,013	854,960	843,446	843,446				0	843,446	959,668	31.00%	297,497	283,892	283,892
469	0.0	0.0	0.0	0.0	0.0	2,220,168	578.5	3,025.5	3,604.0	0	16	A			11,611,869	13,832,152	13,725,839	13,725,839				0	13,725,839	15,632,210	30.00%	4,689,663	4,652,825	4,652,825
470	0.0	0.0	0.0	0.0	0.0	2,649,667	690.4	3,941.9	4,632.3	250,000	9	A			15,379,012	18,028,767	18,292,054	18,028,767				0	18,028,767	20,124,110	30.00%	6,037,233	4,700,000	4,700,000
471	0.0	0.0	0.0	0.0	0.0	171,000	44.6	348.7	393.3	0	11	A			1,338,311	1,509,485	1,454,602	1,454,602				0	1,454,602	1,727,801	30.00%	518,340	290,000	290,000
473	0.0	0.0	0.0	0.0	1.0	1,050,400	273.7	1,820.4	2,094.1	0	16	AM			6,986,695	8,037,156	8,085,898	8,037,156		-7,928		-7,928	8,029,228	9,115,800	30.00%	2,734,740	2,751,630	2,734,740

			Col 1	Col 2	Col 3	Col 4	Col 4(a)	Col 4(b)		Col 4(c)	Col 5	Col 6	Col 7	Col 7(a)	Col 8	Col 8(a)	Col 9	Col 9(a)	Col 9(b)	Col 10	Col 10(a)	Col 11	Col 11(a)	Col 12	Col 12(a)
	4/29/2013																								
USD #	County	District Name	FTE Enroll (exc 4 yr old at-risk exc virtual) 9/20/2010 2/20/2011	FTE Enroll (exc 4 yr old at-risk exc virtual) 9/20/2011 2/20/2012	FTE Enroll (exc 4 yr old at-risk exc virtual) 9/20/2012	Declining Enrollment Provision	FTE Enroll (exc 4 yr old at-risk) 2/20/2013	4 yr old at-risk (inc 9/20 inc 2/20)	FTE Enroll (inc 4 yr old at-risk inc virtual inc 2/20) 9/20/2012	Total Adjusted Enrollment	Virtual FTE (Info Only) 9/20/12	Low and High Enroll Weighted FTE	Vocational Contact Hrs	Vocational Weighted FTE	Bilingual Contact Hrs	Bilingual Weighted FTE	At-Risk Headcount	At-Risk Weighted FTE	High At-Risk Weighted FTE	2011-12 Non-Proficient Headcount	Non-Proficient Weighted FTE	New Facilities FTE	New Facilities Weighted FTE	Transp Over 2.5 Current Year	Transp Weighted FTE
Total		STATE TOTALS	446,403.1	447,305.6	447,904.0	452,298.7	599.2	3,552.0	457,502.5	456,449.9	5,447.3	54,410.9	86,192.6	7,184.7	140,837.3	9,272.3	190,965.0	87,080.7	12,917.3	22,112.0	1,027.6	18,035.6	4,509.4	134,039.2	25,895.0
474	Kiowa	Haviland	115.5	116.5	118.0	118.0	0.0	0.0	118.0	118.0	0.0	114.1	0.0	0.0	0.0	0.0	36	16.4	0.0	3	0.1	0.0	0.0	48.0	17.9
475	Geary	Geary County Schools	7,872.8	8,176.6	7,447.4	8,176.6	150.0	24.0	7,637.2	8,350.6	15.8	292.6	697.0	58.1	1,657.4	109.1	3,398	1,549.5	135.6	466	21.7	869.3	217.3	1,985.0	329.7
476	Gray	Copeland	113.8	116.4	137.7	137.7	0.0	1.5	139.2	139.2	0.0	126.7	31.5	2.6	269.8	17.8	52	23.7	0.9	12	0.6	0.0	0.0	72.0	23.6
477	Gray	Ingalls	225.2	226.0	235.0	235.0	0.0	5.5	240.5	240.5	0.0	154.4	0.0	0.0	257.6	17.0	99	45.1	4.3	16	0.7	0.0	0.0	57.0	21.1
479	Anderson	Crest	207.5	194.5	201.0	201.0	0.0	1.5	202.5	202.5	0.0	150.4	77.5	6.5	0.0	0.0	86	39.2	4.5	11	0.5	0.0	0.0	94.0	28.3
480	Seward	Liberal	4,352.0	4,431.0	4,512.3	4,512.3	0.0	85.0	4,597.3	4,597.3	0.0	161.1	614.7	51.2	9,237.0	608.1	3,301	1,505.3	346.6	261	12.1	0.0	0.0	168.5	46.0
481	Dickinson	Rural Vista	362.5	365.0	318.5	365.0	0.0	5.5	324.0	370.5	0.0	170.5	172.2	14.4	0.0	0.0	106	48.3	0.0	16	0.7	0.0	0.0	146.5	45.1
482	Lane	Dighton	239.0	226.0	237.0	237.0	0.0	4.0	241.0	241.0	0.0	154.4	44.9	3.7	0.0	0.0	69	31.5	0.0	6	0.3	0.0	0.0	34.0	17.3
483	Seward	Kismet-Plains	698.0	663.0	656.6	672.5	0.0	20.0	676.6	692.5	0.0	243.0	39.2	3.3	2,415.3	159.0	451	205.7	47.4	19	0.9	0.0	0.0	589.5	151.0
484	Wilson	Fredonia	704.3	649.1	676.4	676.6	0.0	10.0	686.4	686.6	0.0	242.3	147.3	12.3	0.0	0.0	305	139.1	20.1	35	1.6	0.0	0.0	225.0	66.9
487	Dickinson	Herington	490.7	463.7	436.5	463.7	7.0	5.0	453.8	475.7	5.3	201.9	97.0	8.1	0.0	0.0	208	94.8	12.7	26	1.2	216.9	54.2	65.0	18.4
489	Ellis	Hays	2,902.5	2,868.2	2,804.4	2,868.2	0.0	19.5	2,870.4	2,887.7	46.5	101.2	618.8	51.6	607.4	40.0	939	428.2	0.0	67	3.1	153.6	38.4	541.5	130.7
490	Butler	El Dorado	1,901.5	1,873.0	1,900.1	1,900.1	0.0	15.0	1,922.6	1,915.1	7.5	67.1	304.9	25.4	26.6	1.8	880	401.3	67.8	120	5.6	322.0	80.5	445.0	87.9
491	Douglas	Eudora	1,488.5	1,485.5	1,522.8	1,522.8	0.0	0.0	1,522.8	1,522.8	0.0	104.7	488.7	40.7	16.8	1.1	450	205.2	0.0	85	4.0	0.0	0.0	148.0	30.7
492	Butler	Flinthills	247.8	256.8	255.3	256.8	0.0	0.0	273.8	256.8	18.5	153.7	38.1	3.2	0.0	0.0	88	40.1	0.0	7	0.3	0.0	0.0	171.0	53.6
493	Cherokee	Columbus	1,001.7	997.5	994.5	997.9	0.0	13.5	1,008.0	1,011.4	0.0	245.3	239.5	20.0	4.3	0.3	505	230.3	52.7	64	3.0	0.0	0.0	368.0	95.2
494	Hamilton	Syracuse	463.0	442.5	452.0	452.5	0.0	5.5	457.5	458.0	0.0	197.2	80.8	6.7	1,026.1	67.6	233	106.2	24.5	19	0.9	0.0	0.0	79.0	36.2
495	Pawnee	Ft Larned	888.5	902.0	886.5	902.0	0.0	14.5	901.0	916.5	0.0	251.8	169.9	14.2	10.3	0.7	361	164.6	11.1	68	3.2	0.0	0.0	223.0	70.3
496	Pawnee	Pawnee Heights	134.5	108.5	116.5	119.8	0.0	0.0	188.5	119.8	72.0	115.2	2.7	0.2	11.6	0.8	39	17.8	0.0	2	0.1	0.0	0.0	54.0	20.4
497	Douglas	Lawrence	9,518.7	9,715.0	9,812.6	9,812.6	0.0	35.0	11,238.0	9,847.6	1,390.4	345.1	1,728.2	144.0	2,317.9	152.6	3,358	1,531.2	0.0	481	22.4	22.9	5.7	2,278.0	341.2
498	Marshall	Valley Heights	351.0	341.0	371.5	371.5	0.0	3.5	376.0	375.0	1.0	172.0	103.9	8.7	0.0	0.0	157	71.6	7.6	24	1.1	0.0	0.0	223.0	57.1
499	Cherokee	Galena	785.8	780.2	774.9	780.3	0.0	8.5	783.4	788.8	0.0	250.9	210.9	17.6	0.0	0.0	487	222.1	51.1	43	2.0	0.0	0.0	22.0	5.2
500	Wyandotte	Kansas City	18,441.1	18,589.4	18,984.2	18,984.2	0.0	285.0	19,269.2	19,269.2	0.0	675.2	3,402.6	283.6	19,824.6	1,305.1	16,689	7,610.2	1,752.3	872	40.5	243.4	60.9	3,878.0	580.9
501	Shawnee	Topeka Public Schools	13,062.7	12,994.1	12,824.5	12,994.1	0.0	92.0	13,078.0	13,086.1	161.5	458.5	1,232.2	102.7	1,951.4	128.5	9,274	4,228.9	973.8	731	34.0	340.9	85.2	1,667.0	249.7
502	Edwards	Lewis	99.0	99.0	102.5	102.5	0.0	1.5	104.0	104.0	0.0	104.4	6.9	0.6	4.4	0.3	41	18.7	1.3	7	0.3	0.0	0.0	38.0	14.7
503	Labette	Parsons	1,160.5	1,186.7	1,182.8	1,186.7	0.0	12.0	1,194.8	1,198.7	0.0	214.4	310.6	25.9	0.0	0.0	747	340.6	78.4	35	1.6	0.0	0.0	8.0	3.1
504	Labette	Oswego	470.0	465.5	441.0	465.5	0.0	5.5	446.5	471.0	0.0	200.7	46.5	3.9	0.0	0.0	204	93.0	11.9	11	0.5	0.0	0.0	20.0	6.3
505	Labette	Chetopa-St. Paul	455.4	442.0	452.5	452.5	0.0	6.0	464.2	458.5	5.7	197.3	150.9	12.6	0.0	0.0	242	110.4	25.4	23	1.1	0.0	0.0	45.0	14.8
506	Labette	Labette County	1,588.7	1,599.0	1,522.3	1,599.0	0.0	12.0	1,534.3	1,611.0	0.0	62.5	614.5	51.2	0.0	0.0	650	296.4	24.1	60	2.8	20.2	5.1	689.5	167.5
507	Haskell	Satanta	322.0	288.5	272.0	294.2	0.0	10.0	282.0	304.2	0.0	146.9	72.0	6.0	842.3	55.5	160	73.0	16.8	6	0.3	0.0	0.0	52.0	19.2
508	Cherokee	Baxter Springs	963.0	955.5	957.5	958.7	0.0	15.0	991.3	973.7	18.8	248.6	273.5	22.8	13.5	0.9	536	244.4	56.3	54	2.5	0.0	0.0	114.5	21.5
509	Sumner	South Haven	210.5	200.5	188.0	200.5	0.0	1.5	189.5	202.0	0.0	150.3	64.4	5.4	0.0	0.0	52	23.7	0.0	13	0.6	0.0	0.0	85.0	25.2
511	Harper	Attica	146.5	149.0	155.5	155.5	0.0	0.0	155.5	155.5	0.0	134.9	0.0	0.0	0.0	0.0	55	25.1	0.2	5	0.2	0.0	0.0	16.5	6.8
512	Johnson	Shawnee Mission Pub Sch	26,603.5	26,485.7	26,185.9	26,485.7	0.0	48.0	26,233.9	26,533.7	0.0	929.7	3,657.5	304.8	5,389.6	354.8	7,796	3,555.0	0.0	1,320	61.4	801.7	200.4	5,250.0	786.5

	Col 13	Col 14	Col 15	Col 16	Col 17	Col 18	Col 18(a)		Col 19	Col 20					Col 21	Col 21(a)	Col 21(b)				Col 21(c)	Col 21(d)	Col 22	Col 22(a)	Col 22(b)	Col 22(c)	Col 22(d)
USD #	Ancillary Weighted FTE	Declining Enroll Weighted FTE	Cost of Living FTE	Virtual Weighted FTE	KAMS FTE	FY 13 Spec Ed State Aid	Spec Ed Weighted FTE	2012-13 Subtotal Weighted FTE (exc Spec Ed)	2012-13 Total Weighted FTE	Authorized Transfers	Sequence Number	Audit	Republished		Computed General Fund (exc Spec Ed)	Computed General Fund (inc Spec Ed)	Adopted General Fund	2012-13 General Fund (Before reductions)	Budget Law Violation	2011-12 Trans Audit Adjust	2011-12 Bilingual Vocational At-Risk Audit Adj	2011-12 Total Reduction	2012-13 Adjusted Legal General Fund Budget	LOB Base General Fund	2012-13 LOB Authorized Percent	Max Computed LOB Authorized	Adopted LOB	Legal LOB
Total	5,921.9	183.2	5,118.7	5,828.0	56.0	443,617,781	115,586.0	675,855.6	791,441.6	10,731,194					2,611,114,504	3,054,733,568	3,117,228,871	3,045,758,785	0	-114,358	0	-114,358	3,045,644,427	3,452,459,321	85.93	1,042,281,490	1,002,491,010	995,792,745
474	0.0	0.0	0.0	0.0	0.0	188,000	49.0	266.5	315.5	0	16	A	R		1,022,827	1,210,889	1,210,889	1,210,889				0	1,210,889	1,369,395	30.00%	410,819	405,632	405,632
475	0.0	0.0	0.0	16.6	1.0	7,622,900	1,986.2	11,081.8	13,068.0	0					42,531,948	50,154,984	51,090,688	50,154,984				0	50,154,984	56,744,086	30.00%	17,023,226	12,800,000	12,800,000
476	0.0	0.0	0.0	0.0	0.0	118,000	30.7	335.1	365.8	0	14	A	R		1,286,114	1,403,940	1,403,940	1,403,940				0	1,403,940	1,603,498	30.00%	481,049	434,769	434,769
477	0.0	0.0	0.0	0.0	0.0	177,523	46.3	483.1	529.4	0	1	A			1,854,138	2,031,837	1,968,894	1,968,894				0	1,968,894	2,349,541	30.00%	704,862	668,000	668,000
479	0.0	0.0	0.0	0.0	0.0	338,921	88.3	431.9	520.2	0	16	A			1,657,632	1,996,528	2,173,459	1,996,528				0	1,996,528	2,253,534	30.00%	676,060	320,000	320,000
480	0.0	0.0	0.0	0.0	0.0	2,665,100	694.4	7,327.7	8,022.1	0	14	A	R		28,123,713	30,788,820	30,888,992	30,788,820				0	30,788,820	35,148,794	30.00%	10,544,638	6,092,500	6,092,500
481	0.0	0.0	0.0	0.0	0.0	384,862	100.3	649.5	749.8	0	12	A			2,492,781	2,877,732	2,883,873	2,877,732		-2,231		-2,231	2,875,501	3,280,258	30.00%	984,077	986,205	984,077
482	0.0	0.0	0.0	0.0	0.0	177,917	46.4	448.2	494.6	0					1,720,192	1,898,275	1,902,497	1,898,275				0	1,898,275	2,192,149	30.00%	657,645	659,108	657,645
483	0.0	0.0	0.0	0.0	0.0	579,479	151.0	1,502.8	1,653.8	0	1	A			5,767,746	6,347,284	6,394,108	6,347,284				0	6,347,284	7,261,757	30.00%	2,178,527	1,304,609	1,304,609
484	0.0	0.0	0.0	0.0	0.0	637,126	166.0	1,168.9	1,334.9	0	2	A			4,486,238	5,123,346	5,093,794	5,093,794				0	5,093,794	5,840,466	30.00%	1,752,140	1,712,500	1,712,500
487	0.0	0.0	0.0	5.6	0.0	525,446	136.9	872.6	1,009.5	0	12	AM			3,349,039	3,874,461	4,091,692	3,874,461		-4,126		-4,126	3,870,335	4,393,682	30.00%	1,318,105	1,000,000	1,000,000
489	0.0	126.0	0.0	48.8	0.0	2,708,179	705.6	3,855.7	4,561.3	0	10	A			14,798,177	17,506,269	17,511,643	17,506,269		-885		-885	17,505,384	20,230,730	30.00%	6,069,219	6,071,081	6,069,219
490	0.0	0.0	0.0	7.9	1.0	1,580,594	411.8	2,661.4	3,073.2	0	8	A			10,214,453	11,794,942	11,637,584	11,637,584		-739		-739	11,636,845	13,676,955	30.00%	4,103,087	4,048,561	4,048,561
491	0.0	0.0	0.0	0.0	0.0	1,661,620	432.9	1,909.2	2,342.1	0	1	A			7,327,510	8,988,980	8,983,223	8,983,223				0	8,983,223	10,125,104	30.00%	3,037,531	3,035,536	3,035,536
492	0.0	0.0	0.0	19.4	0.0	323,358	84.3	527.1	611.4	0	14	A	R		2,023,010	2,346,553	2,371,500	2,346,553				0	2,346,553	2,659,992	30.00%	797,998	793,742	793,742
493	0.0	0.0	0.0	0.0	0.0	1,023,166	266.6	1,658.2	1,924.8	0	14	A	R		6,364,172	7,387,382	7,387,382	7,387,382				0	7,387,382	8,397,976	30.00%	2,519,393	2,492,662	2,492,662
494	0.0	0.0	0.0	0.0	0.0	286,936	74.8	897.3	972.1	0	12	A			3,443,837	3,730,920	3,760,856	3,730,920				0	3,730,920	4,275,575	30.00%	1,282,673	1,206,843	1,206,843
495	0.0	0.0	0.0	0.0	0.0	1,617,600	421.5	1,432.4	1,853.9	0					5,497,551	7,115,268	7,187,806	7,115,268				0	7,115,268	7,967,429	30.00%	2,390,229	2,415,364	2,390,229
496	0.0	0.0	0.0	75.6	0.0	267,120	69.6	349.9	419.5	85,500	14	A	R		1,428,416	1,695,541	1,695,541	1,695,541				0	1,695,541	1,818,227	31.00%	563,650	552,794	552,794
497	0.0	0.0	336.4	1,504.6	2.0	11,663,000	3,038.8	14,232.8	17,271.6	0	12	A			54,625,486	66,288,401	66,529,427	66,288,401		-3,926		-3,926	66,284,475	74,748,136	31.00%	23,171,922	23,260,972	23,171,922
498	0.0	0.0	0.0	1.1	0.0	431,246	112.4	694.2	806.6	0	3	A			2,664,340	3,095,731	3,065,027	3,065,027				0	3,065,027	3,586,543	30.00%	1,075,963	1,065,324	1,065,324
499	0.0	0.0	0.0	0.0	0.0	814,832	212.3	1,337.7	1,550.0	0	2	A			5,134,093	5,948,900	5,909,369	5,909,369				0	5,909,369	6,744,856	30.00%	2,023,457	1,668,300	1,668,300
500	0.0	0.0	0.0	0.0	0.0	16,047,662	4,181.3	31,577.9	35,759.2	0	13	A			121,195,980	137,243,810	135,891,298	135,891,298		-6,171		-6,171	135,885,127	156,032,493	30.00%	46,809,748	46,341,091	46,341,091
501	0.0	0.0	0.0	169.6	0.0	15,640,029	4,075.0	19,517.0	23,592.0	1,600,000	1	A			76,506,246	92,146,096	93,167,388	92,146,096				0	92,146,096	102,158,890	30.00%	30,647,667	31,001,553	30,647,667
502	0.0	0.0	0.0	0.0	0.0	171,960	44.8	244.3	289.1	0	1	A			937,623	1,109,566	1,179,034	1,109,566				0	1,109,566	1,254,942	30.00%	376,483	350,000	350,000
503	0.0	0.0	0.0	0.0	1.0	1,277,700	332.9	1,863.7	2,196.6	20,000	1	A			7,172,881	8,450,551	8,473,579	8,450,551				0	8,450,551	9,535,057	30.00%	2,860,517	2,669,825	2,669,825
504	0.0	0.0	0.0	0.0	0.0	473,471	123.4	787.3	910.7	0	16	A			3,021,657	3,495,267	3,696,762	3,495,267				0	3,495,267	3,963,572	30.00%	1,189,072	1,258,891	1,189,072
505	0.0	0.0	0.0	6.0	0.0	527,400	137.4	826.1	963.5	0	14	A			3,170,572	3,697,913	3,847,979	3,697,913				0	3,697,913	4,199,778	30.00%	1,259,933	1,311,933	1,259,933
506	0.0	0.0	0.0	0.0	0.0	1,728,633	450.4	2,220.6	2,671.0	0	12	A			8,522,663	10,251,298	10,427,462	10,251,298				0	10,251,298	11,572,553	30.00%	3,471,766	3,532,808	3,471,766
507	0.0	0.0	0.0	0.0	0.0	189,459	49.4	621.9	671.3	0	16	A			2,386,852	2,576,449	2,794,064	2,576,449				0	2,576,449	2,982,991	30.00%	894,897	970,303	894,897
508	0.0	0.0	0.0	19.7	0.0	953,249	248.4	1,590.4	1,838.8	0	3	A			6,103,955	7,057,314	6,989,382	6,989,382				0	6,989,382	8,003,492	30.00%	2,401,048	1,500,000	1,500,000
509	0.0	0.0	0.0	0.0	0.0	315,000	82.1	407.2	489.3	0	6	A			1,562,834	1,877,933	1,907,102	1,877,933				0	1,877,933	2,120,118	30.00%	636,035	646,142	636,035
511	0.0	0.0	0.0	0.0	0.0	200,635	52.3	322.7	375.0	0	1	A			1,238,523	1,439,250	1,392,426	1,392,426				0	1,392,426	1,631,164	30.00%	489,349	390,000	390,000
512	0.0	46.8	1,496.8	0.0	1.0	20,017,529	5,215.6	34,270.9	39,486.5	0	16	A			131,531,714	151,549,187	154,141,372	151,549,187				0	151,549,187	178,021,773	31.00%	55,186,750	56,116,279	55,186,750

Appendix B

"School District Finance and Quality Performance Act and Bond and Interest State Aid Program" (Kansas Legislative Research, 2012-2013 ed.)

