

No. 13-109335-S

FILED

SEP 06 2013

IN THE SUPREME COURT OF THE STATE OF KANSAS

CAROL G. GREEN
CLERK OF APPELLATE COURTS

LUKE GANNON,
by his next friends and guardians, *et al.*,

Plaintiffs/Appellees/Cross-Appellants,

vs.

STATE OF KANSAS,

Defendant/Appellant/Cross-Appellee.

BRIEF OF AMICUS CURIAE
EMPORIA UNIFIED SCHOOL DISTRICT 253

Appeal from the District Court of Shawnee County, Kansas,
Honorable Judges Franklin R. Theis, Robert J. Fleming, and Jack L. Burr,
Case No. 10-C-1569

Robert E. Keeshan, 08795
SCOTT, QUINLAN, WILLARD, BARNES
& KEESHAN L.L.C.
3301 SW Van Buren
Topeka, KS 66611
Phone: 785-267-0040
Fax: 785-267-6745
bob@sqwblaw.com

ATTORNEY FOR U.S.D. 253

No. 13-109335-S

IN THE SUPREME COURT OF THE STATE OF KANSAS

**LUKE GANNON,
by his next friends and guardians, *et al.*,**

Plaintiffs/Appellees/Cross-Appellants,

vs.

STATE OF KANSAS,

Defendant/Appellant/Cross-Appellee.

**BRIEF OF AMICUS CURIAE
EMPORIA UNIFIED SCHOOL DISTRICT 253**

Appeal from the District Court of Shawnee County, Kansas,
Honorable Judges Franklin R. Theis, Robert J. Fleming, and Jack L. Burr,
Case No. 10-C-1569

Robert E. Keeshan, 08795
SCOTT, QUINLAN, WILLARD, BARNES
& KEESHAN L.L.C.
3301 SW Van Buren
Topeka, KS 66611
Phone: 785-267-0040
Fax: 785-267-6745
bob@sqwblaw.com

ATTORNEY FOR U.S.D. 253

TABLE OF CONTENTS

INTRODUCTION	1
Article 6, § 6, Kansas Constitution	1
<i>Montoy v. State</i> , 278 Kan. 769, 775, 102 P.3d 1160 (2005)	1
<i>Montoy v. State</i> , 279 Kan. 817, 819, 112 P.3d 923 (2005)	1
<i>Board of Miami County Comm'rs v. Kanza Rail-Trails Conservancy, Inc.</i> , 292 Kan. 285, 325, 255 P.3d 1186 (2011)	2
<i>Montoy v. State</i> , 282 Kan. 8, 18, 138 P.3d 755 (2006)	2
STATEMENT OF FACTS	2
A. The Current State of the School Finance System After <i>Montoy</i> and S.B. 549	2
S.B. 549	2
<i>Montoy v. State</i> , 282 Kan. 9, 18, 138 P.3d 755 (2006)	3
B. The State's Underfunding Has Improperly Shifted the Burden To Fund Education to Local School Districts	5
Article 6, Kansas Constitution	5
S.B. 549	5
K.S.A. 2012 Supp. 72-6434	6
ARGUMENTS AND AUTHORITIES	7
I. Current school finance formulas and funding perpetuate wealth based disparities.	7
S.B. 549	7
<i>Montoy v. State of Kansas</i> , 279 Kan. 817, 840, 112 P.3d 923 (2005)	8
Article 6, Kansas Constitution	8
<i>Montoy v. State</i> , 278 Kan. 769, 773-75, 120 P.3d 306 (2005)	9
<i>Montoy v. State</i> , 282 Kan. 9, 31, 138 P.3d 755 (2006)	9
<i>Montoy v. State</i> , 279 Kan. 817, 839, 112 P.3d 923 (2005)	10
II. Current school finance formulas and funding are not producing "outputs" consistent with a "suitable education."	12
<i>Montoy v. State</i> , 279 Kan. 817, 843, 112 P.3d 923 (2005)	12
Levine and Rouse, The True Cost of High School Dropouts, N.Y. Times January 25, 2012	12
Tallman Education Report, August 22, 2013	13
<i>Edgewood Indep. School Dist. v. Kirby</i> , 777 S.W.2d 391, 393 (Tex. 1989)	14
"Slaying the Inequality Villain in School Finance: Is the Right to Education the Silver Bullet?" by Derrick Oarby and Richard Levy in the Kansas Journal of Law and Public Policy, Summer 2011	14
Rebell, Poverty, "Meaningful" Educational Opportunity, and the Necessary Role of the Courts, 85 N.C.L.Rev. 1467 (2007)	14
Rebell, "Safeguarding the Right to a Sound Basic Education in Times of Fiscal Constraint", 75 Alb.L.Rev. 1855 (2012)	14

III. Affirming Gannon Panel’s Decision is Appropriate Remedy.	14
Article 6, § 6(b), Kansas Constitution	14
K.S.A. 74-6410(b)	14
<i>Rufo v. Inmates of Suffolk County Jail</i> , 502 U.S. 367,392, 112 S.Ct. 748, 116 L.Ed.2d 867 (1992)	15
<i>Rose v. Council for Better Educ., Inc.</i> , 790 S.W. 2d 186, 208 (Ky. 1989)	15
<i>Campbell Cnty. School Dist. v. State</i> , 907 P.2d 1238, 1279 (Wyo. 1998)	15
CONCLUSION	15
Article 6, Kansas Constitution	15

INTRODUCTION

The mission of Emporia U.S.D. 253 is to “build futures by preparing today’s students for tomorrow’s opportunities.” The importance of education cannot be understated. U.S. Secretary of Education, Arne Duncan, on March 3, 2011 in remarks at the World Bank Human Development Network Forum stated,

“And in a knowledge economy, education is the new currency by which nations maintain economic competitiveness and global prosperity. Education today is inseparable from the development of human capital.”

In 2012, U.S.D. 253 educated 4,179 Full Time Equivalent (“FTE”) Emporia students with a 55% minority enrollment and a weighted FTE enrollment of 7,443. Of the Emporia students, 2,693 qualified for free lunches, 1,634 were English Language Learners (“ELL”) students and 553 were special education students. Emporia is a relatively low-property wealth district compared to other Kansas school districts. U.S.D. 253 relied on the equalization mechanisms that were put in place after this Court’s *Montoy* decisions, such as the local option budget (“LOB”) supplemental general State aid and the capital outlay State equalization aid in order to meet its mission and use legislative funding to provide a constitutionally mandated suitable education to its children.

Article 6, § 6 of the Kansas Constitution requires the legislature to “make suitable provision for finance of the educational interests of the state.” There have been at least two components to the suitability analysis recognized by this Court: one is the overall funding level; and the other is how the funding is distributed under the formula with respect to equity and actual input and output cost. (See *Montoy v. State*, 278 Kan. 769, 775, 102 P.3d 1160 (2005); and *Montoy v. State*, 279 Kan. 817, 819, 112 P.3d 923 (2005).) The current funding legislation fails on both counts.

The Local Option Budget (“LOB”) Supplemental General State Aid has been prorated and has not been fully funded since the 2008-2009 school year. As of the 2009-2010 school year, the State no longer funded capital outlay State equalization aid. Emporia Students have been deprived of the suitable education that is their constitutional right. The *Gannon* Panel recognized the unconstitutional nature of the wealth-based disparities caused by the State’s failure to fully fund these equalization mechanisms. This Court should do the same giving due deference to the Panel’s factual findings. (*Board of Miami County Comm’rs v. Kanza Rail-Trails Conservancy, Inc.*, 292 Kan. 285, 325, 255 P.3d 1186 (2011); *Montoy v. State*, 282 Kan. 8, 18, 138 P.3d 755 (2006). (This court is an appellate court and not a fact-finding court.) Amicus Curiae will generally cite to the trial court’s comprehensive findings and demonstrate their impact on U.S.D. 253.

STATEMENT OF FACTS

In order to understand the detrimental impact that the State’s LOB Supplemental General State Aid Proration and the elimination of capital outlay State equalization aid have had, it is important to recall the history of the school finance system after the *Montoy* cases were dismissed. This history demonstrates the State’s ever-increasing reliance on local funding and its adverse effects on the quality of education received by Kansas school children who live in Kansas’ poorer districts.

A. The Current State of the School Finance System After *Montoy* and S.B. 549

Following the adoption of S.B. 549, the *Montoy* case was dismissed. The Legislature had adopted a phased-in funding plan over three years (fiscal years 2007 to 2009) in order to comply with its constitutional obligations. However, the State failed to appropriate the money needed to fund the plan in subsequent years and then began a series of unilateral cuts to education in the spring of 2009. These cuts were “not in compliance with the commitment

made in 2006 that resulted in dismissal” of the *Montoy* case. (*Gannon* Panel Decision, p. 116, hereinafter *Gannon*.) “The reduction in the general fund budget since FY 2009 through 2013 in inflation adjusted dollars has been \$68,097,110 ... or 21.5%.” (*Gannon*, p. 117.)

“In FY2009, the BSAPP was at \$4,400, which, due to a cut, was \$33 below the commitment represented to the *Montoy* Court.” (*Gannon*, p. 117.) Following *Montoy*, “School districts had expected the base to increase to \$4,433 in FY 2009 and \$4,492 in FY 2010.” In reality, the base was reduced further to \$3,780 in FY 2012. (*Gannon*, p. 78.) “It is now for FY 2013 fixed at \$3,838.” (*Gannon*, p. 117.)