The Court may judicial notice of the Kansas Legislative Research Department publication. *See* K.S.A. 60-409(a) & (c).

2012-2013 EDITION

SCHOOL DISTRICT FINANCE AND QUALITY PERFORMANCE ACT AND BOND AND INTEREST STATE AID PROGRAM

(2012-2013 School Year)

Kansas Legislative Research Department
February 6, 2013

PART A

STATE FINANCIAL AID

BASE STATE AID PER PUPIL (BSAPP)	times	ADJUSTED ENROLLMENT	equals	STATE FINANCIAL AID (SFA)

STATE FINANCIAL AID	Minus	LOCAL EFFORT	Equals	GENERAL STATE AID

The BSAPP for school year 2012-2013 is $3,838. However, if the appropriation in a school year for general state aid is insufficient to pay school districts' computed entitlements, the State Board of Education will reduce BSAPP – and, therefore, SFA – as necessary to match school district entitlements with the amount of funding that is available.

STATE FINANCIAL AID: ENROLLMENT ADJUSTMENTS AND ENROLLMENT DECREASES

In addition to the regular full-time equivalent (FTE) enrollment in a school district, enrollment adjustments are added in order to reflect additional costs associated with serving certain pupil populations, transporting pupils, operating smaller and larger enrollment school districts, and adding and operating new school facilities (two provisions).

Also, there is a "decreasing enrollment" feature which is designed to facilitate school district financial planning in the face of declining enrollments. This feature permits a school district with an enrollment decrease to base its SFA in the current school year on the greater of its enrollment in the preceding year or a three-year average (the current school year and the two immediately preceding school years). An adjustment adds on any preschool aged four-year-old at-risk pupils being served in the current school year.

ENROLLMENT ADJUSTMENTS

1. Low Enrollment Weighting

This weighting applies to school districts having unweighted FTE enrollments of under 1,622. With a BSAPP of $3,838 the low enrollment weight of districts having enrollments of 100 or fewer is $3,893.01 per pupil. Each change of one pupil in this enrollment interval changes the low enrollment weight down or up inversely to the enrollment change.

EXAMPLES

LOW ENROLLMENT ADJUSTMENT COMPUTATIONS

EXAMPLE 1

Enrollment = 95				
FTE Enrollment (Sept. 20)*		Factor		Low Enrollment Weight Adjustment
95	times	1.014331	equals	96.4

EXAMPLE 2

Enrollment = 200				
FTE Enrollment (Sept. 20)*		Factor		Low Enrollment Weight Adjustment
200	times	0.749259	equals	149.9

2. High Enrollment Weighting (Formerly called correlation weighting)

This weighting applies to districts having unweighted FTE enrollments of 1,622 and over. It is determined by multiplying the full-time equivalent enrollment by a factor of 0.03504. With BSAPP of $3,838, the high enrollment weighting is $134.49 per pupil for all districts with enrollments of 1,622 and over.

EXAMPLE

FTE Enrollment (Sept. 20)*		Factor		Correlation Weight Adjustment
5,000	times	0.035040	equals	175.2

* The 2007 Legislature passed HB 2159 amending the School District Finance and Quality Performance Act by establishing a second date for enrollment count for students of military families on February 20. The 2009 Legislature extended this provision through the 2012-2013 school year provided that an increase of a minimum of 25 students or one percent of the district's enrollment who are dependents of a full-time active duty member of the military service or military reserve who are engaged in mobilizing for war, international peacekeeping missions, national emergency, or homeland defense activities.

3. Transportation Weighting

This weighting helps compensate school districts for providing transportation to public school pupils who reside 2.5 miles or more by the usually traveled road from the school attended.

The preceding year's cost of providing transportation to public and nonpublic school pupils, adjusted to net out costs of transporting pupils who live less than 2.5 miles from school, is determined. The resulting amount is divided by the number of public school pupils enrolled in the district who resided 2.5 miles or more by the usually traveled road from the school attended and for whom transportation was made available by the district. The result (quotient) is the per pupil cost of transportation.

The per pupil cost of transportation of each district is then plotted on a density-cost graph. A statistical technique is employed to construct a "curve of best fit" for all school districts. (This procedure recognizes the relatively higher costs of per pupil transportation in sparsely populated areas as contrasted with densely populated areas.)

Based on a district's density (number of pupils enrolled in the district who reside 2.5 miles or more by the usually traveled road from school divided by the number of square miles in the district), the point on the curve of best fit is identified for each district. This is the formula per pupil cost of transportation of the district.

The formula per pupil cost then is divided by the BSAPP and the quotient is multiplied by the number of residential public school pupils in the current school year who live more than 2.5 miles from the school and for whom transportation is being provided. The result is the district's transportation weight enrollment adjustment.

EXAMPLE

1. From Density-Cost Graph: Formula Per Pupil Cost of Transportation = $646
2. Number of pupils transported 2.5 miles or more in current year = 500
3. BSAPP = $3,838

THEN

$ 646 $3,838	**equals**	0.17	**and**	500 x 0.17 85	**so**	weight adjustment for transportation	**equals**	85

4. Vocational Education Weighting

This weighting is determined by multiplying the FTE enrollment in vocational education programs approved by the State Board of Education by a factor of 0.5. Revenue generated by the weight must be spent for vocational education, at-risk, or bilingual programs.

EXAMPLE

FTE Equivalent Vocational Education Enrollment (Sept. 20)*		Factor		Vocational Education Program Weight Adjustment
60.0	**times**	0.5	**equals**	30.0

5. Bilingual Education Weighting

This weighting is determined by multiplying the FTE enrollment in bilingual education programs approved by the State Board of Education by a factor of 0.395. Revenue generated by this weight may be spent either for bilingual education or at-risk education.

EXAMPLE

FTE Bilingual Program Enrollment (Sept. 20)*		Factor		Bilingual Education Program Weight Adjustment
40.0	**times**	0.395	**equals**	15.8

6. At-Risk Pupil Weighting

This weighting is determined by multiplying the number of pupils of a district who qualify for free meals under the National School Lunch Program by a factor of 0.456. A further condition is that in order for it to obtain this weight, a school district must maintain an at-risk pupil assistance plan approved by the State Board of Education. All revenue generated by this weight must be spent for at-risk pupil programs, bilingual programs, vocational programs, or pre-school at-risk programs.

Pupils who receive services under the plan are determined on the basis of at-risk factors determined by the school district board of education and not by virtue of eligibility for free meals under the National School Lunch Program.

EXAMPLE

Number of Pupils Qualifying for Free Lunches (Sept. 20)*		Factor		At-Risk Pupil Weight Adjustment
500	**times**	0.456	**equals**	228.0

6a. High Density At-Risk Weighting

This weight is determined by multiplying the number of pupils of a district who qualify for free meals under the National School Lunch Program by the following factors:

- Those districts that have free meal student percentages of 50.0 percent or more would use 0.105 factor; or

- Those districts that have a density of 212.1 student per square mile and a free lunch percentage of at least 35.1 percent and above would use 0.105 factor.

For those districts having between 35.0 percent to less than 50.0 percent at-risk pupils, the district will subtract 35.0 percent from the percentage of at-risk enrollment in the district and multiply that result by 0.7. The product of this calculation multiplied by the at-risk student enrollment is the high-density at-risk weighting.

6b. Non Proficient At-Risk Weighting

This weighting is determined by multiplying the number of pupils of a district who score below proficient in reading or math on the state assessments and who are not eligible for the federal free meals program, by the factor of .0465.

EXAMPLE

Number of pupils taking the exam not eligible for free meals and scoring below proficient:	200 x .0465 = 9.3 FTE

7. School Facilities Weighting

This weighting is assigned for costs associated with beginning operation of new school facilities. The enrollment in the new school facility is multiplied by a factor of 0.25 to produce the weight adjustment.

In order to qualify for this weighting, the district must have utilized at least 25 percent of the state financial aid of the district authorized for the school year. This weight is available for two school years only—the year in which the facility operation is commenced and the following year.

Enrollment of Pupils in New School Facility (Sept. 20)*		Factor		School Facilities Weight Adjustment
260	**times**	0.25	**equals**	65.0

8. Ancillary School Facilities

The law permits a school district to appeal to the State Court of Tax Appeals for permission to levy a property tax for up to two years to defray costs associated with commencing operation of a new facility beyond the costs otherwise financed under the law. To qualify for this tax-levying authority, the district must have begun operation of one or more new facilities in the preceding or current school year (or both), have adopted at least 25 percent of the state financial aid for the district, and have had extraordinary enrollment growth, as determined by the State Board of Education. This tax-levying authority may extend for an additional three years, in accordance with the following requirements. The school district's board of education must determine that the costs attributable to commencing operation of the new school facility (or facilities) are significantly greater than the costs of operating other school facilities in the district. The tax that then may be levied is computed by the State Board of Education by first determining the amount produced by the tax levied for operation of the facility (or facilities) by the district in the second year of the initial tax-levying authority and by adding the amount of general state aid attributable to the school facilities weight in that year. Of the amount so computed, 75 percent, 50 percent, and 25 percent, respectively, are the amounts that may be levied during the three-year period.

An amount equal to the levy approved by the State Court of Tax Appeals is converted to the ancillary school facilities weight. The weight is calculated each year by dividing the amount of the levy authority approved by the State Court of Tax Appeals by BSAPP.

EXAMPLE

Amount of Authorized Tax Levy		BSAPP		Ancillary School Facilities Adjustment
$550,000	**divided by**	$3,838	**equals**	143.30

NOTE: The school district levies the amount approved by the State Court of Tax Appeals. The proceeds are then credited to the State School District Finance Fund.

9. Special Education and Related Services

The amount of special education services state aid a school district receives, including "catastrophic" special education aid, is divided by BSAPP to produce this weighting. The state special education services aid a district receives is deposited in its general fund and then, in turn, is transferred to the district's special education fund.

This procedure is aimed at increasing the size of a school district's general fund budget for purposes of the local option budget calculation (LOB). As noted in Part B of this memorandum, the amount attributable to this weighting is defined as "local effort" and, therefore, as a deduction in computing the general state aid entitlement of the district.

In summary, this procedure does not increase the school district general fund state aid requirement; it only increases the computed size of this budget for the benefit of the LOB provision of the law (see Attachment 1 for an explanation of the LOB.)

Amount of Special Education Services Aid to the District		BSAPP		Special Education and Related Services Weight Adjustment
$650,000	**divided by**	$3,838	**equals**	169.36

10. Declining Enrollment Weighting

Any school district that is at its maximum LOB authority and has declined from the prior year may seek approval from the State Board of Tax Appeals to make a levy for up to two years, capped at 5 percent of the district's general fund budget. The levy is equalized up to the 75 percentile. For school year 2007-08, the maximum LOB would be considered to be 31 percent, provided the increase is approved by the electors. An amount equal to the levy approved by the State Court of Tax Appeals is converted to the ancillary school facilities weight. The weight is calculated each year by dividing the amount of the levy authority approved by the State Court of Tax Appeals by BSAPP.

EXAMPLE

Amount of Authorized Tax Levy		BSAPP		Declining Enrollment Adjustment
$425,700	**divided by**	$3,838	**equals**	110.92

NOTE: The school district levies the amount approved by the State Court of Tax Appeals. The proceeds are then credited to the State School District Finance Fund.

NOTE: All pupil weight adjustments are based on current year features. An exception applies when the enrollment of a district in the current year has decreased from that of the preceding year. In those instances, the low enrollment weight or high enrollment weight for the preceding year, or the three-year average, whichever applies, is used.

11. Cost-of-Living Weighting

The law permits a local school board to levy a local tax for the purpose of financing the cost-of-living weighting in a school district which has higher than the average statewide cost of living based on housing cost. The levy is an amount directly attributable to the cost-of-living weighting which is derived as described in the example below.

The State Board of Education is required to determine which districts are eligible to apply for this weighting. The district will be deemed eligible by the State Board if its average cost-of-living is at least 25 percent higher than the statewide average. In addition, the district must have adopted the maximum LOB to be eligible.

The local school board would be required to pass and publish a resolution authorizing the levy, and the resolution is subject to protest petition.

EXAMPLE

Amount of Authorized Tax Levy		BSAPP		Cost-of-Living Weight
$550,000*	**divided by**	$3,838	**equals**	143.3

* There is a cap on the amount that can be levied under this weighting. A district's state financial aid (SFA) times .05 is the maximum amount that can be levied.

12. Virtual Enrollment

This weighting is determined by multiplying the FTE virtual enrollment by a factor of 1.05. In addition, virtual students who qualify for paid or reduced price lunches and did not meet proficient standards in math or reading in the prior year are re-multiplied by a factor of .25. However, to qualify for this factor, the virtual school must have a virtual at-risk assistance plan on file with the Kansas Department of Education.

In addition to the initial weighting of 1.05 above, any virtual student taking an advanced placement school in the virtual school is eligible to receive an additional factor of .08. The advanced placement course must not be available in the virtual student's home district and the home district must be either more than 200 square miles or have an enrollment of at least 260 students.

Any student with an Individualized Education Plan (IEP) and attending a virtual school must be counted as the proportion of one student to the nearest tenth that the student's attendance at the non-virtual school bears to full-time attendance.

Virtual School means any school or educational program that:

- Is offered for credit;
- Uses distance learning technologies, which predominantly use internet-based methods to deliver instruction;
- Involves instruction that occurs asynchronously with the teacher and student in a separate location;
- Requires the student to make academic progress toward the next grade level and matriculation from kindergarten through high school graduation;
- Requires the student to demonstrate competence in subject matter for each class or subject in which the student is enrolled as part of the virtual school; and
- Requires age-appropriate students to complete state assessment tests.

13. Kansas Academy of Math and Science (KAMS)

Students attending KAMS receive no additional weightings.

DECREASING ENROLLMENT PROVISIONS

When a district's enrollment in the current school year has decreased from the preceding school year, the district may base its budget on the greater of unweighted full-time equivalent enrollment of the preceding year or the three-year average of unweighted full-time equivalent enrollment (current school year and two immediately preceding school years).

EXAMPLE

A.	September 20 Enrollment—Current Year less Preschool Aged At-Risk Program Enrollment	1,375
	September 20 Enrollment—Preceding School Year less Preschool Aged At-Risk Program Enrollment	1,390
	Alternative Enrollment to Be Used in Current School Year	1,390
B.	September 20 Enrollment less Preschool Aged At-Risk Program Enrollment	
	Current School Year	1,375
	Preceding School Year	1,390
	Second Preceding School Year	1,402
	Average	1,389
	Alternative Enrollment to Be Used in Current School Year	1,389
	Enrollment for Current School Year (Greater of A or B)	1,390
	Plus Preschool Aged At-Risk Program Enrollment in Current Year @ 0.5	10
	Enrollment	1,400

Alternative

In a school district for which the State Board of Education has determined that the enrollment of the district in the preceding school year had decreased from the enrollment in the second preceding school year and that a disaster had contributed to the decrease, the enrollment of the district in the second school year following the disaster is determined on the basis of a four-year average of the current school year and the preceding three school years, adjusted for the enrollment of pre-school aged at-risk pupils in those years. However, if the enrollment decrease provisions of the general law (above) are more beneficial to the district than the four-year average, the general law will apply.

PART B

LOCAL EFFORT

A school district's local effort is, in essence, a credit against its general state aid entitlement. Local effort represents locally generated resources that are available to the school district general fund to help finance the district's educational program.

The following items are defined as local effort:

Example		
$ 2,000,000	1	Proceeds of the uniform school district general fund property tax—20 mills in 2009, including the $20,000 residential exemption;
500,000	2	Special education services state aid;
3,000	3	Unexpended and unencumbered balances remaining in the general fund;
1,800	4	Unexpended and unencumbered balances;
5,000	5	Industrial revenue bond and port authority bond in lieu of tax payments;
200	6	Mineral production tax receipts;
None	7	70 percent of federal Impact Aid, in accord with federal law and regulations;
None	8	Tuition paid on behalf of nonresident pupils for enrollment in regular education services;
None	9	Motor vehicle tax receipts[1];
None	10	Rental/lease vehicle excise tax receipts[1] ; and
None	11	Remaining proceeds of the former general fund and transportation tax levies prior to their repeal (now obsolete as this taxing authority was repealed in 1992).
$ 2.510,000[2]		**TOTAL LOCAL EFFORT**

NOTES:

1 This school district general fund revenue source was phased out over a five-year period. After FY 2000, there are no receipts from this source.

2 If the sum of a district's local effort exceeds its SFA entitlement, the district receives no general state aid and the "excess" amount is remitted to the State Treasurer and is credited to the State School District Finance Fund. Revenue in this fund is used for school district general state aid.

PART C

GENERAL STATE AID

A district's general state aid entitlement is determined by subtracting the district's local effort from its SFA.

EXAMPLE

	$	7,838,208	SFA*
Minus		2,510,000	Local Effort**
equals	$	5,328,208	General State Aid

This example is based on a district that receives low enrollment weight. Thus, the correlation weight example is not applicable in this instance.

* $3,838 BSAPP times 2,073.6 (adjusted enrollment—includes pupil weights). However, if the appropriation for general state aid is insufficient to fund all school district entitlements, the $3,838 BSAPP is reduced to the level at which entitlements may be funded.

** Sum of local effort items.

Note: 2009 SB 84 provides an alternative formula for the calculation of the LOB of a school district. The bill authorizes a school district to calculate its LOB using a base state aid per pupil (BSAPP) of $4,433 (the amount of BSAPP for the current school year) in any school year in which the BSAPP is less than that amount. The bill also authorizes a school district to calculate its LOB using an amount equal to the amount appropriated for state aid for special education and related services in school year 2008-2009. The 2012 Legislative Session passed SB 11 which allows a school district to choose the 2008-2009 special education state aid or the current year's special education state aid, whichever amount is greater, to calculate the amount of state aid the district receives for its LOB. (A school district may enact a LOB up to a maximum of 31 percent of the district's state financial aid, which includes the BSAPP multiplied by a district's adjusted enrollment, and state aid for special education.) This provision expires on June 30, 2014.

ATTACHMENT I

The Local Option Budget (LOB)

The law provides that in addition to SFA funding, a school district board may approve LOB spending in any amount up to 31.0 percent of its SFA for school year 2007-2008. The LOB limitation is called the "state prescribed percentage." Certain limitations and constraints apply to use of LOB authority:

- Below average spending districts (general fund budget and LOB combined) gain LOB authority in accord with a formula applicable to them.

- Above average spending districts that had an LOB in 1996-1997 are entitled to a specified percentage of the LOB authority the district was authorized to adopt in 1996-1997.

- Additional LOB authority can be gained by a school board through adoption of a resolution. The resolution is subject to a 5.0 percent protest petition and election procedure (or, in one instance, a board initiated election).

- A district may operate under LOB authority adopted prior to the 1997-1998 school year until the LOB authority specified in that resolution expires.

(These components of the law are discussed in the following pages.)

LOB Authority for Below Average Spending Districts

The board of education of a "below average spending" school district on its own motion may adopt an LOB. In this respect, the State Board of Education makes the following determinations:

- The average budget per FTE pupil (unweighted) for the preceding school year is computed for each of four school district enrollment groupings—under 100; 100-299.9; 300-1,799.9; and 1,800 and over. This computation uses the combined school district general fund budget and LOB.