S.B. 549 would have provided \$755.6 million in annual additional funding to schools (*Montoy v. State*, 282 Kan. 9, 18, 138 P.3d 755 (2006)). Since this Court released jurisdiction of *Montoy* and fiscal year 2012, the State has made \$511 million in cuts to that additional funding. The \$511 million reduction in funds largely occurred through cuts to the BSAPP between fiscal years 2009 and 2012. (*Gannon*, pp. 75-77.)

Plaintiff school districts experienced a substantial reduction in funds due to the cuts. (*Gannon*, p. 78.) In 2008, the State BSAPP was \$4,400 providing Emporia with \$32,457,480 in general funds and \$8,038,581 in supplemental general funds. In 2012, with the BSAPP of \$3,838, the State general funds were \$28,666,234 and the supplemental funds (including capital outlay and adult levy) was \$8,769,542. (See Appendix.) However, costs have gone up (*Gannon*, p. 73) leaving a proposed 2013-14 budget result which Emporia Assistant Superintendent of Personnel Andy Koenigs rightfully referred to as “downright depressing.” (Emporia Gazette, July 11, 2013.)

In addition to the State’s base cuts, other State funds were cut. Special education funding was cut (prorated at 92% of cost), the Mentor Teacher Program was underfunded in 2008-09 and not funded for 2011-12 (and since), Professional Development has not been

funded since 2008-09, the School Lunch Program has been underfunded, and National Board Certification was underfunded and not funded in 2011-12. (*Gannon*, pp. 79-80.)

Perhaps most importantly, “Capital outlay State equalization aid has not been funded since 2009-10. It would take \$25 million to meet state law for FY 2013.” (*Gannon*, p. 80.) Further “LOB Supplemental General State Aid has been prorated and has not been fully funded since 2008-09. ... The underfunding of State Equalization Aid for the LOB Supplemental General State aid has cut more funds from the poorest districts. ... Poor districts have the option to raise mill rates to make up for the cut funds, or lower their local option budget by the amount not paid by the State. The mill equivalency of this cut varies based on the district’s wealth.” (*Gannon*, p. 79.)

“No cost studies justified the State’s reduction to the BSAPP or to other funding and ... existing wealth-based disparities would not justify the elimination of capital outlay funding or the proration of supplemental state aid” (*Gannon*, p. 228.)

As a result of these cuts, the State not only broke its commitment to this Court, it also caused significant unconstitutional underfunding of Kansas education and widening the gap between richer districts and poorer districts. “Plaintiffs have established beyond any question that the State’s K-12 educational system now stands as unconstitutionally underfunded.” (*Gannon*, p. 229.) “The dollars available for general operating purposes are at the lowest level in Kansas history since 2006.” (*Gannon*, p. 80.)

The Emporia school district has been in constant “reduction mode” since 2007 with the loss of millions in equalization aid to their budget. Many programs that were initiated with additional dollars from the *Montoy* decision have had to be abandoned or have slowly fallen by the wayside due to lack of financial support. The school district used reserves to offer an early retirement incentive to reduce the number of certified and classified staff in response

to the budget cuts and proration in State equalization aid. The district has eliminated at risk remedial summer school for their 2012 summer session. The district has initiated a set minimum number in secondary classes to have classes. Classes with less than twelve students are eliminated for the school year. The district eliminated the option of accelerated course work at the secondary level several years ago. Only short-term credit completion is offered at this time. Capital projects such as roof replacement, bus replacements and building maintenance have been delayed. Future reduction options are limited.

Much of the professional development that the Emporia school district provides is paid by competitive and noncompetitive State and federal grants. When the grants run out, it is virtually impossible to secure continuation grants. As a result the school district must selectively abandon strategies and try to replace them with other grant funded strategies that align with the district objectives. These constant changes and reductions frustrate administrative planners, burden teachers and leave students lacking continuity.

B. The State's Underfunding Has Improperly Shifted the Burden to Fund Education to Local School Districts

Under Article 6 of the Kansas Constitution the obligation to fund education belongs to the State and not local school districts. Despite this, the State's underfunding of education has forced local school districts to fund basic education.

Kansas relies on local taxpayer money in various ways to fund the formula. Kansas collects 20 mills from every school district in order to fund the general fund. (*Gannon*, p. 121.) Additionally, school districts can raise local money to support capital outlay expenditures and to fund the local option budget ("LOB"). "... [T]he original intent and purpose of the LOB (which would necessarily include LOB State aid) was to allow individual districts to fund **enhancements** to a constitutionally adequate education provided and financed by the funding formula. ... S.B. 549, however, now provides that school

districts are required to use LOB state aid moneys to fund basic educational expenses.”
(*Gannon*, p. 121, emphasis added.)

In fact, the State has significantly increased its reliance on local money to fund public education; “the reliance on the local option budget increased rather significantly from about 9 percent to almost 30 percent” between 1998 and 2012. R.Vol.22, pp.1007-08 (Tallman Tr.Test. 1007:20-1008:7).

Because school funding relies in part on local funding, the State adopted certain safeguards within the system to provide equity in purchasing power among Kansas school districts. Thus, the school finance formula allows for “equalization” to effectively boost the buying power of the districts that have low property wealth. (*Gannon*, p. 125.)

LOB equalization aid is one “equalizing” mechanism. It is not available to all school districts; it is only available to those districts determined by statute (see K.S.A. 2012 Supp. 72-6434) to be lower valuation per pupil districts. That determination is made by ranking each of the districts by their assessed valuation per pupil and then identifying the districts at the 81.2 percentile. Districts above the 81.2 percentile receive no additional State aid. (*Gannon*, pp. 125, 131.)

Capital outlay State equalization aid is another mechanism to boost funding for lower valuation per pupil districts. (See *Gannon*, pp. 3, 80.)

The State, however, is no longer fully funding either equalization mechanism. “LOB Supplemental General State Aid has been prorated and has not been fully funded since 2008-09.” (*Gannon*, p. 79.) “Capital outlay state equalization aid has not been funded since 2009-10.” (*Gannon*, p. 80.) For Emporia, in 2008 the state contributed 26.81%; now its all local.

How does this affect the Emporia school district? Lyon County has fallen to 104 of 105 counties in terms of per capita personal income (U.S. Dept. Of Commerce BEA April

2012-Appendix). U.S.D. 253 qualifies for equalization State aid of 64.18% or \$5,683,177 because of district poverty. In 2013-2104, supplemental general aid was reduced from 80% to 78%. The State aid is prorated to 78% or \$4,432,878. This 22% total proration requires the Emporia School District to have 7.311 additional mills to raise the same amount as would be paid at the statutory 100% rate and provide the lost \$1,250,299. (See Appendix.)

Local funds in 2012 contributed 10.11% of Emporia's general fund, up from 9.67% in 2008. Local funds in 2012 contributed 48.0% of Emporia's supplemental LOB, up from 40.96% in 2008.

ARGUMENTS AND AUTHORITIES

I. Current school finance formulas and funding perpetuate wealth based disparities.

The State's proration of the local option budget supplemental general State aid and elimination of the capital outlay State equalization aid leads to unconstitutional wealth-based disparities in the educations received by Kansas schoolchildren. The effect lands hardest on students living in districts, such as Emporia, with relatively low property wealth. It is imperative that this Court require the State to fund the local option budget supplemental general State aid and capital outlay State equalization aid at the level required in S.B. 549.

Forcing local school districts to fund education is impermissible because of the substantial wealth disparities between Kansas school districts.

“[W]e find the proration of supplemental state aid funding violates the Article 6, § 6(b) constitutional requirement for an equitable and non-wealth based distribution of State education funds.” (*Gannon*, p. 142.)

Further,

“[N]onpayment of school district capital outlay funds ... leaves K.S.A. 72-8814 itself, unconstitutional as creating, and operating as, an inequitable funding disparity based solely on wealth” (*Gannon*, pp. 203-204.)

The wealth disparities are largely due to significant variations in assessed valuations among school districts. R.Vol.22, pp.1009-10; R.Vol.98, pp.7337-43; R.Vol.38, pp.385-89.

In 2010-11, there was a difference of \$444,596 per pupil between the district with the lowest assessed valuation per pupil (the Fort Leavenworth school district, which had an assessed valuation per pupil of \$1,205) and the district with the highest assessed valuation per pupil (the Satanta school district, which had an assessed valuation per pupil of \$445,801). R.Vol.38, pp.385, 389. This wealth variance also greatly affects how much money each district can raise with one mill of local property taxation. For instance, in the Galena school district, U.S.D. 499, one mill raises approximately \$18-19,000. However, in the Burlington school district, U.S.D. 244, one mill raises nearly \$350-400,000. (*Gannon*, p. 122.)