- The FTE budget per pupil (unweighted) of each school district for the preceding school year is determined (combined general fund budget and LOB).

- The district's FTE budget per pupil for the preceding year is subtracted from the preceding year's average budget per pupil for the district's enrollment grouping.

- If the district's budget per pupil is below the average budget per pupil for the district's enrollment grouping, the budget per pupil difference is multiplied by the district's FTE pupil enrollment in the preceding year.

- The product above is divided by the amount of the district's general fund budget in the preceding year.

The result is the LOB percentage increment that is available to the district in the next school year.

EXAMPLE

In 2005-2006, District A has an enrollment of 600 unweighted FTE students and a general fund/LOB budget per pupil of $8,666.66 (total general fund/LOB = $5,200,000). Under the formula, District A qualifies for LOB authority in 2005-06, as follows:

	$	9,257.00	(general fund/LOB budget per pupil computed from above table)				
minus		8,666.66	(District's general fund/LOB budget per pupil —Preceding School Year)				
equals	$	590.34	**times**	600 FTE	**equals**	$354,204	(Potential LOB Authority)
		(Difference)		(Unweighted Enrollment)			
then	$	354,204	**equals**	6.81%			
	$	5,200,000					
2007-2008 general fund budget is $5,200,000	**so**	$5,200,000.00	**times**	6.81%	**equals**	$354,120 (Additional 2008-2009 LOB Amount)	

LOB Authority for Average or Above Average Spending Districts That Had LOBs in 1996-1997

The Board of Education of any "average" or "above average spending" school district that had an LOB in 1996-1997 may adopt on its own motion a LOB equal to the following percentage of the district's general fund budget based upon the LOB percentage the district was authorized to adopt in 1996-1997:

- 80.0 percent in 2001-2002, and thereafter.

EXAMPLE

District B had 20.0 percent LOB authority in 1996-1997. The LOB authority this district could adopt on its own motion in subsequent years would be:

2001-2002 and thereafter	**16.0 percent**

NOTE: In the event that in any year the LOB authority of the district is greater if computed under the formula applicable to "below average spending" districts than under this provision, the LOB authority under that formula applies.

Alternative Procedure

As an alternative to the procedures described above, a school district board may adopt a resolution for a specified LOB percentage and number of years—which is subject to a 5.0 percent protest petition election procedure.

"Additional" LOB Authority—Subject to Protest Petition or Direct Election

In addition to the LOB authority available under the foregoing provisions, beginning in 1997-1998, a school district is authorized to adopt a resolution to increase its LOB authority under one of two alternative procedures:

- The Board may seek authority for continuous and permanent LOB authority, in which case, if the proposition is successful, the board in any school year may increase its LOB to any level it chooses, subject to the 31.0 percent aggregate cap for FY 2008.
- The Board may seek temporary authority to increase the LOB by a specified percentage for a specified number of years.

If the board seeks continuous and permanent LOB authority, it has the option of either submitting the question directly to the electors or adopting a resolution that is subject to a 5.0 percent protest petition election. If the board seeks temporary LOB authority, only the protest petition election procedure is applicable.

If the district chooses a resolution that specifies an LOB percentage increase and a number of years to which the resolution applies, the district is authorized to adopt subsequent resolutions to increase its LOB authority, subject to the 31.0 percent aggregate cap. A subsequent resolution must expire at the same time as the initial resolution. (The protest petition and election provisions described apply in these instances.)

Transitional Provision

A district operating under LOB authority obtained prior to passage of 1997 legislation, with authority that extends to the 1997-1998 school year or beyond, may continue to operate under the resolution until the resolution's expiration, or abandon the resolution and operate under the new provisions of the bill.

Districts Which Acquired LOB Authority in 1997-1998 Under the "Below Average Spending" Formula and Whose LOB Authority Exceeds the Average for the Enrollment Grouping After the 1997-1998 School Year

If, after the 1997-1998 school year, a school district has gained LOB authority under the "below average spending" formula and has obtained increased LOB authority by adoption of a resolution such that the district no longer qualifies for LOB authority under the formula applicable to "below average spending" districts, the LOB authority is:

- The sum of the LOB percentage authority of the district for the preceding year and the additional LOB authority in the district's resolution if the district is operating under a LOB with a fixed LOB percentage increase and a specified number of years to which it applies; or

- The LOB percentage adopted by the board if the district is operating under a resolution authorizing continuous and permanent LOB authority.

If the district's resolution for additional LOB authority is not perpetual and after some specified number of years this authority is lost, the district's LOB authority is the percentage authorization for the current school year computed under the formula as if the additional LOB authority resulting from the expired LOB resolution had not been in effect in the preceding school year.

STATE AVERAGE PROVISION

As of July 1, 2007 and thereafter, a school districts' LOB authority is equal to the average percent used for all districts. Any LOB authority above the state average would require a separate resolution.

FORMULA FOR COMPUTING SUPPLEMENTAL GENERAL STATE AID FOR THE LOCAL OPTION BUDGET

District Assessed Valuation Per Pupil (Prior Year)						
81.2 Percentile Assessed Valuation Per Pupil (Prior Year)	**subtracted from**	1.0	**times**	District's Local Option Budget	**equals**	Supplemental General State Aid

Supplemental general state aid is based on an equalization principle which is designed to treat each school district as if its assessed valuation per pupil (AVPP) were equal to that of the district at the 81.2 percentile of AVPP. Under this formula, districts having AVPP above the 81.2 percentile receive no supplemental general state aid.

EXAMPLES

DISTRICT 1			**DISTRICT 2**		
Prior Year District AVPP		$50,500	Prior Year District AVPP		$86,520
Prior Year 81.2 Percentile AVPP		$83,625	Prior Year 81.2 Percentile AVPP		$83,625
so			**so**		
$50,500	**equals**	0.6039 percent	$86,520	**equals**	1.0346 percent
$83,625	**then**		$83,625		
	1.0000				
minus	0.6039				
equals	0.3961	State Aid Ratio	If the result equals or exceeds 1.0, the district receives no supplemental general state aid. 1.0346 exceeds 1.0, therefore the district receives no supplemental general state aid.		
		then			
	$500,000	LOB			
times	0.3961	State Aid Ratio			
equals	$198,050.00 Supplemental General State Aid				

ATTACHMENT II

FORMULA FOR COMPUTING SCHOOL DISTRICT BOND PRINCIPAL AND INTEREST OBLICATION STATE AID PAYMENTS

Bond and interest (B&I) state aid is based on an equalization principle which is designed to provide state aid inversely to school district assessed valuation per pupil. One matching rate is applicable for the duration of B&I payments associated with bonds issued prior to July 1, 1992. A different matching rate applies during the life of bonds issued on or after July 1, 1992.

For the school district having the median assessed valuation per pupil, the state aid ratio is 5 percent for contractual B&I obligations incurred prior to July 1, 1992, and 25 percent for contractual B&I obligations incurred on July 1, 1992, and thereafter.

This factor increases (decreases) by 1 percentage point for each $1,000 of assessed valuation per pupil of a district below (above) the median.

FORMULA

DISTRICT B&I PAYMENT OBLIGATION FOR SCHOOL YEAR	**times**	STATE AID PERCENTAGE FACTOR	**equals**	CAPITAL IMPOVEMENTS STATE AID

EXAMPLES

DISTRICT 1				DISTRICT 2			
B&I Payment Obligations				B&I Payment Obligations			
Before July 1, 1992		$100,000		After July 1, 1992		$100,000	
After July 1, 1992		$80,000		After July 1, 1992		$80,000	
District AVPP		$47,510		District AVPP		$58,510	
so				**so**			
Before July 1, 1992 $100,000		After July 1, 1992 $80,000		Before July 1, 1992 $100,000		After July 1, 1992 $80,000	
Percentage Factor (From Table)	x 10%	Percentage Factor (From Table)	x 30%	Percentage Factor (From Table)	x NA	Percentage Factor (From Table)	x 17%
B&I State Aid	$10,000	B&I State Aid	$24,000	B&I State Aid	NA	B&I State Aid	$13,600
Total B&I Payment Due for Fiscal Year			$180,000	Total B&I Payment Due for Fiscal Year			$180,000
Amount from State Aid			$34,000	Amount from State Aid			$13,600

PARTIAL TABLE TO ILLUSTRATE BOND AND INTEREST STATE AID PROGRAM PRINCIPLE

		Bond and Interest State Aid Percentages		
	AVPP	Bond and Interest Obligations Prior to July 1, 1992	Bond and Interest Obligations On and After July 1, 1992	
	41.510	15	35	
	42.510	14	34	
	43.510	13	33	
	44.510	12	32	
	45.510	11	31	
	46.510	10	30	
	47.510	9	29	
	48.510	8	28	
	49.510	7	27	
	50.510	6	26	
Median AVPP	51,010	5%	25%	State Aid Percentage Factor
	51.510	4	24	
	52.510	3	23	
	53.510	2	22	
	54.510	1	21	
	55.510	0	20	
	56.510		19	
	57.510		18	
	58.510		17	
	59.510		16	
	60.510		15	

Appendix C
Calculations

Calculations

Legal Max

The following calculations use a Kansas State Department of Education publication called the "Legal Max." This publication is a spreadsheet which calculates the State Financial Aid and LOB funding under the SDFQPA finance formulas for the state and each district for a given year. Appendix A is the Legal Max for 2012-13.

Estimated State Financial Aid Increase With $4,492 BSAPP

The Panel ordered that funding should be calculated using a $4,492 BSAPP in 2013-14. The 2012-13 BSAPP is $3,858. The 2013-14 BSAPP will be set by the upcoming FY 2014 appropriation.

To estimate the difference between the use of a $4,492 BSAPP in 2013-14 and this year's BSAPP, the ratio between the two years [4,492/3,858] is applied to the 2012-13 total State Financial Aid [also referred to as "General Fund"] shown on the Legal Max for 2012-13 at column 21(b). See App. A, p. A-2. . Thus, assuming similar student enrollments, demographics and other information used to apply weighting factors in 2013-14 to those in 2012-13, use of a $4,492 BSAPP in 2013-14 results in about $500 million more State Financial Aid than distributed this year. [4,492/3,858 times $3,045,644,427 is $3,546,146,906.71 and $3,546,146,906.71 minus $3,045,644,427 = $500,502,479.71].

LOB is About Twice the Estimated Increase in State Aid With $4,495 BSAPP

2013-14 LOB would not be affected by a $4,492 BSAPP because districts use that BSAPP now to calculate their legal LOB. Columns 22(c) and 22(d) of the Legal Max for 2012-13 show the funds each district elected to raise by LOB. *See* App. A, p. A-3 The amount that can be spent in 2013-14 is the lower of the two columns. Accordingly, the total of all districts' 2012-13 LOBs was $995,792,745. *Id.*

Thus, if just the LOB is considered as part of the "suitable provision for the finance" of schools under Article 6, the actual spending on education already is about one half billion dollars more than the Panel found was necessary to constitutionally fund Kansas public schools. [$3,546,146,906.71 minus $3,045,644,427 plus $995,792,745].

Impact of Weighting Factors

The weighting factors in the SDFQPA are discussed in detail in a Kansas Legislative Research publication attached as Appendix B. The Legal Max spreadsheets apply the student enrollments, demographics and other associated information to calculate the district's State Financial Aid and enrollment adjustment by each of the weightings. Therefore, the spreadsheets are a good source to quantify the dollar impact of the weightings.

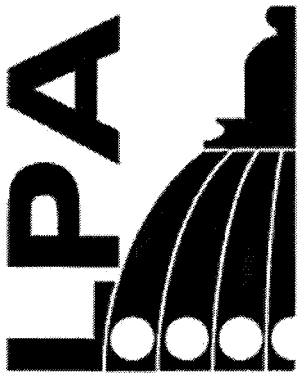
The full time equivalent ("FTE") enrollment on September 20, 2012, [Column 3 of the Legal Max for 2012-13] can be compared to the total weighted full time equivalent ("Total Weighted FTE") enrollment [Column 19 of the Legal Max for 2012-13]. *See* App. A, pp. A2-A3. The application of the weightings in 2012-13 resulted in approximately 76.7% more aid above the pre-weighted aid (BSAPP times FTE), [791,441.6 minus 447,904 divided by 447,904 = 76.7%], or about $1.3 billion [$3,045,758,785 minus (447,904 times 3,858) = $1,317,745,153].

For example, application of the weights provided USD 259, Wichita, approximately $151 million more in 2012-13, nearly twice, the pre-weighted sum. [$325,955,927 minus (45,287.9 times 3,858) = $151,238,681]. *See* App. A, pp. A4-A5 row "259," columns 3 and 21(b).

Appendix D

Excerpt from "K-12 Education: Estimating Potential Costs Related to Implementing the No Child Left Behind Waiver in Kansas," (December 2012)

The Court may judicial notice of the LPA study. *See* K.S.A. 60-409(a) & (c). *See also, Peden v. State*, 261 Kan. 239, 262, 930 P.2d 1 (1996) (Court took judicial notice of published studies, not provided to trial court, concerning whether Legislature had a rational basis for classification created by statute.)



PERFORMANCE AUDIT REPORT

K-12 Education: Estimating Potential Costs Related to Implementing the No Child Left Behind Waiver in Kansas

A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
December 2012

R-12-017

Legislative Post Audit Committee
Legislative Division of Post Audit

THE LEGISLATIVE POST Audit Committee and its audit agency, the Legislative Division of Post Audit, are the audit arm of Kansas government. The programs and activities of State government now cost about $14 billion a year. As legislators and administrators try increasingly to allocate tax dollars effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by Legislative Post Audit helps provide that information.

We conduct our audit work in accordance with applicable government auditing standards set forth by the U.S. Government Accountability Office. These standards pertain to the auditor's professional qualifications, the quality of the audit work, and the characteristics of professional and meaningful reports. The standards also have been endorsed by the American Institute of Certified Public Accountants and adopted by the Legislative Post Audit Committee.

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K-12 Education: Estimating Potential Costs Related to Implementing The No Child Left Behind Waiver in Kansas

The Common Core Standards Initiative is an effort to establish a shared set of educational standards for the K-12 subjects of English and mathematics–based on input from teachers, experts, parents, and school administrators. Proponents say the standards are intended to help ensure that students receive a high quality education across schools and states and that the standards could facilitate greater opportunities for educators to share experiences and best practices.

Although the Common Core Standards Initiative was originally a state-led effort, President Obama has promoted the standards at the federal level. Specifically, the President offered states a waiver in September 2011 that would exempt them from certain requirements of the current federal No Child Left Behind (NCLB) law, in exchange for adopting college and career-ready standards (such as the Common Core standards) and several other requirements. Critics of the waiver argue the President should not have acted without action by Congress. They also argue the federal government does not have the authority to impose a national curriculum, and that adopting the standards could be challenged in the courts.

As of September 2012, 45 states (including Kansas) had adopted the Common Core standards and 44 states had applied for the NCLB waiver. Additionally, the California State Board of Education estimated that it will cost California between $2.4 billion and $3.1 billion to fund the programs the waiver requires.

Kansas legislators want to know both the short- and long-term potential costs of implementing the Common Core standards and other requirements of the NCLB waiver.

This performance audit answers the following question:

What are the potential costs of implementing the NCLB waiver in Kansas K-12 schools over the next several years?

To understand the commitments that Kansas made through its waiver application, we reviewed Kansas law, Kansas' NCLB waiver application, and information about the NCLB law, the Common Core standards, and Kansas' current education requirements. We also spoke with Kansas Department of

Education (KSDE) officials and reviewed pertinent materials, such as agency contracts with vendors involved in student testing activities.

To estimate the costs KSDE and local school districts may incur in the next five years, we reviewed cost studies prepared by public policy organizations and other states, KSDE financial and operational data, and spoke with KSDE officials. We also spoke with officials representing 12 school districts about the actions their districts have taken or plan to take to achieve the requirements of the NCLB waiver. In addition, we spoke with U.S. Department of Education officials about the waiver's requirements and potential funding. Based on available information, we estimated the costs that could be incurred by KSDE and school districts from fiscal year 2013 through fiscal year 2017.

A copy of the scope statement the Legislative Post Audit Committee approved for this audit is included in ***Appendix A***. The approved scope statement had two questions. For reporting purposes, we collapsed those two questions into one.

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusion based on our audit objectives. We think the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our findings begin on page 9, following an overview of the NCLB law and Kansas' NCLB waiver application.

In 2012, Kansas Received a Waiver From the U.S. Department of Education Exempting it From Certain No Child Left Behind (NCLB) Requirements

Congress first passed the Elementary and Secondary Education Act in 1965. The law, which was designed to provide federal aid to schools that serve disadvantaged students, has been reauthorized and modified over the years. When Congress reauthorized the act in 2001, it became known as the No Child Left Behind Act.

Passed by Congress in 2001, the federal No Child Left Behind (NCLB) Act imposed a number of performance targets on schools that receive federal funds. The NCLB Act contained several provisions that were designed to improve student achievement while holding states and schools accountable for student progress. Those measures are described in ***Figure OV-1*** on page 4. Some of the more significant provisions included establishing academic progress targets ("Adequate Yearly Progress" or AYP), annual testing requirements, and annual school report cards.

The NCLB provisions apply to all schools (public or private) that receive federal funding or services under NCLB. Schools that do not receive federal funding or services under NCLB (including many private schools and home schools) do not have to adhere to the requirements.

The 2001 NCLB Act's performance targets have been viewed by some legislators, educators, and policymakers as controversial. Many officials contend the act significantly shifted control of K-12 education to the federal government and away from state and local officials. The act also required states and local schools to meet certain academic targets or face sanctions. Two of the more controversial aspects of the law are described below and on the following page:

- **The steadily increasing Adequate Yearly Progress (AYP) benchmark was viewed as unreasonable because it required 100% of students to be proficient by 2014.** Proficiency means that a student is capable of successfully completing tasks designed for his or her grade level. Critics of NCLB have contended this AYP benchmark was impossible to achieve because the law did not make enough special provisions for subgroups, such as students with disabilities, to meet the target. In addition, they contended that because the target was so difficult to achieve, schools and states were increasingly classified as "failing" each year.

- **Schools faced sanctions for failing to meet the controversial benchmark.** Some of the initial sanctions were relatively mild, such as allowing parents to transfer their children to other public schools and a school having to spend 10% of its federal (Title I) funding on teacher professional development. However, if a school

repeatedly failed to make AYP, the sanctions became progressively more severe, and could include replacing some school staff or having the state takeover the school. Officials contended it was unfair to impose a sanction for failing to achieve what they considered an unreachable goal.

Figure OV-1

The 2001 No Child Left Behind (NCLB) Act Contains Six Significant Provisions for Assessing and Improving Student Academic Performance

The NCLB Act includes six significant provisions that were intended to improve student achievement while holding states and schools accountable for student progress. Those measures include:

- Academic progress: States, school districts, and individual school buildings each had academic progress targets (known as adequate yearly progress or AYP) they were required to meet to retain federal (Title I) funding. These targets were calculated through a complex formula, but all states were required to have 100% of their students reach proficiency in reading and math by the 2013-2014 school year. Individual school districts and buildings also had to meet targets for certain demographic groups (such as special education students) as well as in their overall student body. If a school building missed any of the targeted achievement levels, it could be sanctioned—ranging from being placed in a probationary status and receiving technical assistance to mandated personnel changes and state takeover of the school.

- Annual testing: States were required to test 3rd through 8th grade students once a year in reading and math, and at least once during grades 10 through 12. States also were required to test students in science at least once during elementary school, once during middle school, and once during high school.

- Annual report cards: States were required to provide the public with performance (student achievement) data showing test scores for the entire state as well as by school district. In addition, school districts were required to provide test scores by building. This information can be found on KSDE's website (http://www.ksde.org/Default.aspx?tabid=403).

- Teacher qualification: Teachers in core content areas had to be certified and proficient in his or her subject area. Paraprofessionals also had new education requirements—having to show knowledge in their teaching area, completed two years of college education, or received an associate's degree.

- Reading First: The Reading First program was a competitive grant program designed to help states and school districts create early reading programs in primarily high-poverty areas.

- Funding changes: The funding formula for Title I funds (funds designed to help disadvantaged children) was changed to allow money to be given to school districts with larger percentages of disadvantaged children.

In 2011, the U.S. Department of Education offered a waiver that provided states and schools with an alternate way to meet some of the NCLB performance targets. The NCLB Act requires academic performance to be measured against AYP targets which, as mentioned above, were viewed by many as nearly impossible to attain. Instead of having to meet the controversial AYP targets, the waiver offered states another way to measure performance. The waiver has four main principles that states must implement, as described below.

- *Principle 1: College and career-ready expectations for all students*—States must adopt new K-12 academic standards in math and English that fulfilled the "college and career-ready" component. States could develop their own academic standards or adopt the Common Core standards to meet this requirement.