Emporia has had some business reversals over time and lost over 1,800 jobs with Tyson's 2008 plant downsizing. In 2008 one mill in Emporia resulted in general funds of \$158,030. In 2012 one mill in Emporia resulted in \$148,489. Overall, U.S.D. 253 Emporia currently has a 53.226 mill tax rate and a \$65 million budget and expended \$14,012 per pupil in 2012-13, up from \$12,848 per pupil in 2010-11. (See Appendix)

In *Montoy v. State of Kansas*, 279 Kan. 817, 840, 112 P.3d 923 (2005), this Court warned about the potentially unconstitutional effects of forcing a district to use LOB money to supplement the State's funding:

“School districts have been forced to use the LOB to supplement the State's funding as they struggle to suitably finance a constitutionally adequate education, a burden which the constitution places on the State, not on local districts. The result is wealth-based disparity because the districts with lower property valuations and median incomes are unable to generate sufficient revenue. Because property values vary widely, a district's ability to raise money by the required mill levy also varies widely. The cost-of-living weighting and extraordinary declining enrollment provision also have the potential to exacerbate inequity. A higher LOB cap, cost-of-living weighting, and the extraordinary declining enrollment provisions cannot be allowed to exacerbate inequities while we wait for the legislature to perform its constitutional duties.” (p. 840.)

The State's obligation under Article 6 of the Kansas Constitution requires consideration of the equity with which the funds are distributed. The State cannot escape its obligation by simply showing it is meeting accreditation requirements. In determining whether the State

is in compliance with Article 6 of the Kansas Constitution, this Court should consider **all** of the factors outlined in *Montoy*, including (1) whether the funding meets the constitutional requirements of Article 6, §1; (2) whether the funding provides students with a suitable education; (3) **the equity with which the funds are distributed**; and (4) the actual costs of providing the required education. *Montoy v. State*, 278 Kan. 769, 773-75, 120 P.3d 306 (2005) (emphasis added).

To meet educational expenses, the school districts with the richer property tax base are free to spend their entire LOB upon extra or enhancement items not required by State statutes or regulations. By contrast, the school districts with a poorer property tax base such as Emporia do not have this flexibility of permitting or requiring the LOB to be for extras or enhancements, but rather they must be used only for constitutionally mandated suitable expenditures for education.

Justice Rosen made this point clear in his concurring opinion in *Montoy v. State*, 282 Kan. 9, 31, 138 P.3d 755 (2006) in which he wrote about a “concern [which] may be relevant in any subsequent challenge to the funding formula.” Justice Rosen discussed his concern in the context of LOB equalization and explained,

“[S]o long as the legislature allows the LOB to remain an optional funding source rather than a mandatory one, my concern may be relevant in any subsequent challenge to the funding formula as amended by S.B. 549. In the school districts that receive less than the base level of state funding and which would have been eligible for equalizing LOB state aid but do not adopt an LOB at all, or adopt an LOB in an amount lower than the amount necessary to generate the funding shortfall, the State is arguably still responsible for providing constitutionally adequate funding. If other school districts begin opting out in part or in full of the LOB funding, the equitable distribution of state funding may be at risk. ***Such heavy dependence on a local contribution has historically caused disparity and equity concerns which have led to Kansas school finance litigation, including this case. We must never again allow a funding scheme that makes the quality of a child’s education a function of his or her parent’s or neighbors’ wealth.***” (p. 31, emphasis added.)

These differences in wealth affect the education of Kansas school children in numerous ways. R.Vol.13, p. 1672. They create salary differentials among districts. *Id.*; R.Vol.20, pp. 264-65. They cause teacher migration from high poverty to high wealth districts, and create problems for districts attempting to retain quality teachers. R.Vol.13, p. 1672; R.Vol.21, pp. 696-97; R.Vol.83, pp. 5774-77; R.Vol.83, pp. 5778-79; R.Vol.83, pp. 5780-97.

U.S.D. 253 has lost ground in the ability to hire quality teachers in that it has not been able to increase the base teacher salary since 2008. The base salary for new teachers was \$33,838 for the 2007-08 school year and was increased to \$34,167 in 2008-09, (\$38,991 with fringes) but has remained at that \$34,157 level since 2008-09. To match the highest new teacher base and fringe salary, Emporia would have to expend an additional \$3,877,065. Since they can't, employees leave for other school districts, with this increasing from 2 in 2010-11 to 6 in 2011-12 to 11 in 2012-13 and 15 in 2013-14. The costs associated with what is now an over 11% turnover and training new employees has increased exponentially. The district is fortunate to have Emporia State University where some of the finest teachers are trained. However, falling average teacher salary in real inflation adjusted dollars and Emporia's proximity to larger, more metropolitan areas put the school district at a huge disadvantage when trying to compete with other school districts. (See Appendix)

Since the State of Kansas has also eliminated equalization in the form of capital outlay equalization payments, it has removed yet another important mechanism used to prevent wealth-based disparities. The State has been criticized for removing capital outlay State equalization aid before. For example, in *Montoy v. State*, 279 Kan. 817, 838, 112 P.3d 923 (2005) when analyzing an eight-mill cap on capital outlay funding, this Court found that a cap alone, without accompanying equalization for school districts unable to access capital outlay funding perpetuated the inequities produced by this component:

“Because [the capital outlay] provision is based on local property tax authority, the amount of revenue a district can raise is tied to property value and median family income; *thus the failure to provide any equalization to those districts unable to access this funding perpetuates the inequities produced by this component.*” (p. 838, emphasis added.)

The failure of the State to fund these equalization mechanisms causes direct harm to students in school districts, such as Emporia, that have relatively low property wealth. Those students have less access to updated school facilities, equipment, and materials. Their best teachers are, in effect, encouraged to move to other school districts where they can receive more pay. Many low-property-wealth local schools have difficulty passing the bond issues required to increase the amount of local money that the school district raises.

As an example of the shift of local funds which could be used for extra educational opportunities, Emporia has an Advancement Via Individual Determination (AVID) college readiness program implemented as a secondary program in the school district. It provides meaningful and relevant learning opportunities and supports to create college-ready students and cultures in schools. In the U.S. overall about 22% of Hispanic or Latino students complete four year college entrance requirements. Students in this ethnic group in the AVID program had 90% complete four year college entrance requirements. The Emporia school district paid for the AVID program through a Title I School Improvement Grant but now struggles to find continuation dollars to sustain the program due to reduced State funding.

Emporia’s contingency reserves have declined from \$3,245,748 in 2009 to a current \$1,937,867. Given the State’s delays in funding, these reserves are necessary.

The lack of funding hurts gifted students also. Not only are these (special education) students being under served by the State, but “students who are already above proficiency in Kansas are not currently receiving an adequate education and (special education demands) has taken the focus off of gifted students.” (*Gannon*, pp. 170-171.)

II. Current school finance formulas and funding are not producing “outputs” consistent with a “suitable education.”

A constitutional school finance formula must be funded to assure “outputs.” *Montoy v. State*, 279 Kan. 817, 843, 112 P.3d 923 (2005). In terms of AYP “outputs”, in 2012 with reading assessment proficiency AYP at 86%, Emporia’s 1,397 low social economic status (SES) students, 777 English language learning (ELL) students, 58 African American students, 929 Hispanic students and 65 Multi-racial students as groups were all below proficient. Just as the *Gannon* Panel decision (pp. 158-159, 162) noted for the State as a whole, in Emporia only White and Asian students as a group were rated proficient. (See Appendix.) In 2012 with Math assessment proficiency AYP at 82.3%, all of Emporia’s above groups and all Emporia students as a whole were below proficient, 81.1%. Only White and Asian students as a group were rated proficient. (See Appendix)

Statewide, “In 2011 ... there were a significant number of Kansas students who did not graduate in either 4 (19.39%) years or 5 years (24.8%).” (*Gannon*, p. 167.) In terms of Emporia’s graduation rates, in 2008, 88.9% of students graduated. In 2012, the graduation rate had dropped to 82.6%. The Kansas State Department of Education estimates a high school dropout earns \$325,000 less in a lifetime than a high school graduate and \$1.3 million less than a college graduate. (See Appendix) The societal costs are staggering. Levine and Rouse, *The True Cost of High School Dropouts*, N.Y. Times January 25, 2012:

“If we could reduce the current number of dropouts by just half, ... it would more than pay for itself. Studies show that the typical high school graduate will obtain higher employment and earnings—an astonishing 50 percent to 100 percent increase in lifetime income—and will be less likely to draw on public money for health care and welfare and less likely to be involved in the criminal justice system. ...”

“When the costs of investment to produce a new graduate are taken into account, there is a return of \$1.45 to \$3.55 for every dollar of investment, depending upon the educational intervention strategy. Under this estimate, each new graduate confers a net benefit to taxpayers of about \$127,000 over the graduate’s lifetime.

This is a benefit to the public of nearly \$90 billion for each year of success in reducing (by half) the number of high school dropouts...”

In Kansas, to enroll in a State university, a student must receive a score of 21 on the ACT. (*Gannon*, p. 162.) “Only 26% of Kansas high school graduates meet the ACT benchmarks in English, Math, Reading, and Science, indicating that only 26% of Kansas students are college ready in all four areas.” (*Gannon*, pp. 166-67.) In terms of college readiness, the recent Tallman Education Report, August 22, 2013, notes,

“After showing generally improving results for all students and major ethnic minority groups from 2002 to 2009, when education funding per pupil was increasing, Kansas performance on the ACT has generally leveled off since 2009, when funding per pupil has declined compared to inflation. For the second year in a row, the average Kansas composite score dropped by 0.1 to 21.8 ... the lowest level since 2008.”