- *Principle 2: State-developed differentiated recognition, accountability, and support*—States must develop new ways to measure student and school performance. These will focus on student achievement, student growth, and closing the gap between low and high performing students.

- *Principle 3: Supporting effective instruction and leadership*—States must develop new ways to annually evaluate teachers based, in part, on student assessment test results.

- *Principle 4: Reducing duplication of effort and unnecessary paperwork*—States must find ways to minimize and eliminate redundancy and unnecessary paperwork for school district staff.

As of October 2012, Kansas was one of 34 states to receive a NCLB waiver. President Obama announced the NCLB waiver requirements in September 2011. In February 2012, the Department of Education (KSDE) submitted its waiver application after receiving authorization from the State Board of Education. The application described actions that KSDE and school districts would take to meet the waiver's requirements. Kansas' waiver was conditionally approved in July 2012.

Neither KSDE nor school districts will receive additional federal funds to implement the NCLB waiver requirements. We spoke with U.S. Department of Education and KSDE officials to determine whether Kansas would receive additional federal funds to implement the NCLB waiver. None of these officials indicated Kansas would receive additional funds for that purpose.

However, federal officials said the waiver relaxes some restrictions regarding how KSDE and school districts can spend other federal funds they already receive.

Kansas Had Initiated Several Actions Before the Waiver Was Offered That Either Met or Conditionally Met NCLB Waiver Requirements

As mentioned on page 5, the NCLB waiver was officially offered to states in September 2011. KSDE officials had taken several actions before that time, as described below, which ultimately fulfilled certain waiver requirements.

The Kansas State Board of Education formally adopted the Common Core standards in October 2010, which met the college and career-ready requirements of the waiver's first principle. Kansas was already scheduled to review its standards for math and English in or around 2010 (all academic standards are reviewed on a cyclical basis.) As part of the review process, KSDE officials identified the Common Core standards as a set of college and career-ready standards that they thought would provide clear expectations for Kansas students.

The National Governors Association and the Council of Chief State School Officers coordinated the development of the Common Core standards. Teachers, school administrators, and education experts collaborated to develop the standards which were finalized in 2010. The standards are internationally benchmarked and, according to KSDE officials, are more rigorous than the previous standards.

The key provisions of the new English standards will require students to:

- expand their vocabulary
- read more non-fiction literature
- expand their verbal and written skills
- provide support for their answers

The key provisions of the new math standards will require students to:

- learn certain math concepts at an earlier age
- display critical thinking concepts
- provide support for their answers

According to KSDE officials, the Common Core standards will require students to display higher levels of literacy and also display a deeper level of understanding of the subject areas.

Lastly, as of November 2012, the National Governors Association and the Council of Chief State School Officers are not planning to develop standards for other subjects. Instead, they are focused on implementing the new math and English Common Core standards.

In 2005, KSDE began using the KIDS system, a longitudinal database that allows the department to evaluate individual student performance over time. Under the waiver's second principle, states are required to develop alternative indicators of student and school performance to replace the proficiency measures of Adequate Yearly Progress. One of those indicators measures student academic growth—how much progress students make from one year to the next. A key part of being able to measure student growth across all school districts is having longitudinal databases, like the KIDS system, that track individual student data over time.

In 2010, KSDE began developing a new statewide teacher and principal evaluation system which provisionally fulfilled the requirements of the waiver's third principle. According to KSDE officials, school districts were looking for a better tool to evaluate personnel. In response, KSDE staff developed a uniform evaluation system (known as the Kansas Educator Evaluation Protocol, or KEEP) that all school districts could use to evaluate staff. To meet the NCLB waiver requirements, KSDE staff had to modify that system to link teachers' and principals' performance with student performance. KSDE officials told us that KEEP should be fully operational by the start of the 2014-2015 school year.

KSDE actions to reduce duplication and eliminate unnecessary paperwork for school districts, which began in 2005, fulfilled the requirements of the waiver's fourth principle. KSDE streamlined data collection by creating a system which integrates data from existing sources. This system allows KSDE to use previously submitted data, instead of asking the school districts to resubmit it. For example, now school districts only have to submit teacher and student demographic data to KSDE one time, instead of each time a federal form needs to be completed. KSDE also established a data oversight board that actively considers data collection issues during software development and design.

What Are the Potential Costs of Implementing the NCLB Waiver in Kansas K-12 Schools Over the Next Several Years?

Answer in Brief:

School districts will likely incur between $34 million and $63 million in real or opportunity costs over the next five years to implement the principles of the NCLB waiver, but KSDE will incur little cost and may achieve savings during that time (p. 9). We estimate school districts could incur between $32 million and $60 million in real or opportunity costs to implement the Common Core standards (Principle 1) and KSDE likely will not incur any significant costs (p. 15). Our estimate of the total cost to implement the Common Core standards in Kansas is significantly lower than other studies' estimates to implement those standards (p. 18).

Neither KSDE nor school districts should incur any significant costs to assess student and school performance (Principle 2) and KSDE could save about $3 million per year by not having to develop student assessment tests (p. 21). We estimate school districts could incur costs of up to $3 million to train teachers and administrators to use the new evaluation systems (Principle 3), but KSDE's costs should be minimal (p. 23). Lastly, neither school districts nor KSDE should incur any additional costs to reduce unnecessary reporting and paperwork (Principle 4) (p. 24).

These and other findings are discussed in the sections that follow.

OVERARCHING FINDINGS RELATED TO THE NCLB WAIVER

Over the Next Five Years School Districts Will Likely Incur Between $34 Million and $63 Million in Real or Opportunity Costs To Implement the NCLB Waiver, But KSDE Might Actually Reduce its Expenses

To obtain an exemption from the original Adequate Yearly Progress (AYP) performance measures and qualify for the No Child Left Behind (NCLB) waiver, states must implement four primary principles. A summary of each principle and how it will be implemented in Kansas is shown in ***Figure 1-1*** on page 10. As the figure shows, Kansas had either completed actions, or was in the process of taking actions, that met most of the NCLB waiver's principles prior to the waiver becoming available in 2011.

To estimate the costs of implementing the four principles of the NCLB waiver for both the Department of Education (KSDE) and school districts, we talked to KSDE and school district officials, reviewed KSDE financial, student enrollment and teacher staffing data, and reviewed studies conducted by other states and public policy organizations. ***Appendix B*** provides details about our assumptions and analyses.

Figure 1-1
Summary of the Four Principles of the NCLB Waiver and How Kansas Intends to Implement Them

NCLB Waiver Principle	Implementation Plan
Principle #1: College and Career-Ready Expectations for All Students - Adopt college and career-ready standards in math and English to ensure students are prepared for college or the workforce upon graduation.	In October 2010, the State Board of Education adopted college and career-ready standards known as the Common Core standards. The standards are to be implemented in the classroom no later than the 2013-2014 school year.
Principle #2: State-Developed Differentiated Recognition, Accountability, and Support - Establish an accountability system to identify both low- and high-performing schools using student state assessment test results.	Kansas developed four annual measurable objectives focused on the following areas: * student achievement - measures performance level of students on the student assessment tests * student growth - measures whether students improve their academic performance annually * closing the achievement gap - measures whether schools are reducing the gap between its highest and lowest performing students * increasing proficiency - measures whether the school is reducing the number of non-proficient students These objectives are designed to improve student achievement, school performance, and increase the quality of instruction in the classroom.
Principle #3: Supporting Effective Instruction and Leadership - Develop a teacher and principal evaluation system that uses student performance on the state assessment test as one way to evaluate a teacher's or principal's performance.	In 2010, KSDE started to develop a teacher and principal evaluation system. The system, known as the Kansas Educator Evaluation Protocol (KEEP), is currently being piloted by several school districts. The goal is to have KEEP fully operational by the 2014-2015 school year. School districts have the option whether or not to use the KEEP system, but any alternative system must meet federal waiver requirements.
Principle #4: Reducing Duplication of Effort and Unnecessary Paperwork - Implement standards to reduce duplicate and unnecessary reporting for school districts, such as removing state reporting requirements that have minimal or no impact on student outcomes.	KSDE had already taken several actions to address this principle before applying for the NCLB waiver. These actions include creating a system to integrate data from existing source collections, and actively considering data collection issues during software design and development.

Source: LPA review of NCLB waiver and KSDE documents.

To implement the requirements of the NCLB waiver, KSDE and school districts will incur two types of costs—real costs and opportunity costs:

- **Real costs refer to out-of-pocket expenditures for goods or services.** For example, when a school district writes a check for $100 to purchase a textbook, it incurs a real cost of $100. Similarly, if a district pays a $200 registration fee to have a teacher attend a training session, it incurs a real cost of $200.

- **Opportunity costs refer to the value of alternatives that must be foregone to pursue other options.** In such situations, there are no additional out-of-pocket payments (real costs) but the school or state must give up other opportunities. For example, a school district may decide to devote two hours of a regularly scheduled professional development day to train teachers on the new Common Core standards. That will not necessarily cost the school district any additional money, but it will have to forego the opportunity to use that time on other types of training, such as teaching techniques or anti-bullying.

The true opportunity cost is the value of the foregone opportunity (for example, the value of training options that must be foregone in order to train teachers on new standards). However, because it is extremely difficult to estimate the value of the foregone opportunities, we used proxy measures such as salaried staff time or textbook costs.

Figure 1-2 on page 12 shows the estimated costs that school districts and KSDE will incur during the five-year period ending in fiscal year 2017. As the figure shows, school districts will incur nearly all of the costs to implement the NCLB waiver, and those costs could range from about $34 million to $63 million in real or opportunity costs. Conversely, the figure shows that KSDE will incur minimal costs to implement the NCLB waiver, and may save several million dollars.

Most of the estimated costs for school districts are attributable to implementing college and career-ready standards (Common Core standards). This is shown in ***Figure 1-2*** on the next page. The Common Core costs include $30 million to $50 million for new textbooks and $2 million to $10 million for additional teacher training. We estimated school districts will incur costs of a few million dollars to implement the remaining principles of the NCLB waiver. We discuss the costs associated with implementing the Common Core standards more thoroughly in the section on Principle 1, beginning on page 14.

Figure 1-2
Estimated Future State and Local Real and Opportunity Costs (a) of Implementing Common Core (Principle 1) and Complying with Other NCLB Waiver Requirements (Principles 2-4)

	Year 1 (FY 2013)	Year 2 (FY 2014)	Year 3 (FY 2015)	Year 4 (FY 2016)	Year 5 (FY 2017)	5-Year Cumulative Total (b) (c)
Principle #1: College and Career-Ready Expectations for All Students						
KSDE	---	---	---	---	---	---
All School Districts	$2 million to $10 million	$15 million to $25 million	$15 million to $25 million	---	---	$32 million to $60 million
Principle #2: State-Developed Differential Recognition, Accountability, and Support						
KSDE	< $50,000	---	($3 million)	($3 million)	($3 million)	($9 million)
All School Districts	---	---	---	---	---	---
Principle #3: Supporting Effective Instruction and Leadership						
KSDE	< $50,000	< $50,000	< $50,000	< $50,000	< $50,000	$50,000
All School Districts	---	$2 million to $3 million	---	---	---	$2 million to $3 million
Principle #4: Reducing Duplication of Effort and Unnecessary Burden						
KSDE	---	---	---	---	---	---
All School Districts	---	---	---	---	---	---
Total Costs of All Principles						
KSDE	< $50,000	< $50,000	($3 million)	($3 million)	($3 million)	($9 million)
All School Districts	$2 million to $10 million	$17 million to $28 million	$15 million to $25 million	---	---	$34 million to $63 million

(a) These types of costs are defined in the text on page 11.
(b) Totals may not add due to rounding.
(c) Costs are based on a set of assumptions. Different assumptions will yield different results. Assumptions and detailed methodology are described in Appendix B.
Source: LPA Analysis and KSDE cost estimates.

School district officials should be able to take steps to mitigate most of the real (out-of-pocket) costs of implementing the NCLB waiver's principles. As mentioned above, it could cost school districts between $34 million and $63 million over the next five years to implement the provisions of the NCLB waiver. Depending on the decisions that school districts make, they may be able to minimize or eliminate the out-of-pocket portion of these costs. For example, by delaying textbook purchases for other subjects, school district officials would be able to minimize out-of-pocket expenditures for English and math textbooks that are aligned with the Common Core standards. Similarly, by incorporating training on the Common Core standards into existing teaching training days, school district officials can

eliminate the out-of-pocket expense of hiring substitute teachers for their classrooms. However, school districts would incur the opportunity costs associated with these decisions (such as using older textbooks in other subjects and foregoing training on other topics).

KSDE likely will incur minimal costs to implement the NCLB waiver and may achieve some future savings. As ***Figure 1-1*** indicates on page 10, KSDE has already taken several actions that satisfy the NCLB waiver's requirements. In addition, KSDE officials identified several reasons why their agency should incur minimal costs going forward. For example, KSDE officials told us they will not have to collect new data to comply with the waiver's requirements. Also, KSDE recoups the costs that it incurs for hosting summer training sessions (known as Summer Academies) from school districts. Overall, KSDE officials indicated they will have to take very few new actions to meet the waiver's requirements.

Further, KSDE may be able to achieve future savings because it may no longer have to hire contractors to write and develop student assessment tests. Currently, KSDE pays about $3 million per year for assessment test development. Instead, the state may use student assessment tests developed and administered in cooperation with the federally-funded SMARTER Balanced consortium. These tests would be developed for Kansas at no cost. These potential cost savings are described in greater detail on page 21 of this report.

KSDE and school districts incurred some costs that could be classified as implementation costs before the NCLB waiver was approved. As noted in the Overview, Kansas' waiver was conditionally approved in July 2012. Prior to that time, KSDE and school district officials were taking certain actions to prepare themselves for the new requirements. For example, KSDE provided training at its 2011 and 2012 Summer Academies that was designed to help educators understand the Common Core standards and identify ways to apply the standards in classroom instruction. The total cost that school districts incurred to send staff to these training sessions likely ranged between $400,000 and $700,000.

In this audit, we did not attempt to identify all previously incurred costs that could be classified as implementation costs. Instead we focused on future costs for fiscal years 2013-2017. That is because the approved scope statement for this audit asked for an estimate of implementation costs going forward for the next five years.

Figure 1-3

Adopting the Common Core Standards Has Both Potential Advantages and Disadvantages

Although 45 states have adopted the Common Core standards, the standards have both proponents and opponents. One criticism that has been raised about the Common Core standards is that states should set their own standards, not the federal government. The Common Core standards are not a mandatory set of standards and states are not required to adopt them. Rather, the NCLB waiver requires college and career-ready standards. This requirement could be met by adopting the Common Core standards or another set of standards. Finally, the decision on which standards will be used in a state is left up to each state.

Below is a list of some potential advantages and disadvantages of the Common Core standards. We developed this list by talking to KSDE and school district officials, reviewing studies conducted by public policy organizations, and reading articles about what changes the Common Core standards will bring to education.

Proponents of the Common Core standards say:

- Students will be better prepared for college and the workforce upon graduating from high school.
- Common Core standards provide teachers with quality learning targets because the expectations of students are very clear.
- Because so many states adopted the Common Core standards, teachers from different states will be able to share lesson plans and ideas with each other because they are teaching the same standards. As a result, textbook costs may decrease.
- States could save significant amounts of money by using assessment tests developed by either of the two federally-funded consortiums. These tests are developed at no cost to states.

Opponents of the Common Core standards say:

- Some states will need to invest significant amounts of money to update their technology in order to administer online student assessment tests.
- It will take a significant amount of time to train teachers about the Common Core standards and how to implement them in the classroom.
- Students will have to learn material at a quicker pace because the Common Core standards are more rigorous than previous standards.
- Districts will have to purchase new textbooks and teaching materials, and adjust curriculum.

FINDINGS RELATED TO PRINCIPLE 1 (COLLEGE AND CAREER READINESS)

Kansas Adopted the Common Core Standards Which Comply With Principle 1 of the NCLB Waiver

As discussed in the overview, the Kansas State Board of Education adopted the Common Core standards in October 2010, and the U.S. Department of Education has recognized the Common Core standards as college and career-ready standards that meet Principle 1 requirements of the NCLB waiver. The Common Core standards are designed to help ensure that students are prepared as they enter college or the workforce after high school graduation, and are intended to establish consistent academic standards between states. As of September 2012, 45

states, including Kansas, have adopted the Common Core standards.

The Common Core standards have both supporters and detractors. We talked to KSDE and school district officials, and reviewed articles and studies to identify some of the arguments for and against the standards. Those arguments are summarized in ***Figure 1-3*** on page 14. The proponents of the standards contend they will better prepare students for college and the workforce. Opponents argue the change will require a significant amount of time to train teachers how to implement the new standards in the classroom. In this audit, we have only estimated the cost of implementing the Common Core standards. We did not attempt to assess the merits of the standards.

We Estimate School Districts Could Incur Between $32 Million and $60 Million in Real or Opportunity Costs to Implement the Common Core Standards

By reviewing other studies, and talking with Kansas educators, we identified two potential costs school districts might incur when implementing the Common Core standards. Because the new standards focus on math and English, the curriculum in these two areas will need to change. As a result, school districts will likely purchase new instructional materials that align with the Common Core standards. Schools districts will also have to train teachers about the new standards and how to implement them.

As ***Figure 1-4*** below shows, we estimate school districts could incur between an estimated $32 million and $60 million in real or opportunity costs over a five-year period to purchase instructional materials and provide training to teachers.

Figure 1-4
Estimated Real and Opportunity Costs
School Districts Could Incur Through FY 2015
To Implement Principle 1

Major Cost Area	Year 1 (FY 2013)	Year 2 (FY 2014)	Year 3 (FY 2015)	5-Year Cumulative Total (a)
Textbooks	---	$15 million to $25 million	$15 million to $25 million	$30 million to $50 million
Professional Development	$2 million to $10 million	---	---	$2 million to $10 million
Total Costs	**$2 million to $10 million**	**$15 million to $25 million**	**$15 million to $25 million**	**$32 million to $60 million**

(a) Costs are based on a set of assumptions. Different assumptions will yield different results. Assumptions and detailed methodology are described in Appendix B.
Source: LPA Analysis and KSDE cost estimates.

Purchasing new instructional materials over the next two years that are aligned to the Common Core standards accounts for most of the estimated implementation costs. In our analysis, we assumed school districts would purchase new math and English workbooks and textbooks for their K-12 students that align with the Common Core standards. We spread these costs over two years, but in essence purchasing new materials is a one-time cost.

- **We estimate Common Core textbooks and materials would cost school districts an additional $30 million to $50 million over the next two years, but this amount does not have to be entirely out of pocket.** School districts can take steps to mitigate the out-of-pocket costs related to replacing math and English textbooks. Most textbooks, regardless of subject, are replaced periodically. In fact, KSDE financial data show that, in recent years, Kansas school districts spent close to $30 million each year on new and replacement instructional materials. That translates to about $60 million over a two-year period, statewide. When faced with the task of replacing all math and English books in the next few years, school districts will have choices, as described below:

  - If school districts purchase new Common Core textbooks and materials and continue to replace the books and materials for other subjects as usual, they would spend an additional $30 million to $50 million out of pocket.

  - Conversely, if school districts forego purchasing books and materials for other subjects and only purchase Common Core materials, they would incur little, if any, additional out-of-pocket costs. By foregoing the acquisition of other subjects' textbooks, however, students will have to use older materials in other subjects. We estimated the opportunity cost for this choice would be about $30 million to $50 million.

  Several school district officials told us they are currently delaying the purchase of math and English textbooks. Officials cited budget concerns as the primary reason for the delay. Other officials told us they are waiting for new textbooks aligned with the Common Core standards to be published before making any decisions.

  This estimate of the costs to purchase textbooks and instructional materials is similar to the estimated costs for the same materials cited by a national study on the Common Core standards. The Pioneer Institute, a public policy organization, estimated Kansas school districts might incur $30 million in costs over a seven-year period to purchase Common Core textbooks and instructional materials.

- **School districts may have other options for obtaining instructional materials that involve collaboration and sharing.** KSDE officials told us the Common Core standards will enable school districts to make better use of free web-based resources. These free resources may include curriculum guides and other educational materials borrowed from educators in other states that have adopted the Common Core standards. In addition, some school district officials mentioned they are considering switching

from paper-based textbooks to using more technological resources and possibly purchasing iPads for students to use instead of the traditional hardcover textbooks. We did not attempt to estimate the effect of these options on costs.

We estimate school districts could also incur between $2 million and $10 million in real or opportunity costs in the next year to train teachers on the new standards. State law provides that the academic standards for subject areas like math and English are to be reviewed on a cyclical basis, approximately every seven years. The academic standards for math and English were reviewed in 2003 and 2004, respectively, and were scheduled to be reviewed again in or around 2010. These reviews were completed with the adoption of the Common Core standards in October 2010.

Any time academic standards are changed, teachers need to be trained on how to apply the new standards in the classroom. Most officials we talked to indicated the ongoing change to the Common Core standards represents a larger and more difficult change for teachers and administrators than prior changes to these standards. Both KSDE and school district officials told us the new Common Core standards are more rigorous, the standards will require the adoption of new teaching strategies, and some material will be covered in different grade levels.

As with textbook purchases, depending on school district decisions about how to provide this training, the actual out-of-pocket costs will vary. Based on our review of other studies and talking with school district officials, we estimated teachers would need two additional training days on the Common Core standards. School districts already have several teacher training days factored into the school year. The training provided during these days covers academic standards, as well as other topics such as technology and bullying prevention. The mix of training will vary from district to district, based on its needs.

School districts' potential out-of-pocket costs will vary depending on whether the Common Core training replaces training on other topics, or is provided in addition to training on other topics.

- **School districts may incur between $2 million and $5 million in one-time real costs if they add new training days to the schedule.** Under this scenario, school districts would add two days of training for all math and English teachers to the planned training schedule. School districts would have to hire substitute teachers to cover for the regular teachers during the additional training days. KSDE officials contended this scenario is very unlikely. They indicated that because of budget constraints, school districts are cutting training days, not adding training.

- **School districts would incur few out-of-pocket costs if they incorporate the Common Core training into existing training days.** Under this scenario, school districts would provide two days of Common Core training within existing teacher training days. This scenario would not require school districts to hire substitutes, and results in no out-of-pocket costs. Additionally, if the two days of training replaces planned training on academic standards, the school districts would incur no opportunity cost. However, if the two days of training replaces planned training on other topics, the districts would lose the opportunity to provide training on other topics. We calculated the opportunity cost of the foregone training to be $5 million to $10 million at most.

KSDE Likely Will Not Incur Any Significant Costs to Implement the Common Core Standards

Since the Common Core standards were adopted in 2010, KSDE officials have been preparing for the change in standards and providing training and resources to school districts. The Common Core standards are scheduled to be implemented in Kansas classrooms no later than the 2013-2014 school year. To date, KSDE has incurred some costs for staff time to update the online training modules for the Common Core standards. According to KSDE officials, these costs were minimal and KSDE used existing resources.

Further, KSDE staff host Summer Academies for teacher training and in recent years the academies have focused on the Common Core standards. However, participants pay registration fees, and those fees cover KSDE's costs. In the future, KSDE will continue to pass the costs of its Summer Academies on to school districts.

Our Estimate of the Total Cost of Implementing the Common Core Standards in Kansas is Significantly Lower Than Other Studies' Estimates

At least two national studies have reported that Kansas will incur between $100 million and $180 million in total costs to implement the Common Core standards over a period of three to seven years. As noted earlier, our results suggest that the implementation costs will be much lower—between $30 million and $60 million over the next five years—and school districts will have choices to limit the amount that must come out of pocket. In reviewing these studies and comparing them to our results, there appear to be two primary areas where our cost estimates differ: teacher training and technology costs.

Although teacher training costs will be incurred, our estimate of those costs is significantly lower than other studies have suggested. One of the main cost components of implementing the Common Core standards is training teachers on the new content. This is included in our analysis, but our estimate differs from the estimates in the other studies for the following reasons listed on the next page.

- **Other studies appear to have overestimated the number of teachers in Kansas who will need Common Core training.** For example, a widely cited study conducted by the Pioneer Institute included all K-12 teachers when estimating the total costs of providing Common Core training to teachers. However, because the Common Core standards affect only math and English, it should not be necessary for all teachers to attend Common Core training. Based on discussions with KSDE officials and our review of an analysis conducted by the non-partisan Montana Legislative Fiscal Division, we estimated that only 63% of all Kansas teachers would need training on the Common Core standards. This would include all elementary school teachers, as well as middle and high school teachers who teach math and English.

- **We also estimate that each teacher will need fewer hours of training on the Common Core standards than other studies have assumed**. National studies conducted by the Thomas B. Fordham Institute and the Pioneer Institute both estimated that it would cost about $2,000 per teacher for training on the Common Core standards (80 hours of additional training for each teacher). Based on our review of the Fordham and Pioneer studies, the Montana Legislative Fiscal Division's analysis, and our discussions with KSDE and school district officials, it appears unlikely that school districts in Kansas will dedicate this much additional training time to the Common Core standards. The Fordham study acknowledges that this estimate is at the high-end of its cost spectrum, and both studies rely significantly on rough estimates provided by California officials.

  Rather, we concluded that 16 hours of training (two full days) on the new standards is a better estimate of what will be needed. This is in part because KSDE has already provided many two- and three-day Summer Academy sessions on the Common Core standards, and supplemental information is already available to educators through online training modules. However, even if this estimate is proven to be understated and districts end up dedicating three or four days to training, it would have only a marginal effect on our estimate of the total cost of implementing the Common Core standards.

Our estimate of the total cost of implementing the Common Core standards is significantly lower than the estimates in the Fordham Institute study and Pioneer Institute study because of these differences in assumptions. We estimated total training costs could range between $2 million and $10 million. On the other hand, the Fordham Institute estimated one-time teacher training costs ranging between $60 million and $70 million, while the Pioneer Institute estimated those costs at about $70 million.

Technology costs, which may be significant in many states, should not be much of an issue in Kansas because most student assessments already are taken online. The NCLB waiver does not explicitly require online student assessments, but it is likely the assessments aligned with the Common Core standards will be administered online. Currently, many states use

little, if any, online testing and a shift to this type of testing will likely result in significant costs for those states. The Pioneer Institute study suggested this shift will require many states to incur costs to update their technological infrastructure. For example, school districts will need to purchase additional computers and increase their bandwidth. Pioneer Institute estimated these costs to be between $70 million and $80 million for Kansas.

It is unlikely Kansas will incur these additional technology costs because nearly all Kansas student assessment tests are currently administered online. In fact, KSDE policy requires schools to administer the assessments online. This requirement started a few years ago.

It is important to note that modified student assessment tests (aligned with the Common Core standards) will not be administered until the 2014-2015 school year. KSDE officials told us they expect the new assessment tests will be administered in nearly the same way as the current assessments. They acknowledged the new assessments will include more than just multiple-choice questions. The new assessment tests will require students to demonstrate both analytical and problem solving skills in answering the questions, but they think these changes will not result in significant costs to the state or school districts.

Lastly, in the future as technology changes and other advancements are made, it is possible that the method by which student assessment tests are delivered and scored could change. It is possible that such changes may require the state or school districts to incur costs. However, because these possibilities are only speculative, we did not try to estimate what they would cost.

FINDINGS RELATED TO PRINCIPLE 2 (ASSESSING STUDENT AND SCHOOL PERFORMANCE)

Kansas Has Developed Four Annual Measurable Objectives as a Way to Assess Student and School Performance

Principle 2 of the NCLB waiver requires each state to develop its own accountability system designed to improve student achievement, school performance, and increase the quality of classroom instruction. KSDE's system consists of four annual measurable objectives—student achievement, student growth, reducing the achievement gap between the highest and lowest performing students, and decreasing the number of non-proficient students. The U.S. Department of Education accepted these new objectives in approving Kansas' NCLB waiver. These measurable objectives were described in ***Figure 1-1*** on page 10.

As is the case with the current Adequate Yearly Progress (AYP) target, KSDE staff will determine whether these new objectives are met using student assessment test scores. KSDE officials told us they will use the accountability system to determine which schools show year-to-year improvement and to identify and recognize high-performing schools. Officials will use the accountability system to identify low-performing schools. Then, KSDE staff will provide technical assistance to schools to help improve students' test scores.

Neither KSDE nor School Districts Should Incur Any Significant Additional Costs to Assess Student and School Performance

KSDE and school district officials told us they do not expect school districts to incur any significant costs to implement Principle 2 requirements. School districts do not pay for the student assessment tests and schools already have the capability for online testing. As mentioned earlier, KSDE policy requires school districts to administer the assessments online. Several school district officials told us they do not plan to purchase any new technology for assessment tests, while a few others told us they were not sure. A few school district officials also told us they plan to train staff about the change in assessment tests, but they indicated these costs would be minimal.

KSDE officials told us they do not expect their agency to incur any significant costs to implement Principle 2 requirements. That is because KSDE staff already collect the data that will be used to calculate and evaluate the annual measurable objectives for each school. KSDE officials expect the computer software changes to be minimal and told us they do not plan to hire new programming staff.

KSDE Could Save as Much as $3 Million Per Year by Not Having to Develop Student Assessment Tests

KSDE currently contracts with a private vendor to develop the statewide English and math assessment tests. Overall, this costs the state an estimated $3 million a year. Because Kansas adopted the Common Core standards, new assessment tests will have to be formulated to coincide with the change in curriculum. KSDE officials anticipate that school districts will begin using the newly developed student assessment tests in the 2014-2015 school year.

The change to the Common Core standards may allow Kansas to acquire new student assessments at little to no cost and may yield cost savings. Presently, two state-led consortiums are developing student assessment tests aligned with the Common Core standards. One consortium is the SMARTER Balanced Assessment Consortium and the other is the Partnership for Assessment of Readiness for College and Careers (PARCC). Both consortiums are federally funded, and as a result, will develop student assessment tests for KSDE at little to no cost.

Choosing one of these options could potentially yield cost savings of up to $3 million per year.

KSDE officials currently are considering student assessment tests developed by the SMARTER Balanced Assessment Consortium. However, as of October 2012, no final decision had been made.

FINDINGS RELATED TO PRINCIPLE 3 (TEACHER AND PRINCIPAL EVALUATION SYSTEM – "KEEP")

KSDE Has Developed an Electronic Teacher and Principal Evaluation System to Meet the Requirements of Principle 3

Principle 3 of the NCLB waiver requires states to develop guidelines for an evaluation system which measures teachers' and principals' performance. These evaluations must include a component that is based on student performance. In 2010, KSDE officials started to develop an internet-based evaluation system known as Kansas Educator Evaluation Protocol (KEEP). When fully implemented, school districts will be able to use this system to satisfy this waiver requirement. As of the 2012-13 school year, KEEP was being piloted by several school districts, and KSDE officials told us it should be fully operational by the 2014-2015 school year. More information on the KEEP system is provided in ***Figure 1-5*** below.

It is important to note KSDE staff were developing the KEEP system before Kansas' NCLB waiver request was submitted. Consequently, some of the implementation costs were likely to be incurred regardless of the waiver's status.

Figure 1-5

KSDE's Kansas Educator Evaluation Protocol (KEEP) System Conditionally Satisfies NCLB Waiver Requirements

KSDE staff began developing the KEEP evaluation system in 2010 in response to requests from numerous school districts across the state. The goal was to create a quality instrument for evaluating teachers and principals.

Through the KEEP system, all teachers and principals will set an overall goal and subsidiary goals for themselves, their classroom, their students, or their school. All goals will be reviewed and adjusted through discussions between the teacher or principal and their supervisor before they are ultimately set. For every goal, the teacher or principal will be asked to include data or feedback—called "articles of evidence"—into the system so he or she can later be evaluated based on the accumulated evidence.

At the time of the waiver application, KSDE had not decided exactly how student performance would be linked to teacher and principal evaluations. The U.S. Department of Education granted Kansas' waiver on a conditional basis until KSDE can demonstrate how this will work. KSDE has created a workgroup to resolve this issue and plans to have a solution by early 2013.

Finally, school districts are not required to use the KEEP system but must have an evaluation system that meets waiver requirements. The KEEP system is being provided to school districts at no charge. However, school district officials can opt to develop their own system, or use another system developed by a third-party. In either case, that system will be developed at the school district's own expense, and we did not attempt to estimate any such development costs. KSDE officials told us they are trying to assemble a panel of volunteers from the education community to evaluate any proposed systems and determine whether they meet the waiver's criteria.

We Estimate School Districts Could Incur Up to $3 Million in Costs to Train Teachers and Administrators to Use the New Evaluation Systems

To estimate future costs for this principle, we spoke with KSDE and school district officials, reviewed KSDE teacher and principal FTE and salary data, and reviewed other states' studies. The costs we identified will be incurred to train educators about how to use any new evaluation system, and are one-time costs.

School district officials can take steps to mitigate the potential $2 million of out-of-pocket costs. As with the other principles, our cost estimates vary depending on what course of action school districts take. In this case, the training for the new evaluation systems can either be additional training days, or can be absorbed within existing scheduled training days, as described on the next page.

- **School districts may incur about $2 million in one-time real costs if they add new training days.** Under this scenario, school districts would add one half-day of training to teachers' existing schedules. School districts would have to hire substitute teachers to cover the absent teachers' classrooms.

- **School districts would incur few out-of-pocket costs if this training occurred during existing training days, but the district would have opportunity costs of $3 million.** Under this scenario, school districts would allocate one half-day of existing training to cover KEEP or new evaluation systems. In this scenario, no substitute teachers would be hired, but the districts would lose the opportunity to cover other topics, such as teaching techniques for struggling learners.

KSDE Should Incur Minimal Costs to Refine and Maintain a Teacher and Principal Evaluation System and Train School District Staff How to Use It

KSDE will incur some costs to train school district staff and maintain the KEEP system, but those costs should be minimal. We estimate those costs should be less than $50,000 over the next five years. These costs are a combination of real and opportunity costs. KSDE will incur real costs, such as travel and room rental, for conducting training workshops. KSDE will also incur opportunity costs for the time staff spend working on KEEP instead of other projects.

As mentioned on page 23, KSDE is also responsible for reviewing evaluation systems for school districts that do not use KEEP. This activity will not cause KSDE to incur expense because KSDE is going to rely on volunteers from school districts to review these alternative systems.

FINDINGS RELATED TO PRINCIPLE 4 (REDUCING DUPLICATE REPORTING AND PAPERWORK FOR SCHOOL DISTRICTS)

Neither KSDE nor School Districts Should Incur Any Additional Costs to Reduce Unnecessary Reporting and Paperwork

Principle 4 of the NCLB waiver requires states to implement standards which help reduce paperwork and reporting duplication. KSDE officials told us that unlike Kansas, some states conduct student assessment tests on paper or require school districts to submit duplicative information to their KSDE counterparts. They added this principle is focused at state-level education agencies, not school districts.

The U.S. Department of Education determined KSDE's ongoing efforts were sufficient to satisfy waiver requirements. As mentioned in the Overview, KSDE began efforts in 2005 intended to reduce the amount of time that school district staff spent accumulating and submitting extraneous data. Because these actions have already been implemented, no new costs will be incurred by KSDE in the next five years. Examples of the KSDE's efforts in this area are described below.

- **KSDE created a master data management system to eliminate duplicate data requests.** For example, KSDE can have a student's name, address, and other personal and academic information stored in a single location. When a child enrolls in a new program, school district officials do not have to resubmit that basic data. KSDE currently uses this approach for several datasets including student, teacher, and assessment data.

- **KSDE has a policy that staff consider master data management issues during design and development of new software.** In 2007, KSDE implemented a policy to actively consider concerns about unnecessary data collection or duplication of effort during the design and development phases of new software. This procedure is designed to reduce the likelihood that new systems or software features will be built to collect data which is already collected by another existing system.

- **KSDE has a system to crosswalk specific KSDE data elements to a common set of definitions.** This crosswalk does not change any of the data KSDE collects, but rather allows KSDE to identify areas where duplicative data collections are taking place which might otherwise be overlooked. It also allows comparisons between Kansas' data and those of other states.

- **KSDE established a data governance board (data steward workgroup).** This workgroup was established in 2006 and is made up of KSDE employees. Each member oversees or administers a major KSDE dataset, such as student meal counts, student demographic data, or student assessment data. The workgroup meets regularly to discuss data collection and reporting issues. Regular meetings are intended to reduce the risk that duplicate data are collected because the stewards of the datasets will have increased knowledge of other collection systems occurring throughout the agency. The workgroup is chaired by KSDE's Information Technology Director.

Conclusion

Various studies have reported that Kansas and other states will incur significant costs to implement the Common Core standards and the federal No Child Left Behind waiver. Although our estimates of the implementation costs are lower than others have shown, they are not insignificant. Further, nearly all of these costs will be incurred by local school districts. School districts do have some options available to them that could be used to minimize the need for additional spending, such as delaying textbook purchases and foregoing other professional development topics. These tradeoffs should not be trivialized, but in a time of tight budgets, there will at least be some options.

Recommendations

None

Appendix E

Montoy v. State, Shawnee County District Court, Case No. 99-C-1738, "Decision and Order Remedy," May 11, 2004

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION SIX

RYAN MONTOY, by and through his father and next friend, Reuben Montoy; LAJUAN and MYTESHA ROBINSON, by and through their mother and next friend, Earnestine Robinson; SIERRA and SETH GWIN, by and through their mother and next friend, Kimberly Gwin; RENE BESS, by and through his grandfather and next friend, Earl Bess, Jr.; KEELY BOYCE, by and through her mother and next friend, Kenna Boyce; CRUZ CEDILLO, by and through his mother and next friend, Sandra Delgado; LYNETTE DO, by and through her mother and next friend, Lieu Do; CHRISTOPHER and MONIQUE HARDING, by and through their mother and next friend, Phyllis Harding; JOSEPH HAWKINSON, by and through his mother and next friend, Melody Hawkinson; JENNIE NGUYEN, by and through her father and next friend, Phillip Nguyen; SANDY, NICOLE, and BRUCE THU PHAM, by and through their father and next friend, Da Thu Pham; ANDREA BETHKE, by and through her mother and next friend, Linda Bethke; DAMIAN and DYLAN ARREDONDO, by and through their mother and next friend,

Case No. 99-C-1738

Nancy Arrendondo; EDUARDO DOMINGUEZ, by and through his mother and next friend, Guadalupe Dominguez; CHRIS FREEMAN, by and through his mother and next friend, Rita Freeman; MONICA GARCIA, by and through her mother and next friend, Evangelina Garcia; WILLIAM ZACHARY HARRISON, by and through his father and next friend, Jeff Harrison; ROBERT HINDMAN, by and through his father and next friend, Robert Hindman; ALEX JAKE, by and through his father and next friend, Richard Jake; YADIRA MORENO, by and through her mother and next friend, Nora Barrientos; MANUEL SOLORZANO, by and through his father and next friend, Manuel Solorzano; BENJAMIN VICENTE, by and through his mother and next friend, Susanne Vicente; BRITTANY ASH-CLARKE, by and through her mother and next friend, Tina Ash; JIN JEON, by and through his mother and next friend, Joomi Bobbett; JACOB STACK, by and through his father and next friend, John Stack; BRONSON WAITE, by and through his mother and next friend, Marcia Waite; JACOB LEMASTER, by and through his mother and next friend, Virginia Lemaster; NICHOLAS WOODFIELD, by and through his mother and next friend, Linda Woodfield; BROOKE AND BLAINE SMITH, by and through their mother)

and next friend, Kristina Brin; JERRY DIX, by and through his mother and next friend, Kim Dix; TANNER ROBIDOU, by and through his mother and next friend, Vicki Robidou; JUSTIN HOSTETTER, by and through his mother and next friend, Valerie Hostetter; UNIFIED SCHOOL DISTRICT NO. 443; and UNIFIED SCHOOL DISTRICT NO. 305,

Plaintiffs,

v.

THE STATE OF KANSAS; CONNIE MORRIS, member of the Kansas State Board of Education, in her official capacity; JANET WAUGH, member of the Kansas State Board of Education, in her official capacity; SUE GAMBLE, member of the Kansas State Board of Education, in her official capacity; JOHN W. BACON, member of the Kansas State Board of Education, in his official capacity; BILL WAGNON, member of the Kansas State Board of Education, in his official capacity; BRUCE WYATT, member of the Kansas State Board Education, in his official capacity; KEN WILLARD, member of the Kansas State Board of Education, in his official capacity; CAROL RUPE, member of the Kansas State Board of Education, in her official capacity; IRIS VAN METER, member of the Kansas State Board of Education, in her official

capacity; STEVE E. ABRAMS, member of the Kansas State Board of Education, in his official capacity; and ANDY TOMPKINS, Commissioner of the State Department of Education, in his official capacity,

Defendants.

DECISION AND ORDER
REMEDY

Section I: Background

On December 2, 2003, this Court entered a Preliminary Interim Order holding that the Kansas school funding scheme, as it then existed, was unconstitutional in violation of Article 6 of the Kansas Constitution and the Equal Protection Clauses of both the Kansas and United States Constitutions. At the request of Defendant State Board of Education, the Court withheld final judgment and gave the legislative and executive branches an opportunity to craft remedial legislation. Specifically, the Court provided the State a grace period encompassing the entire 2004 legislative session in which to repair the constitutional violations in the funding scheme. Unfortunately, during that just-concluded legislative session, the legislative and executive branches failed to utilize the time provided by the Court and none of the adjudicated constitutional defects in the school funding scheme were addressed and none corrected. The Legislature has now adjourned and left the capital. Only formal

sine die adjournment remains. Accordingly, with considerable regret and after much deliberation, the Court can find no reason to further delay and is now prepared to announce its remedy ruling in this matter.