In Emporia, the average ACT score is even lower at 21.2

Technology has become a must for schools in preparing 21st century learners. With the help of a local philanthropic group Emporia has begun to equip its classrooms with digital media. By discontinuing summer school and diverting other funds with a 21st Century Community Learning Centers grant, Emporia has increased access to technology. But it is far from the capacity that it needs to have.

To some, it might appear the Emporia school district is “getting by.” Schools’ doors are open every day and students are learning. But the district’s efforts to meet the demands of college and career ready students are slowed by the limited funds that the district can make available for anything “new” or “extra” or “enhanced.”

How can U.S.D. 253 and other school districts improve “outputs”? The most recent cost study conducted is the LPA study provided by the State. The *Gannon* Panel found,

“Studies in Kansas have shown that money does make a difference. In the LPA study, a 1% increase in district performance outputs was associated with a .83% increase in spending—almost a one to one relationship.” (*Gannon*, p. 61.)

See also *Edgewood Indep. School Dist. v. Kirby*, 777 S.W.2d 391, 393 (Tex. 1989). (“The amount of money spent on a student’s education has a real and meaningful impact on the educational opportunity offered that student.”)

Amicus Curiae acknowledges this is a complicated issue and encourages the Court to review the articles, “Slaying the Inequality Villain in School Finance: Is the Right to Education the Silver Bullet?” by Derrick Oarby and Richard Levy in the *Kansas Journal of Law and Public Policy*, Summer 2011; Rebell, Poverty, “Meaningful” Educational Opportunity, and the Necessary Role of the Courts, 85 N.C.L.Rev. 1467 (2007) with critique of State’s expert, Eric Hanushek; and Rebell, “Safeguarding the Right to a Sound Basic Education in Times of Fiscal Constraint”, 75 Alb.L.Rev. 1855 (2012).

III. Affirming Gannon Panel’s Decision is Appropriate Remedy.

The *Gannon* Panel’s factual finding that the State’s failure to fund these mechanisms was unconstitutional should be upheld. “[W]e find the proration of supplemental state aid funding violates the Article 6, § 6(b) constitutional requirement for an equitable and non-wealth based distribution of State education funds.” (*Gannon*, p. 142.) “[N]onpayment of school district capital outlay funds ... leaves K.S.A. 72-8814 itself, unconstitutional as creating, and operating as, an inequitable funding disparity based solely on wealth” (*Gannon*, pp. 203-04.) The *Gannon* Panel properly suggests that elimination of capital outlay State aid equalization payments creates impermissible wealth-based disparity among school districts. (*Gannon*, pp. 233-234.)

U.S.D. 253 requests this Court order BSAPP funding of at least \$4,492 as set forth in K.S.A. 74-6410(b) on July 1, 2012, or as subsequently inflation adjusted per the *Gannon* opinion, pp, 245-246 , if not the \$5,944 requested by Plaintiff’s/Appellee’s cross-appeal. A three-year mandate would allow some enhancements and new teacher salary increases

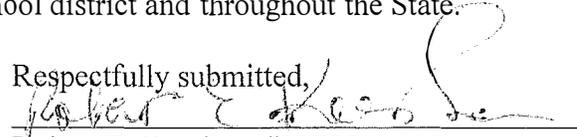
without worrying about next year reductions. Further U.S.D. 253 requests this Court affirm the decision of the *Gannon* Panel requiring full funding of the equalization formulas and denying any wealth based disparity in the distribution of funds or in the ability to use the local option budget by a school district. (*Gannon*, pp. 247-48.)

Arguments on financing are straw men. In *Rufo v. Inmates of Suffolk County Jail*, 502 U.S. 367, 392, 112 S.Ct. 748, 116 L.Ed.2d 867 (1992), the U.S. Supreme Court specifically held, “[f]inancial constraints may not be used to justify the creation or perpetration of constitutional violations” See *Rose v. Council for Better Educ., Inc.*, 790 S.W. 2d 186, 208 (Ky. 1989); and *Campbell Cnty. School Dist. v. State*, 907 P.2d 1238, 1279 (Wyo. 1998).

CONCLUSION

One of the primary purposes of the constitutional mandate in Article 6 is to place the responsibility for the funding of public education on the State, rather than on the local school districts. Kansans amended their Constitution to ensure that their children would not be the victims of such disparities, no matter where they lived. The State’s actions have gone beyond failing to remedy existing wealth-based disparities, they have exacerbated them, thereby depriving Kansas schoolchildren living in low-property wealth districts like Emporia of the education to which they are entitled under their Constitution. This Court should uphold the *Gannon* Panel’s determination that the State of Kansas must restore base state aid and fully fund these equalization mechanisms, and provide the constitutionally-required education to the students in the Emporia school district and throughout the State.