The Kansas Supreme Court has stated that "[t]he ultimate State purpose in offering a system of public schools is to provide an environment where quality education can be afforded to all." *Provance v. Shawnee Mission U.S.D. No. 512*, 231 Kan. 636 (1982). Our high court has also held that "[t]he general theory of our educational system is that every child in the state, without regard to race, creed, or wealth, shall have the facilities for a free education." *State v. Smith*, 155 Kan. 588 (1942). In *Mock v. State*, Case No. 91-CV-1009, 31 Washburn L.J. 475 (Shawnee County District Court, October 14, 1991), this Court stated that the Legislature is constitutionally obligated "to furnish each child with an educational opportunity equal to that made to every other child." This Court issues its remedy with these guiding principles in mind.

Section II: Constitutional Deficiencies in School Finance

On December 2, 2003, this Court held, almost entirely as a matter of fact, that the current school funding scheme then stood in blatant violation of Article 6 of the Kansas Constitution and the Equal Protection Clauses of both the Kansas and United States Constitutions in the following three separate and distinct aspects:

A. It failed to equitably distribute resources among children equally entitled by the Constitution to a suitable education, or in the alternative, to provide a rational basis premised in differing costs for any differential;

B. It failed to supply adequate total resources to provide all Kansas children with a suitable education (as that term was previously defined by both this Court and the Legislature itself); and

C. It dramatically and adversely impacted the learning and educational performance of the most vulnerable and/or protected Kansas children. This disparate impact occurred by virtue of underfunding, generally, and selective underfunding of the schools where these vulnerable and/or protected children primarily attend, specifically. Those vulnerable and/or protected children, of course, were and are: the poor, the minorities, the physically and mentally disadvantaged, and those who cannot or nearly cannot yet speak the primary language of America and its schools.

The Court made its interim ruling based upon facts found following an eight day bench trial (generating 1,367 pages of transcribed testimony), including approximately 300 exhibits consisting of thousands of pages, and after considering 565 proposed findings of fact and conclusions of law submitted by the parties and the arguments made by the parties. In addition to the general factual and legal conclusions

stated above, the Court noted the following concerns in the then current funding scheme:

a. Defendants' own books and records showed some children received $5,655.95 of the state's educational largesse each year, while others received $16,968.49, a difference of more than 300 percent;

b. There was no rational factual basis whatsoever for this funding differential premised on additional costs incurred to educate those children receiving more. To be blunt and specific, as the school officials who testified were, the current funding scheme was found to be irrational: that is, those schools with the children most expensive to educate receive the least! Further, the State does not even gather or request cost information from our schools. It has no "bottom up" budgeting process which would provide this critical information in this, an endeavor which already expends nearly four billion tax dollars each year, well over half of the entire annual revenues of the State;

c. Although the Legislature is free to choose a public school structure and management model more efficient than the one presently in use, according to the uncontroverted evidence presented to the Court the cost of providing a suitable education for Kansas children under the current legislatively authorized configuration is nearly a billion dollars more than

is presently provided. This fact was established by the Defendants' own commissioned study of costs (Augenblick & Myers), which again was not only uncontroverted, but was actually accepted and recommended by the Defendant State Board of Education for adoption. To date, no more efficient, and thus less costly, system has been either proposed or adopted by the Legislature;

d. In commissioning the Augenblick & Myers' study, the Legislature statutorily found as a fact that the current funding scheme is inadequate and inequitable (findings this Court has only duplicated);

e. The Defendants' own records established that the current funding scheme provides least to those school districts which have the largest concentrations of our most vulnerable and/or protected students; our poor, our disabled, our minorities, and our children not fluent in the language spoken in their schools (children, whom all agree cost more to educate);

f. The Defendants' own disagreggated educational testing records conclusively established that those most vulnerable and/or protected students, described in subparagraph e above, are experiencing an "achievement gap" of staggering proportion when compared to other Kansas students;

g. That "achievement gap" (reflecting failure rates in some categories of vulnerable and/or protected students as high as 80 percent), referred to in subparagraph f above, violates Defendants' own current legal educational standards and if not corrected, will soon violate the federal law of the land, the law known as No Child Left Behind; and

h. This disparate funding and this correlative "achievement gap," both referred to above, when coupled with the uncontroverted evidence shown to this Court that all children can learn and flourish when education is properly funded and students properly taught, conclusively demonstrates the adverse and unconstitutional disparate impact the current funding scheme has on our most vulnerable and/or protected students; factually a clear denial of equal protection of the laws in contravention of both the United States and Kansas Constitutions.

Section III: Activity Since December 2, 2003

The Court judicially notices the official records of the Kansas Legislature, which reveal the following:

- The Governor began the 2004 Legislative Session by submitting her "Education First" plan as a part of the State of the State address. In this plan, the Governor proposed increasing education funding a total of $300

million per year, phased in over a three year period. Her plan called for an increase of $250 in the base per year per pupil allotment, and also provided additional funds for at-risk, bilingual, and Special Education students. It proposed no structural or management changes in the schools, but it did propose additional funds for All-Day Kindergarten, Parents-as-Teachers, and teacher mentoring.

- The Governor's Education First Plan was rather quickly dismissed by both houses of the Legislature.
- The House then adopted a bill which proposed making a one-time addition of $155 million to education funding. This measure proposed no changes in school structure or management, an omission replicated in every proposal made thereafter by either house.
- The Senate did not act on the $155 million House measure during the "regular" session and did not adopt any school funding proposal of its own whatsoever.
- During the "wrap up" or "veto" session, the Senate adopted a bill which proposed to add $72 million to school funding for one year only. This bill was "funded" by a deduction of $32 million from the State's cash reserves, with the balance to be taken from the pensions of elderly and retired state workers.

- The Senate then rejected the $155 million House bill and the House rejected the $72 million Senate bill.
- These mutual rejections placed the entire matter of school finance in the hands of a joint conference committee, which, on a vote of 5-1, agreed on a $108 million compromise measure which would have increased the base per pupil per year allotment by $27. Other single-year adjustments were also proposed. Because a House member of the conference committee refused to sign the conference committee report, the House, under its rules, could not consider the compromise. The House was then asked to adopt a procedure which would allow a second conference committee to be appointed, whose report could then be considered with only two signatures from each house. That proposal was rejected by the House. Twice.
- Despite rules which would seem to prevent it, the joint conference committee then met again and reached yet another agreement on a different proposal. This suggested compromise measure proposed to add $66 million to school funding for one year and further proposed to authorize the State's sixteen wealthiest districts to raise even more revenue locally from district property taxes, thus proposing to substantially enlarge the current 300% state-wide per pupil funding

disparity. This proposal, like the earlier Senate plan, was proposed to be funded by reducing the State's cash reserves by $26 million, with the balance coming from State worker pension funds. This proposed compromise also included a provision designed to diminish the Court's constitutional definition of "suitable education," a definition provision which would expire in one year (a date apparently selected to coincide with the estimated termination of the litigation at bar.)

- The $66 million compromise proposal was abandoned without a vote.
- Next, a bi-partisan plan was proposed by some members of the House. This proposal would have generated $128 million in new revenue for schools and would have 1) raised the base per pupil allotment by $100 per year, 2) funded Special Education at 100 % for the first time in Kansas history and 3) increased funds for at-risk and bilingual students. It also proposed to increase the LOB limit for local districts from 25 % to 28.5%, thus again proposing to increase the state-wide per pupil funding discrepancy, previously held unconstitutional by the Court.
- The $128 million House proposal was debated in the Senate and, once again, sent to the conference committee for further negotiations.
- In the closing hours of the "veto" session, the Senate rejected a $108 million compromise proposal and the House rejected a $95.1 million

counterproposal. An $82 million conference committee recommendation funded entirely with funds to be taken from the State Highway Fund was likewise rejected.

Finally, a $92 million suggested compromise failed to pass either house and the Legislature adjourned without addressing or correcting even one of the following unconstitutional aspects of State's school funding scheme:

a. The enormous funding disparities (totaling more than 300%) between individual school children created by wealth-based, local funding options and other aspects of the funding scheme;

b. The local and state funding statutes which disparately benefit only some children in certain geographic areas of the State, and which are not related in any way to the cost of educating those children;

c. The categories of weightings or other funding concepts providing additional funds only to some children and some school districts, none of which are related to actual costs incurred;

d. The state and/or federal school and student performance mandates which are not fully funded;

e. The funding mechanisms in place which deprive schools with "expensive to educate" students of the funds necessary to successfully teach them.

f. The hugely insufficient total dollars to adequately fund the education system as a whole under its present organizational and management structure; and,

g. The inadequate and inequitable funding formulas which disparately and adversely impact vulnerable and/or protected children, creating an "achievement gap" of shocking proportion (again creating failure rates for some classes of vulnerable and/or protected children as high as 80%).

To paraphrase Aesop: The mountain labored and brought forth nothing at all. In fact, rather than attack the problem, the Legislature chose instead to attack the Court. From the outset, legislative leaders openly declared their defiance of the Court[1]

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[1]According to Plaintiff's brief, unchallenged in the record, examples include:

- "Mr. Bullock has made his decision. Now let him enforce it." *Kansas City Star*, "School Aid Formula Thrown Out" (December 3, 2003) (quote from Representative John Edmonds, R-Great Bend).
- "Collectively, the Legislature [does not] give the case a chance. The leadership [is] confident it [will] be thrown out." *Salina Journal*, "Judge Orders School Funding Fixed" (December 3, 2003) (quote from Senator Pete Brungard, R-Saline).
- "[T]his is just another judicial attempt to usurp the authority of elected officials. To have an unelected judge essentially mandate a tax increase by July 1 is unacceptable. . . . What this does, in effect, is give him his day of glory in the press. He's showboating." *Dodge City Daily Globe*, "Judge's

and refused to meaningfully address the many constitutional violations within the present funding scheme, all of which were created by the Legislature itself. To this very day, those legislative leaders continue to disregard this Court's factual findings, premised largely on the State's own records and other uncontroverted evidence. They likewise continue to ignore the fact that this Court did not act alone, but was in fact operating under a mandate handed down by the Kansas Supreme Court in this very case. Accordingly, the mocking and disrespect shown this Court must be understood to be directed at the State's entire judicial branch of government.

Preliminarily, it is also worth noting that the "remedy" brief filed herein by Defendant State of Kansas was distinctly unhelpful. It was furthermore disrespectful to the Court and unprofessional in tone. How the children of Kansas benefit from these official actions of our government escapes the Court.

This case was originally filed in 1999. Five years later, there is still no relief in sight for our children. Hundreds of thousands of these children have gone through the Kansas educational system during this period of time. According to the evidence, many thousands of them have been permanently harmed by their inadequate educations

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Ruling in School Funding Case Sparks Mixed Reactions" (December 3, 2003) (quote from Senator Tim Huelskamp, R-Fowler).

- "I dare [Judge Bullock to] hold me in contempt of court for not passing a bill out of the appropriations committee to do what he ordered." Wichita Eagle, "Solving the Problem" (December 4, 2003) (quote from Representative Melvin Neufeld, Chairman of the House Appropriations Committee).

and forever consigned to a lesser existence. Further delay will unquestionably harm more of these vulnerable and/or protected of our students. Given these facts, coupled with the attitudes and inaction of the Legislature, the Court now has no choice but to act and to act decisively.

Section IV: Remedies Utilized Elsewhere: The National Perspective

After reviewing similar cases across our nation, the Court finds many parallels to the present situation in Kansas. Our Legislature has recently followed a path nearly identical to that followed by legislatures in a few other states. In those states, the inaction was almost always preceded by a debate more concerned with political considerations than with the educational needs of the children. As a result, the courts in these states have been compelled to take appropriate action to enforce their constitutions, have shown constitutional leadership, and have implemented a variety of means necessary to correct the legislatively-created constitutional deficiencies.

In *Lake View Sch. Dist. No. 25 v. Huckabee*, 351 Ark. 31 (2002), the Arkansas Supreme Court, after allowing the Legislature an opportunity to correct funding defects and finding the legislative corrective effort inadequate, appointed a special master to take charge of and correct constitutional deficiencies in that state's educational organizational and funding systems. In addition, the Arkansas court affirmed the grant of attorneys' fees in the amount of $3,088,050, plus costs in the amount of $309,000.

In *Campaign for Fiscal Equity, Inc. v. New York*, 100 N.E.2d 326 (N.Y. Slip Op. No. 15615 June 26, 2003), the New York court gave the state one year to: (1) determine the cost of providing the opportunity for sound basic education (which has already been done in Kansas); (2) provide those resources; and (3) ensure an accountability system to measure whether reforms actually provide the opportunity for a sound basic education.

In *Abbott v. Burke*, 710 A.2d 450 (1998), the New Jersey Supreme Court remanded the case to the lower court to direct the commissioner of the department of education to initiate a study and to prepare a report with specific findings and recommendations. In addition, the lower court appointed a special master to study the issues and to make specific recommendations. After consideration of the recommendations of the commissioner and the special master, the lower court adopted them.

In *Hoke County v. North Carolina*, 95 CVS 1158 (April 4, 2002), Superior Court Judge Howard E. Manning, Jr. stated, in accordance with *Leandro v. North Carolina*, 346 N.C. 336 (1997), that "[i]t is up to the Executive and Legislative Branches to provide the solution to constitutional deficits...." The court went on to say that "[t]hese branches can no longer stand back and point their fingers . . . and escape responsibility for lack of leadership and effort, lack of effective implementation of educational strategies, the lack of competent, certified, well-trained teachers effectively

teaching children, or the lack of effective management of the resources that the state is providing to each [school district]." While giving deference to the executive and legislative branches of government, the North Carolina court maintained jurisdiction, just as this Court has, to see that a proper remedy is implemented.

On April 26, 2004, in the revived remedy phase of *McDuffy v. Secretary of the Executive Office of Education*, 415 Mass. 545 (1993), Justice Margot Botsford filed a 357 page report to the Massachusetts Supreme Judicial Court. In this report, Justice Botsford found that the funds provided Massachusetts schools were constitutionally inadequate. The justice further found that increases in funding alone would not produce a constitutionally adequate educational program. In her findings, Justice Botsford noted:

> The Commonwealth, and the department, have accomplished much over the past ten years in terms of investing enormous amounts of new money in local educational programs, ensuring a far greater degree of equitable spending between rich and poor school districts, and redesigning in some fundamental ways the entire public school educational program. When one looks at the State as a whole, there have been some impressive results in terms of improvement in overall student performance. Nevertheless, the factual record establishes that the schools attended by the plaintiff children are not currently implementing the Massachusetts curriculum frameworks for all students, and are not currently equipping all students with the *McDuffy* capabilities [which had previously defined an adequate or suitable education]. This point may be best illustrated graphically in the areas of English language arts and mathematics, which are the primary subjects of the MCAS [Massachusetts Comprehensive

> Assessment System] tests, but it is perhaps even more strongly made in relation to the other critical areas of study that the *McDuffy* capabilities and the curriculum frameworks encompass: history, science, health, the arts, and foreign languages. The inadequacies of the educational program provided in the [relevant] districts are many and deep. Most worrisome is the fact, reflected in all the MCAS scores, that for children with learning disabilities, children with limited English proficiency, racial and ethnic minority children, and those from low-income homes, the inadequacies are even more profound.

In considering the appropriate remedy, Justice Botsford held:

> The defendants have argued in this remedy phase that even if some of the [relevant] districts are struggling, clearly "appropriate legislative action" has indeed been taken by the Commonwealth. This is evidenced by . . . reform measures enacted by the Legislature since 1993, all of which, the defendants state, the Commonwealth has implemented with diligence and effectiveness over the past ten years. Accordingly, in the defendants' view, the proper resolution of this case is to deny the plaintiffs' motion for further relief, and dismiss their complaint. The plaintiffs, on the other hand, contend that the evidence plainly establishes they are not receiving an adequate education because the schools and school districts they attend do not have sufficient resources to provide it. They propose that the court appoint a "21st Century Foundation Budget Commission" under the supervision of the court. They further propose that the court direct the commission to develop, subject to the court's approval, a new foundation budget that provides sufficient resources to allow the [relevant] districts to provide an adequate education that meets constitutional standards.
>
> I recommend against accepting the defendants' suggestion of no remedial relief. The defendants' argument is essentially two-fold. They first contend that the struggles being experienced by certain school districts, including

presumably the [subject] districts, are not related to inadequate resources but rather, reflect a lack of leadership and managerial capacity. Second, they contend that the Commonwealth is dealing with the capacity issues through the school and district accountability system it has put into place. This system includes not only the coordinated program reviews and school panel reviews conducted by the department but the parallel district reviews conducted by EQA [Educational Quality and Accountability] – each of which contemplates analysis, targeted assistance for improved planning, use of data and improved programs, monitoring, and, if there is no marked improvement, the possibility of more drastic action and greater intervention by the Commonwealth.

I have found that capacity problems are a cause of the inadequate education being provided to the plaintiffs, but inadequate financial resources are a very important and independent cause. Moreover, apart from the issue of funding, the difficulty with the defendants' solution is that the system they depend on to improve the capacities of schools and districts is not currently adequate to do the job.

* * *

The plaintiffs have a right under the Massachusetts Constitution to an education that will equip them in a number of ways to be in a position to fulfill their responsibilities and enjoy their rights as productive, participating citizens in a republican government. *McDuffy*, 415 Mass. at 618-620. The duty to educate evolves with society, as the court recognized in *McDuffy*. *Id.* at 620. As the evidence showed, it becomes more and more apparent that in the United States today, individuals need to receive an education that will enable them to pursue degrees beyond high school or at least excellent, technologically competent, vocational education. In the [relevant] districts, too many students currently are not receiving what they need to be able to pursue these paths. The commissioner has set the date of 2014 for students in

the Commonwealth to become "proficient" in [English language arts] and math; there is no timetable for proficiency in other areas of study. The associate commissioner of education for school finance and support suggested that it may not be fair to begin assessing whether the current system of education reform embodied in the ERA [Education Reform Act] is successful until all districts in the Commonwealth have operated at least 100 % of their foundation budget for a full cycle of kindergarten through twelfth grade– the year 2012. In the context of this litigation, and eleven years after the *McDuffy* decision, that timetable is just too long.

In light of the findings in this report, I conclude the plaintiffs are entitled to remedial relief from this court.

* * *

In the last twenty years, courts in several States have struggled with the question of remedy after reaching a conclusion that the particular State was not meeting its State constitutional obligation regarding public school education. I recommend that the court follow the path that the New York Court of Appeals has recently chosen in a case concerning the adequacy of education provided in the New York City public schools. See *Campaign for Fiscal Equity, Inc. v. New York*, 100 N.Y. 2d 893, 928-932 (2003). Translated into this case, the relief would be an order directing the State defendants to: (1) ascertain the actual cost of providing the level of education in each of the focus school districts that permits all children in the district's public schools the opportunity to acquire the capabilities outlined in *McDuffy* -- a directive that means, at present, the actual cost of implementing all seven of the Massachusetts curriculum frameworks in a manner appropriate for all the school district's children; (2) determine the costs associated with measures, to be carried out by the department working with the local school district administrations, that will provide meaningful improvement in the capacity of these local districts to carry out an

> effective implementation of the necessary educational program; and (3) implement whatever funding and administrative changes result from the determinations made in (1) and (2). This order would be directed to the State defendants to accomplish because *McDuffy* expressly holds that the Commonwealth, not the local districts, is ultimately responsible "to devise a plan and sources of funds sufficient to meet the constitutional mandate." 415 Mass. at 621.
>
> Further, I recommend that the court give a definite, but limited, period of time for the defendants to carry out this order and report back to the court with a plan and timetable for implementation, perhaps six months. I also recommend, as in New York, that the court continue to retain jurisdiction over the case to allow the court, or a single justice, or a judge of the Superior Court, to monitor the remedial process and provide whatever direction may be appropriate.

In *Columbia Falls v. Montana*, Case No. BDV-2002-528 (Montana First Judicial District Court, April 15, 2004), Judge Jeffrey M. Sherlock, sitting in Helena, held Montana's entire school finance system unconstitutional. In reaching this conclusion, Judge Sherlock quoted, with approval, the following section from *Brown v. Topeka Bd. of Ed.*, 347 U.S. 483, 493 (1954):

> Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today, it is a principal instrument in awakening the child to cultural values, in preparing him for

> later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, must be made available to all on equal terms.

He also quoted with approval the following statement made by Judge Loble in the January 13, 1988 Montana case finding an earlier version of Montana's school finance plan unconstitutional:

> Contemporary society demands increasing levels of sophistication, and increased knowledge and understanding of technology. Education plays the central role in developing a person's abilities to achieve that sophistication, knowledge and understanding. Consequently, the quality of an individual's life is increasingly dependent on the level and quality of that individual's education.

Judge Sherlock noted the following deficiencies in the current Montana school funding scheme:

1. It utilized an excessive reliance on permissive and voted levies;
2. It was unnecessarily complicated and hard to understand;
3. There was no mechanism to deal with inflation;
4. The funds allocated were not based on actual costs of providing education;
5. No allowance was made for increased costs incurred in achieving increased achievement standards;

6. The information used to create the plan was already two years old when it was used to formulate the plan;

7. There was no cost study to justify the various levels of per pupil funding;

8. Additional funding was allocated by the Legislature in response to earlier constitutional litigation, which was later withdrawn when that litigation was concluded and judicial attention focused elsewhere;

9. Many of the funding provisions were tied to the wealth of each district, not related to actual educational costs or needs;

10. Increased accreditation requirements and No Child Left Behind laws created substantial additional costs which were not provided for in the funding scheme and were, thus, essentially unfunded mandates;

11. Accreditation standards created minimum requirements but in no way guaranteed an adequate or quality education to any child;

12. The "every classroom staffed with a teacher qualified in the subject being taught" and AYP (Adequate Yearly Progress) required by the No Child Left Behind Act placed considerable costs on schools, costs not met by the Montana funding scheme;

13. Special education, although legally required, was not fully funded, creating a competition between regular student and special education student needs;

14. In designing the Montana funding system, no effort was made to determine the components of a basic system of quality education, nor to relate funds provided to the necessary costs incurred in providing that education;

15. The cost study done in Montana by Augenblick & Myers, commissioned by the Montana School Boards Association, was ignored by lawmakers; and,

16. The testimony of Dr. Lawrence Picus of the University of Southern California (who also testified for Defendants in the instant action) was found to lack credibility in that, while testifying for the defense in Kansas and Massachusetts he had opined those systems were equitable and thus constitutional, but in Montana (while testifying for the plaintiffs) he opined Montana's funding was inadequate and violative of constitutional requirements- - -both opinions being based astonishingly on undisputed numbers showing Montana's system more equitable in virtually every measurement than either Kansas or Massachusetts. In other words, Dr. Picus "danced with the girls that brought him."

In reviewing these Montana findings, Judge Sherlock observed that some of the adverse effects of Montana's underfunding were prospective. In that regard, he held:

> This Court takes into account the fact that some of the damage that the educators testified to at trial is prospective

> in nature. However, this evidence is persuasive and relevant. Just as the Montana Supreme Court did not feel it necessary to wait for "dead fish [to] float on the surface of our state's rivers and streams before its farsighted environmental protections can be invoked" (MEIC, ¶ 77), this Court finds that it should not have to wait until Montana's school system collapses in financial ruin prior to entering an order [in] this case.

In Montana, like Kansas, the Defendants raised three principal defenses: "(1) Montana's relative spending in light of its fiscal capacity compared to other states; (2) Montana's ability to recruit and retain quality teachers; and (3) achievement levels of Montana students as measured by available standardized tests." On these points, Judge Sherlock concluded as follows: (1) As to fiscal capacity, he held "state-wide fiscal difficulties cannot justify an unconstitutional funding system. 236 Mont. at 54, 769 P.2d 690. The constitution says what it says and does not allow for such a defense." (2) As to teacher salaries, he found that "Montana teachers' salaries have been lagging behind national averages." (3) Concerning standardized test results, he found that the testimony of Montana's "boots on the ground" educators "trumped" statistical arguments of proffered "experts" convincing Judge Sherlock that state-wide average test scores do not measure the adequacy of education for any particular student. He also stated that: "The State also relies on evidence that Montana's students do well on standardized national tests. Defendants' [exhibit] sets forth various encouraging statistics concerning Montana's students' achievement on the National Assessment of Education Progress (NAEP) test and on college entrance examinations. The State

attempted this same defense *Helena Elementary I*, and it was rejected there." Accordingly, he found all defenses lacking in merit.

If the findings of Judge Sherlock sound familiar, it is perhaps because they are nearly identical to many of those made by this Court on December 2, 2003 with respect to Kansas.

It is apparent, then, that although courts across the country have taken different approaches to resolving the unconstitutional nature of their school funding statutes, all have acted to enforce their constitutions. Nearly all have given the legislative and executive branches of government an opportunity to first remedy the violations themselves. After failed attempts (or no attempts at all) to remedy the constitutional violations, some courts have singlehandedly taken over public schools, while others have appointed special masters to craft and impose new school funding schemes, or have, in some instances, handed down their own school funding provisions. The time may come when this or other Kansas courts will be forced to take such action, and in so doing, place the balance of power between the branches of government directly at issue for the sake of compelling compliance with our constitutions. But not yet.

Section V: Remedy

In the Court's view, the next logical and correct step is not for the Court to take charge of the school system or to write a new school finance law but instead to simply declare the funding statutes, already found unconstitutional, to be also void as they apply to the funding of our public schools. As previously noted, the Court has already provided one opportunity for the Legislature to correct the noted defects while allowing the unconstitutional funding scheme to remain in place and the schools to remain open. Since that course of action was ineffective to compel compliance with our Constitutions, the Court's next chosen course of action is to enjoin the use of all statutes related to the distribution of funds for public education, this time with the schools closed. This action by the Court will terminate all spending functions under the unconstitutional funding provisions, effectively putting our school system on "pause" until the unconstitutional funding defects are remedied by the legislative and executive branches of our government. Although this action may delay our children's education slightly (should the other branches fail to respond quickly), it will end the inadequate and inequitable education being provided now and the disparate damage presently being done to the most vulnerable of our children.

This remedy should not be a surprise to Defendants. In fact, the Court telegraphed its likely remedy in its December 2, 2003 Preliminary Interim Order when it made the following statement:

> Accordingly, this Court will withhold its final order and judgment in this cause until July 1, 2004. This delay will give the executive and legislative branches of our government the luxury of a full legislative session (while our schools remain open) to correct the Constitutional flaws outlined in this opinion.

(Emphasis added).

It should also be quickly added that the option of the Legislature and the Governor now to do nothing is simply not an option. The Constitution requires the State of Kansas to establish, maintain, and finance public schools to provide a suitable and equitable education for all Kansas children. Under the Constitution, they simply have no choice and neither does this Court.

Section VI: Elements of a Constitutional Funding Scheme

Although there must be literally hundreds of ways the Legislature could constitutionally structure, organize, manage, and fund public education in Kansas[2], whatever plan is ultimately agreed upon must contain certain basic provisions in order to pass constitutional muster:

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[2]For example, the brief amicus filed herein by Educational Management Consultants of Wichita suggests one such possibility; that being a new school finance computer model which could be used to first assess and then fund and address the discrete educational needs of the precise children located in each school building of our diverse Kansas school system. By this means, the author claims all state and federal student performance goals could be met with a maximum of financial efficiency.

1. The Legislature should first determine the structure and organizational form it finds best for our schools. As the Court has previously held, it is the duty of the Legislature to not only fund but also to manage our schools. If there are expensive inefficiencies in the present structure and operation of our schools, the Legislature has the power to correct them. Such corrections might well reduce significantly the total dollars needed to provide a suitable education for our children. As examples, it is for the Legislature to determine the number of school districts, the size of those districts, what size of schools are most desirable for a suitable education, and whether some educational services can be efficiently outsourced or regionalized. This power rests solely with the legislative and executive branches of our government. It is not only their prerogative but their constitutional duty to use this power.

2. Once the structure and organizational form of the schools have been determined, the Legislature should next determine the actual costs of a "suitable education" for every Kansas child within that configuration. "Suitable education," as used in this opinion, has been defined to mean one which "provide[s] all Kansas students, commensurate with their natural abilities, the knowledge and skills necessary to understand and

successfully participate in the world around them both as children and later as adults."

3. The Legislature must then, as required by our Constitution, provide adequate total funds sufficient to fund those actual costs of that suitable education for every Kansas child.

4. In so doing, the Legislature must also ensure that each and every child is treated equally. Accordingly, any per pupil differences in funding must be justified by actual differing costs necessary to provide a suitable and equal education for that child. In this regard, it is fair to observe that, as established by the evidence in this case, some children are more expensive to educate than others (especially the poor or at-risk; the physically and mentally disabled; racial minorities; and those who cannot or are limited in their ability to speak English). Accordingly, differences in per pupil spending, if any, will be found constitutional if they are premised on differences in the actual costs incurred to provide an essentially equal educational opportunity for each child. In other words, the Legislature is not required to furnish each school or each school child with the same exact amount of funding, provided that any differential in funding is justified by a rational explanation premised on the varying

actual costs incurred in providing essentially equal educational opportunities for each of those children.

5. Because of Constitutional Equal Protection requirements, the Legislature must further ensure that the funding scheme does not disparately and adversely impact any category of Kansas children. A system based on actual costs to educate is thus the only fair and measurable way to guarantee this right, as any other system will inevitably lead us back down the well-worn path of political influence and compromise, all at the expense of our children's educations.

6. To ensure that the funding scheme remains constitutional, the new plan must also provide an effective and permanent mechanism to oversee its implementation, operation, and future adjustment. Without this built-in system of review and adjustment, there is no doubt that even a new funding scheme would quickly begin to resemble the present unconstitutional one. That is our unfortunate history. At a minimum, this mechanism should:

   (a) Provide actual cost information from the school house upwards in the form of school-based budgeting or some other mechanism designed to

reveal the actual costs of providing a suitable education for each child now and in the future.

(b) Provide officials with adequate power to monitor the implementation and operation of the funding scheme, with authority to adjust its provisions on account of changed circumstances and for inflation, and with authority to continually evaluate and adjust the plan to ensure there is always a direct relationship between the actual costs of its components and the funds it provides.

7. The new funding plan must provide resources necessary to close the "achievement gap" and comply with state accreditation standards, No Child Left Behind, and all other relevant statutory and rule requirements.

8. The new funding plan must be all-inclusive. It must be premised on the legal fact that every cent of public funds reaching our schools are "state" funds (except for federally provided funds) which must be considered in the equalization analysis. Every child is a Kansas child with an equal claim to a suitable education. The plan, therefore, must address every school financial need, from teacher salaries, to the building and maintaining of schools, to the purchase of crayons and computers, to the

costs of special education, to transportation and food costs and every other aspect of modern education.

9. This new funding plan must not contain:

a. Wealth-based, local funding options which cause per pupil funding disparities;

b. Special "weights" which favor some children and some locales over others;

c. Geographic considerations which result in unfair per pupil funding differentials not related to actual costs incurred in providing equal educational opportunities for individual children;

d. Unnecessary complexity of the type which has previously prevented both legislators and the public from comprehending both the inequity and the inadequacy of the present school finance system;

e. Special local or other funding authority benefitting only some children;

f. Any funding concept which is not based on actual costs for every child;

g. Unequalized "local" funding options, which by their nature are more available to wealthy districts both politically and in the revenues generated;

h. Any revenue source which requires local approval, thus creating inequities between places and children.

i. Special fund categories, such as special education, which are not tied to actual costs and which are not fully funded.

j. Quality or performance mandates for which funds are not provided; and

k. Any funding mechanism which deprives schools with "expensive to educate" students of the funds necessary to successfully teach them (as low enrollment weighting does in the current system, for example- - - although if cost studies reveal that it actually costs more per pupil to operate necessarily small schools, differentials premised upon those actual costs would be permissible, provided such funding does not, in turn, disadvantage students in other schools).

To draft a funding scheme which is constitutional, the Legislature could well begin by seeking truthful answers to the questions the Legislature itself posed to the

legislative coordinating council during the 2001 session in K.S.A. 46-1225 in the following words:

a. The legislative coordinating council shall provide for a professional evaluation of school district finance to determine the cost of a suitable education for Kansas children. The evaluation shall include a thorough study of the [current funding scheme] with the objective of addressing inadequacies and inequities inherent in the act. In addition to any other subjects the legislative coordinating council deems appropriate, the evaluation shall address the following objectives:

(1) a determination of the funding needed to provide a suitable education in typical K-12 schools of various sizes and locations including, but not limited to, per pupil cost;

(2) a determination of the additional support needed for special education, at-risk, limited English proficient pupils and pupils impacted by other special circumstances;

(3) a determination of funding adjustments necessary to ensure comparable purchasing power for all districts, regardless of size or location; and

(4) a determination of an appropriate annual adjustment for inflation.

b. In addressing the objectives of the evaluation as specified in subsection (a), consideration shall be given to:

(1) The cost of providing comparable opportunities in the state's small rural schools as well as the larger, more urban schools, including differences in transportation needs resulting from population sparsity as well as differences in annual operating costs;

(2) the cost of providing suitable opportunities in elementary, middle and high schools;

(3) the additional costs of providing special programming opportunities, including vocational education programs;

(4) the additional cost associated with educating at-risk children and those with limited English proficiency;

(5) the additional cost associated with meeting the needs of pupils with disabilities;

(6) the cost of opening new facilities; and

(7) the geographic variations in costs of personnel, materials, supplies and equipment and other fixed costs so that districts across the state are afforded comparable purchasing power.

Let the Court be crystal clear. If school funding is not based on actual costs incurred by our schools in providing a suitable education for our children, no one, not this Court, not the Supreme Court, not the schools, not the public, and not even the Legislature itself will ever be able to objectively determine whether that funding meets the dual requirements of our Constitution, those being 1) adequacy and 2) equity. This is why the Courts of our sister States have moved unanimously and in a rising tide to this position[3], and that is the absolute essense of this Court's ruling in the case at bar.

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[3]See *Campaign for Fiscal Equity, Inc. v. New York*, 100 N.E.2d 326 (N.Y. Slip Op. No. 15615 June 26, 2003), *Lake View Sch. Dist. No. 25 v. Huckabee,* 351 Ark. 21 (2002), *McDuffy v. Secretary of the Executive Office of Education*, 415 Mass. 545 (1993), *Columbia Falls v. Montana*, Case No. BDV-2002-528 (Montana First Judicial District Court, April 15, 2004).

Section VII: Final Observations

Great discretion is granted by our Constitution to the Legislature to devise, create, and reform education in Kansas. Obviously, educational needs, and concomitant costs, will vary from place to place, from child to child, and from time to time. The mandate of our Constitutions is to furnish each child both a suitable education and an educational opportunity equal to that made available to every other child. While much focus in this case has been drawn to the alleged "billion dollar adequacy price tag" contained in the uncontroverted evidence presented to this Court (which was based on the current legislatively authorized school structure and management model), there are many factors, other than mere dollars, which the Legislature may consider to remedy the State's present unconstitutional funding scheme. Some of those factors would cost more, some less. As previously observed, the Constitution places not only the duty to fund, but also the duty to effectively organize and manage the Kansas educational system squarely on the Defendants. If more cost-effective organizational structures and management techniques are available, then Defendants certainly have the authority to implement those improvements. In addition, Defendants are empowered to prescribe and control how the funds provided to public schools are used. If funds are presently being squandered or misused in some schools, Defendants are likewise empowered to initiate policies and programs to correct any misuse.

Much of the reported public comment by legislators during this past regular legislative session centered on the impact any tax increase necessary to fund education might have on our state's economy and its legislators, particularly in an election year. In this connection, the Court takes judicial notice of the webpage of the Kansas Department of Revenue, http://www.ksrevenue.org, a thorough study of which is telling.[4] In this official government document, it is revealed that as a result of the significant tax cuts passed by the Kansas Legislature during the past ten years, the state has forfeited nearly $7 billion in funds which it would have otherwise had in the treasury. The depletion for 2005 alone is $918 million! The significance of these statistics is that it was during this precise period of time that the present school funding scheme became unconstitutional, in significant part through inadequate funding. According to the undisputed evidence presented at trial, without any changes in the structure and management form of Kansas schools, the state needs to add nearly a billion dollars to the funds furnished our schools to bring them into constitutional compliance. By coincidence, a billion dollars is very close to the revenue dissipation brought about by the legislative tax reductions during the current fiscal year alone. In other words, the people of Kansas provided the funds needed to educate our children, it was the Legislature which sent them away.

[4]This website chart is appended to this decision as Appendix A.

Although ordinarily it is not the Court's role to direct the Legislature on how to levy taxes or on how to spend the funds it does collect, this case is the exception. The Constitution provides virtually no mandatory state programs or services, except for the education of our children. If the Legislature deems a tax increase (or a restoration of taxes) inappropriate to adequately fund education, it most certainly has the authority to make that decision. However, it has no choice when it comes to funding education. Under the Constitution, it simply must do it and do it adequately. Accordingly, other programs and services not required by the Constitution may ultimately face termination or reduction if the Legislature elects to provide no additional revenue and adequate funds are not otherwise available to provide for both constitutionally mandated education and those programs and services which are merely discretionary.

VIII: Order of Restraint

The Court directs Plaintiffs to prepare for the Court's consideration a proposed order of restraint, punishable by contempt, directed to the following individuals and classes of individuals: the Kansas State Treasurer, all county treasurers, relevant city fiscal officers, the boards of all school districts, and to any other individual or public body which furnishes or expends funds for public schools.

This order of restraint shall command the individuals and classes of individuals served to cease and desist the expenditure of funds under all education funding statutes

for the purposes of operating schools (including, but not limited to K.S.A. 72-6405, *et seq.*, the School District Finance and Quality Performance Act; K.S.A. 72-8807, *et seq.*, the capital outlay funding provisions; and K.S.A. 72-961, *et seq.*, the special education excess cost provisions, and all other relevant statutes designed to authorize expenditures for Kansas K-12 education). Plaintiffs shall cause this order of restraint to be served on or before June 14, 2004 and make due return thereof. The order of restraint shall take effect by its terms on June 30, 2004.

IX: Jurisdiction and Costs

The Court specifically retains jurisdiction to:

a. Determine whether the violations outlined in its December 2, 2003 decision have been corrected and, if so, to dismiss this case.

b. Issue such further orders and take such further steps as may be required to enforce our state and federal constitutions if the other branches of government fail to do so.

c. Determine final costs, fees, and expenses and to assess them as law and equity may require.

IT IS SO ORDERED this 11th day of May 2004.

Terry L. Bullock
District Judge

Appendix A

Estimated Effect of Tax Reductions and Increases Enacted since 1995

Dollars are in Millions

	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Property Taxes:											
Car Tax Reductions	--	$ 26.7	$ 68.9	$ 95.5	$ 96.6	$ 104.9	$ 106.5	$ 108.1	$ 109.6	$ 111.8	$ 114.0
General Property Tax Reduction	--	--	$ -	$ 115.6	$ 267.5	$ 326.2	$ 338.9	$ 362.3	$ 378.4	$ 393.5	$ 409.3
Property Tax Subtotal	$ --	$ 26.7	$ 68.9	$ 211.1	$ 364.1	$ 431.1	$ 445.4	$ 470.4	$ 488.0	$ 505.3	$ 523.3
Income Taxes:											
Income Tax Subtotal	$ --	$ --	$ --	$ 19.1	$ 152.3	$ 158.1	$ 166.8	$ 169.6	$ 194.2	$ 201.0	$ 206.9
Replace Inheritance Tax with Estate Tax	--	--	--	--	$ 30.5	$ 63.3	$ 66.4	$ 69.7	$ 73.2	$ 76.9	$ 80.7
Sales Tax Exemptions for:											
Sales Tax Subtotal	$ 2.1	$ 31.9	$ 33.4	$ 35.0	$ 60.4	$ 66.8	$ 73.0	$ 73.8	$ 75.8	$ 77.9	$ 80.0
Severance Taxes:											
Production Exemptions	--	--	--	$ -	$ 2.7	$ 4.6	$ 4.6	$ 4.6	$ 4.6	$ 4.6	$ 4.6
Insurance Premiums Taxes	--	--	--	$ 1.5	$ 21.6	$ 26.6	$ 28.6	$ 24.1	$ 19.6	$ 15.0	$ 12.0
Privilege Taxes					$ 8.4	$ 8.8	$ 9.2	$ 9.7	$ 10.2	$ 10.6	$ 11.0
Total Tax Reductions	$ 99.5	$ 162.4	$ 213.0	$ 386.5	$ 764.2	$ 759.3	$ 794.0	$ 821.9	$ 865.6	$ 891.3	$ 918.6
Cumulative Reductions	$ 99.5	$ 261.9	$ 474.9	$ 861.4	$ 1,625.6	$ 2,384.9	$ 3,178.8	$ 4,000.7	$ 4,866.4	$ 5,757.6	$ 6,676.2
Tax Increases									$ 252.0	$ 295.0	$ 304.0
Cumulative Increases									$ 252.0	547.0	851.0
Net Tax Reductions	$ 99.5	$ 162.4	$ 213.0	$ 386.5	$ 764.2	$ 759.3	$ 794.0	$ 821.9	$ 613.6	$ 596.3	$ 614.6
Cumulative Net Tax Reductions	$ 99.5	$ 261.9	474.9	861.4	1,625.6	2,384.9	3,178.8	4,000.7	4,614.4	5,210.6	5,825.2

CERTIFICATE OF MAILING

I hereby certify that a true and correct file-stamped copy of the above and foregoing **DECISION AND ORDER REMEDY** was mailed on the 11th day of May, 2004, by United States mail, postage prepaid thereon, and transmitted by facsimile to the following:

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Appendix F

Selected Constituion and Statutory Provisions

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*** This document is current through the 2012 Supplement ***
*** Annotations current through April 24, 2013 ***

CONSTITUTION OF THE STATE OF KANSAS
ARTICLE 6. EDUCATION

GO TO KANSAS STATUTES ARCHIVE DIRECTORY

Kan. Const. Art. 6, § 1 (2012)

1. Schools and related institutions and activities.

The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law.

HISTORY: Adopted by convention, July 29, 1859; ratified by electors, Oct. 4, 1859; L. 1861, p. 58; original subject matter stricken and new subject substituted, L. 1966, ch. 10Spec. Sess.; Nov. 8, 1966.

LexisNexis (R) KANSAS ANNOTATED STATUTES

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CONSTITUTION OF THE STATE OF KANSAS
ARTICLE 6. EDUCATION

GO TO KANSAS STATUTES ARCHIVE DIRECTORY

Kan. Const. Art. 6, § 6 (2012)

6. Finance.

(a) The legislature may levy a permanent tax for the use and benefit of state institutions of higher education and apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Further appropriation and other provision for finance of institutions of higher education may be made by the legislature.

(b) The legislature shall make suitable provision for finance of the educational interests of the state. No tuition shall be charged for attendance at any public school to pupils required by law to attend such school, except such fees or supplemental charges as may be authorized by law. The legislature may authorize the state board of regents to establish tuition, fees and charges at institutions under its supervision.

(c) No religious sect or sects shall control any part of the public educational funds.

HISTORY: Adopted by convention, July 29, 1859; ratified by electors, Oct. 4, 1859; L. 1861, p. 59; original subject matter stricken and new subject substituted, L. 1966, ch. 10Spec. Sess.; Nov. 8, 1966.

LexisNexis (R) KANSAS ANNOTATED STATUTES

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Chapter 72. SCHOOLS
Article 64. SCHOOL DISTRICT FINANCE AND QUALITY PERFORMANCE

GO TO KANSAS STATUTES ARCHIVE DIRECTORY

K.S.A. § 72-6410 (2012)

72-6410. Definitions; state aid; base state aid per pupil; local effort; federal impact aid.

(a) "State financial aid" means an amount equal to the product obtained by multiplying base state aid per pupil by the adjusted enrollment of a district.

(b) (1) "Base state aid per pupil" means an amount of state financial aid per pupil. Subject to the other provisions of this subsection, the amount of base state aid per pupil is $ 4,433 in school year 2008-2009 and $ 4,492 in school year 2009-2010 and each school year thereafter.

(2) The amount of base state aid per pupil is subject to reduction commensurate with any reduction under *K.S.A. 75-6704*, and amendments thereto, in the amount of the appropriation from the state general fund for general state aid. If the amount of appropriations for general state aid is insufficient to pay in full the amount each district is entitled to receive for any school year, the amount of base state aid per pupil for such school year is subject to reduction commensurate with the amount of the insufficiency.

(c) "Local effort" means the sum of an amount equal to the proceeds from the tax levied under authority of *K.S.A. 72-6431*, and amendments thereto, and an amount equal to any unexpended and unencumbered balance remaining in the general fund of the district, except amounts received by the district and authorized to be expended for the purposes specified in *K.S.A. 72-6430*, and amendments thereto, and an amount equal to any unexpended and unencumbered balances remaining in the program weighted funds of the district, except any amount in the vocational education fund of the district if the district is operating an area vocational school, and an amount equal to any remaining proceeds from taxes levied under authority of *K.S.A. 72-7056* and *72-7072*, and amendments thereto, prior to the repeal of such statutory sections, and an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district under the provisions of subsection (a) of *K.S.A. 72-1046a*, and amendments thereto, and an amount equal to the amount deposited in the general fund in the current school year from amounts received in such year by the district pursuant to contracts made and entered into under authority of *K.S.A. 72-6757*, and amendments thereto, and an amount equal to the amount credited to the general fund in the current school year from amounts distributed in such year to the district under the provisions of articles 17 and 34 of chapter 12 of Kansas Statutes Annotated and under the provisions of articles 42 and 51 of chapter 79 of Kansas Statutes Annotated, and an amount equal to the amount of payments received by the district under the provisions of *K.S.A. 72-979*, and amendments thereto, and an amount equal to the amount of a grant, if any, received by the district under the provisions of *K.S.A. 72-983*, and amendments thereto, and an amount equal to 70% of the federal impact aid of the district.

(d) "Federal impact aid" means an amount equal to the federally qualified percentage of the amount of moneys a district receives in the current school year under the provisions of title I of public law 874 and congressional appropriations therefor, excluding amounts received for assistance in cases of major disaster and amounts received under the low-rent housing program. The amount of federal impact aid defined herein as an amount equal to the federally qualified percentage of the amount of moneys provided for the district under title I of public law 874 shall be determined by the state board in accordance with terms and conditions imposed under the provisions of the public law and rules and regulations thereunder.

HISTORY: L. 1992, ch. 280, § 6; L. 1993, ch. 264, § 11; L. 1995, ch. 160, § 2; L. 1996, ch. 265, § 1; L. 1997, ch. 41, § 2; L. 1997, ch. 189, § 3; L. 1998, ch. 118, § 2; L. 1999, ch. 165, § 2; L. 2001, ch. 215, § 5; L. 2002, ch. 195, § 1; L. 2005, ch. 152, § 14; L. 2005, ch. 2, § 18 (Special Session); L. 2006, ch. 197, § 11; L. 2008, ch. 172, § 6; May 29.

LexisNexis (R) KANSAS ANNOTATED STATUTES

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Chapter 72. SCHOOLS
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GO TO KANSAS STATUTES ARCHIVE DIRECTORY

K.S.A. § 72-6433 (2012)

72-6433. Local option budget; authorization to adopt; conditions; limitations; definitions; supplemental general fund; transfers to capital improvements fund and capital outlay fund.

(a) As used in this section:

(1) "State prescribed percentage" means 31% of state financial aid of the district in the current school year.

(2) "Authorized to adopt a local option budget" means that a district has adopted a resolution under this section, has published the same, and either the resolution was not protested or it was protested and an election was held by which the adoption of a local option budget was approved.

(b) In each school year, the board of any district may adopt a local option budget which does not exceed the state prescribed percentage.

(c) Subject to the limitation of subsection (b), in each school year, the board of any district may adopt, by resolution, a local option budget in an amount not to exceed:

(1) (A) The amount which the board was authorized to adopt in accordance with the provisions of this section in effect prior to its amendment by this act; plus

(B) the amount which the board was authorized to adopt pursuant to any resolution currently in effect; plus

(C) the amount which the board was authorized to adopt pursuant to *K.S.A. 72-6444*, and amendments thereto, if applicable to the district; or

(2) the state-wide average for the preceding school year as determined by the state board pursuant to subsection (j).

Except as provided by subsection (e), the adoption of a resolution pursuant to this subsection shall require a majority vote of the members of the board. Such resolution shall be effective upon adoption and shall require no other procedure, authorization or approval.

(d) If the board of a district desires to increase its local option budget authority above the amount authorized under subsection (c) or if the board was not authorized to adopt a local option budget in 2006-2007, the board may adopt, by resolution, such budget in an amount not to exceed the state prescribed percentage. The adoption of a resolution pursuant to this subsection shall require a majority vote of the members of the board. The resolution shall be published at least once in a newspaper having general circulation in the district. The resolution shall be published in substantial compliance with the following form:

Unified School District No. ,

County, Kansas.

RESOLUTION

Be It Resolved that:

The board of education of the above-named school district shall be authorized to adopt a local option budget in each school year in an amount not to exceed ____% of the amount of state financial aid. The local option budget authorized by this resolution may be adopted, unless a petition in opposition to the same, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after publication of this resolution. If a petition is filed, the county election officer shall submit the question of whether adoption of the local option budget shall be authorized to the electors of the school district at an election called for the purpose or at the next general election, as is specified by the board of education of the school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of unified School District

No. , County, Kansas, on the day of , .

Clerk of the board of education.

All of the blanks in the resolution shall be filled as is appropriate. If a sufficient petition is not filed, the board may adopt a local option budget. If a sufficient petition is filed, the board may notify the county election officer of the date of an election to be held to submit the question of whether adoption of a local option budget shall be authorized. Any such election shall be noticed, called and held in the manner provided by *K.S.A. 10-120*, and amendments thereto. If the board fails to notify the county election officer within 30 days after a sufficient petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board within the nine months following publication of the resolution.

(e) Any resolution authorizing the adoption of a local option budget in excess of 30% of the state financial aid of the district in the current school year shall not become effective unless such resolution has been submitted to and approved by a majority of the qualified electors of the school district voting at an election called and held thereon. The election shall be called and held in the manner provided by *K.S.A. 10-120*, and amendments thereto.

(f) Unless specifically stated otherwise in the resolution, the authority to adopt a local option budget shall be continuous and permanent. The board of any district which is authorized to adopt a local option budget may choose not to adopt such a budget or may adopt a budget in an amount less than the amount authorized. If the board of any district whose authority to adopt a local option budget is not continuous and permanent refrains from adopting a local option budget, the authority of such district to adopt a local option budget shall not be extended by such refrainment beyond the period specified in the resolution authorizing adoption of such budget.

(g) The board of any district may initiate procedures to renew or increase the authority to adopt a local option budget at any time during a school year after the tax levied pursuant to *K.S.A. 72-6435*, and amendments thereto, is certified to the county clerk under any existing authorization.

(h) The board of any district that is authorized to adopt a local option budget prior to the effective date of this act under a resolution which authorized the adoption of such budget in accordance with the provisions of this section in effect prior to its amendment by this act may continue to operate under such resolution for the period of time specified in the resolution or may abandon the resolution and operate under the provisions of this section as amended by this act. Any such district shall operate under the provisions of this section as amended by this act after the period of time specified in the resolution has expired.

(i) Any resolution adopted pursuant to this section may revoke or repeal any resolution previously adopted by the board. If the resolution does not revoke or repeal previously adopted resolutions, all resolutions which are in effect shall expire on the same date. The maximum amount of the local option budget of a school district under all resolutions in effect shall not exceed the state prescribed percentage in any school year.

(j) (1) There is hereby established in every district that adopts a local option budget a fund which shall be called the supplemental general fund. The fund shall consist of all amounts deposited therein or credited thereto according to law.

(2) Subject to the limitation imposed under paragraph (3) and subsection (e) of *K.S.A. 72-6434*, and amendments thereto, amounts in the supplemental general fund may be expended for any purpose for which expenditures from the general fund are authorized or may be transferred to any program weighted fund or categorical fund of the district. Amounts in the supplemental general fund attributable to any percentage over 25% of state financial aid determined for the current school year may be transferred to the capital improvements fund of the district and the capital outlay fund of the district if such transfers are specified in the resolution authorizing the adoption of a local option budget in excess of 25%.

(3) Amounts in the supplemental general fund may not be expended for the purpose of making payments under any lease-purchase agreement involving the acquisition of land or buildings which is entered into pursuant to the provisions of *K.S.A. 72-8225*, and amendments thereto.

(4) (A) Except as provided in paragraph (B), any unexpended budget remaining in the supplemental general fund of a district at the conclusion of any school year in which a local option budget is adopted shall be maintained in such fund.

(B) If the district received supplemental general state aid in the school year, the state board shall determine the ratio of the amount of supplemental general state aid received to the amount of the local option budget of the district for the school year and multiply the total amount of the unexpended budget remaining by such ratio. An amount equal to the amount of the product shall be transferred to the general fund of the district or remitted to the state treasurer. Upon receipt of any such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the state school district finance fund.

(k) Each year the state board of education shall determine the statewide average percentage of local option budgets legally adopted by school districts for the preceding school year.

(l) The provisions of this section shall be subject to the provisions of *K.S.A. 2012 Supp. 72-6433d*, and amendments thereto.

HISTORY: L. 1992, ch. 280, § 29; L. 1993, ch. 264, § 12; L. 1995, ch. 160, § 6; L. 1996, ch. 265, § 4; L. 1997, ch. 189, § 1; L. 2002, ch. 196, § 5; L. 2005, ch. 194, § 17; L. 2006, ch. 197, § 19; L. 2007, ch. 185, § 3; L. 2009, ch. 139, § 3; May 28.

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K.S.A. § 72-6433d (2012)

72-6433d. Local option budget when BSAPP is $ 4,433 or less.

(a) (1) The provisions of this subsection shall apply in any school year in which the amount of base state aid per pupil is $ 4,433 or less.

(2) The board of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the base state aid per pupil was $ 4,433, or which does not exceed the local option budget as calculated pursuant to *K.S.A. 72-6433*, and amendments thereto, whichever is greater.

(b) The board of education of any school district may adopt a local option budget which does not exceed the local option budget calculated as if the district received state aid for special education and related services equal to the amount of state aid for special education and related services received in school year 2008-2009, or which does not exceed the local option budget as calculated pursuant to *K.S.A. 72-6433*, and amendments thereto, whichever is greater.

(c) The board of education of any school district may exercise the authority granted under subsection (a) or (b) or both subsections (a) and (b).

(d) To the extent that the provisions of *K.S.A. 72-6433*, and amendments thereto, conflict with this section, this section shall control.

(e) The provisions of this section shall expire on June 30, 2014.

HISTORY: L. 2009, ch. 139, § 2; L. 2011, ch. 110, § 1; L. 2012, ch. 155, § 3; July 1.

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K.S.A. § 72-6434 (2012)

72-6434. Local option budget; supplemental general state aid; distribution, when; transfers to capital improvements fund and capital outlay fund, when; amounts deemed to be state moneys.

(a) In each school year, each district that has adopted a local option budget is eligible for entitlement to an amount of supplemental general state aid. Except as provided by *K.S.A. 2012 Supp. 72-6434b*, and amendments thereto, entitlement of a district to supplemental general state aid shall be determined by the state board as provided in this subsection. The state board shall:

(1) Determine the amount of the assessed valuation per pupil in the preceding school year of each district in the state;

(2) rank the districts from low to high on the basis of the amounts of assessed valuation per pupil determined under (1);

(3) identify the amount of the assessed valuation per pupil located at the 81.2 percentile of the amounts ranked under (2);

(4) divide the assessed valuation per pupil of the district in the preceding school year by the amount identified under (3);

(5) subtract the ratio obtained under (4) from 1.0. If the resulting ratio equals or exceeds 1.0, the eligibility of the district for entitlement to supplemental general state aid shall lapse. If the resulting ratio is less than 1.0, the district is entitled to receive supplemental general state aid in an amount which shall be determined by the state board by multiplying the amount of the local option budget of the district by such ratio. The product is the amount of supplemental general state aid the district is entitled to receive for the school year.

(b) If the amount of appropriations for supplemental general state aid is less than the amount each district is entitled to receive for the school year, the state board shall prorate the amount appropriated among the districts in proportion to the amount each district is entitled to receive.

(c) The state board shall prescribe the dates upon which the distribution of payments of supplemental general state aid to school districts shall be due. Payments of supplemental general state aid shall be distributed to districts on the dates prescribed by the state board. The state board shall certify to the director of accounts and reports the amount due each district, and the director of accounts and reports shall draw a warrant on the state treasurer payable to the treasurer of the district. Upon receipt of the warrant, the treasurer of the district shall credit the amount thereof to the supplemental general fund of the district to be used for the purposes of such fund.

(d) If any amount of supplemental general state aid that is due to be paid during the month of June of a school year pursuant to the other provisions of this section is not paid on or before June 30 of such school year, then such payment shall be paid on or after the ensuing July 1, as soon as moneys are available therefor. Any payment of supplemental general state aid that is due to be paid during the month of June of a school year and that is paid to school districts on or

after the ensuing July 1 shall be recorded and accounted for by school districts as a receipt for the school year ending on the preceding June 30.

(e) (1) Except as provided by paragraph (2), moneys received as supplemental general state aid shall be used to meet the requirements under the school performance accreditation system adopted by the state board, to provide programs and services required by law and to improve student performance.

(2) Amounts of supplemental general state aid attributable to any percentage over 25% of state financial aid determined for the current school year may be transferred to the capital improvements fund of the district and the capital outlay fund of the district if such transfers are specified in the resolution authorizing the adoption of a local option budget in excess of 25%.

(f) For the purposes of determining the total amount of state moneys paid to school districts, all moneys appropriated as supplemental general state aid shall be deemed to be state moneys for educational and support services for school districts.

HISTORY: L. 1992, ch. 280, § 30; L. 2003, ch. 139, § 3; L. 2005, ch. 152, § 24; L. 2005, ch. 2, § 12 (Special Session); L. 2006, ch. 197, § 20; L. 2007, ch. 195, § 35; July 1.

LexisNexis (R) KANSAS ANNOTATED STATUTES

*** This document is current through the 2012 Supplement ***
*** Annotations current through April 24, 2013 ***

Chapter 72. SCHOOLS
Article 88. CAPITAL OUTLAY LEVY, FUND AND BONDS

GO TO KANSAS STATUTES ARCHIVE DIRECTORY

K.S.A. § 72-8814 (2012)

72-8814. Capital outlay; state aid entitlement; determination; amount; payment.

(a) There is hereby established in the state treasury the school district capital outlay state aid fund. Such fund shall consist of all amounts transferred thereto under the provisions of subsection (c).

(b) In each school year, each school district which levies a tax pursuant to *K.S.A. 72-8801* et seq., and amendments thereto, shall be entitled to receive payment from the school district capital outlay state aid fund in an amount determined by the state board of education as provided in this subsection. The state board of education shall:

(1) Determine the amount of the assessed valuation per pupil (AVPP) of each school district in the state and round such amount to the nearest $ 1,000. The rounded amount is the AVPP of a school district for the purposes of this section;

(2) determine the median AVPP of all school districts;

(3) prepare a schedule of dollar amounts using the amount of the median AVPP of all school districts as the point of beginning. The schedule of dollar amounts shall range upward in equal $ 1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the highest AVPP of all school districts and shall range downward in equal $ 1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the lowest AVPP of all school districts;

(4) determine a state aid percentage factor for each school district by assigning a state aid computation percentage to the amount of the median AVPP shown on the schedule, decreasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each $ 1,000 interval above the amount of the median AVPP, and increasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each $ 1,000 interval below the amount of the median AVPP. Except as provided by *K.S.A. 2012 Supp. 72-8814b*, and amendments thereto, the state aid percentage factor of a school district is the percentage assigned to the schedule amount that is equal to the amount of the AVPP of the school district, except that the state aid percentage factor of a school district shall not exceed 100%. The state aid computation percentage is 25%;

(5) determine the amount levied by each school district pursuant to *K.S.A. 72-8801* et seq., and amendments thereto;

(6) multiply the amount computed under (5), but not to exceed 8 mills, by the applicable state aid percentage factor. The product is the amount of payment the school district is entitled to receive from the school district capital outlay state aid fund in the school year.

(c) The state board shall certify to the director of accounts and reports the entitlements of school districts determined under the provisions of subsection (b), and an amount equal thereto shall be transferred by the director from the state general fund to the school district capital outlay state aid fund for distribution to school districts, except that no transfers shall be made from the state general fund to the school district capital outlay state aid fund during the fiscal

years ending June 30, 2013, or June 30, 2014. All transfers made in accordance with the provisions of this subsection shall be considered to be demand transfers from the state general fund.

(d) Payments from the school district capital outlay state aid fund shall be distributed to school districts at times determined by the state board of education. The state board of education shall certify to the director of accounts and reports the amount due each school district entitled to payment from the fund, and the director of accounts and reports shall draw a warrant on the state treasurer payable to the treasurer of the school district. Upon receipt of the warrant, the treasurer of the school district shall credit the amount thereof to the capital outlay fund of the school district to be used for the purposes of such fund.

(e) Amounts transferred to the capital outlay fund of a school district as authorized by *K.S.A. 72-6433*, and amendments thereto, shall not be included in the computation when determining the amount of state aid to which a district is entitled to receive under this section.

HISTORY: L. 2005, ch. 2, § 8 (Special Session); L. 2006, ch. 165, § 3; L. 2007, ch. 195, § 36; L. 2010, ch. 165, § 144; L. 2011, ch. 118, § 179; L. 2012, ch. 175, § 154; July 1.

NOTES: Revisor's Note:

Section was amended twice in the 2006 session, see 72-8814a.