Respectfully submitted,


Robert E. Keeshan, #08795

SCOTT, QUINLAN, WILLARD, BARNES
& KEESHAN, L.L.C.

3301 SW Van Buren

Topeka, KS 66611

Phone: 785-267-0040/Fax: 785-267-6756

bob@sqwblaw.com

ATTORNEY FOR U.S.D. 253

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of September 2013, I sent two copies of the foregoing to each the following addresses via U.S. First Class Mail, postage prepaid to:

Alan L. Rupe
Jessica L. (Garner) Skladzien
KUTAK ROCK LLP
1605 North Waterfront Parkway, Suite 150
Wichita, KS 67206-6634
(316) 609-7900 (Telephone)/(316) 630-8021 (Facsimile)
Alan.Rupe@kutakrock.com

John S. Robb
SOMERS, ROBB & ROBB
110 East Broadway
Newton, KS 67114
(316) 283-4650 (Telephone)/(316) 283-5049 (Facsimile)
JohnRobb@robblaw.com
Attorneys for Plaintiff

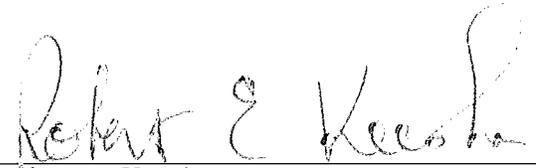
Derek Schmidt
Attorney General of Kansas
Jeffrey A. Chanay
Deputy Attorney General, Civil Litigation Division
Stephen R. McAllister
Solicitor General of the State of Kansas
M.J. Willoughby
Assistant Attorney General
Memorial Building, 2nd Floor
120 SW 10th Ave.
Topeka, KS 66612-1597

Arthur S. Chalmers
Hite, Fanning & Honeyman, L.L.P.
100 North Broadway, Suite 950
Wichita, KS 67202-2209
Attorneys for Defendant

Dr. Walt Chappell, President
Educational Management Consultants
Box 776
Wichita, KS 67201

Autumn L. Fox
Autumn L. Fox Law Office, P.A.
208 North Broadway Street
Abilene, KS 67410-2647

Lawrence S. Lustberg
1 Riverfront Plaza
Newark, NJ 07102
Attorneys for Education Law Center


Robert E. Keeshan

APPENDIX

SCOTT, QUINLAN, WILLARD,
BARNES & KEESHAN, LLC
3301 SW Van Buren Street
Topeka, KS 66611
(785) 267-0040

IN THE SUPREME COURT OF THE STATE OF KANSAS

LUKE GANNON)
by his next friends and guardians, *et al.*,)
)
Plaintiffs,)
)
v.)
)
STATE OF KANSAS,)
)
Defendant.)

Case No. 13-109335-S

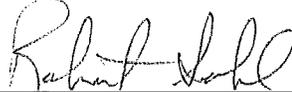
AFFIDAVIT

COMES NOW Rob Scheib, who upon being first duly sworn upon his oath,
deposes and states as follows:

1. I am the Assistant Superintendent of Business for Unified School District No. 253 and have been so employed since July 1, 2008.
2. As Assistant Superintendent of Business, I prepared the budget for U.S.D. 253, Form 150 provided to the Kansas State Board of Education and other financial documents for the district.
3. I and other Emporia administrative personnel held meetings to discuss and analyze the information to be supplied with our Amicus Curiae Brief.
4. I have reviewed the material within the School Board's counsel's Amicus Curiae Brief. The data regarding U.S.D. 253 enrollment, budgetary information, school

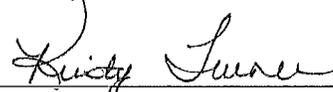
programs, mill levies, test scores, Adequate Yearly Progress scores and graduation rates is true and correct for our school district.

Further affiant sayeth not.

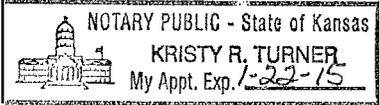


ROB SCHEIB

Subscribed and sworn to before me this 4th day of September 2013.



NOTARY PUBLIC



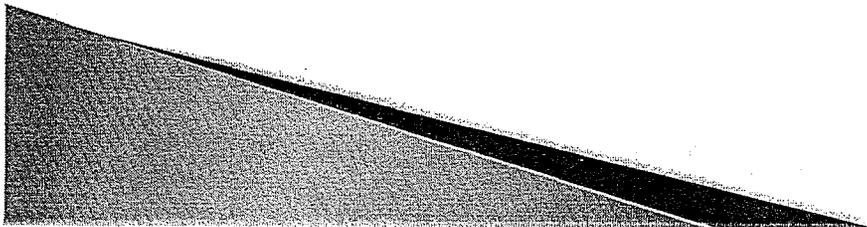
Supplemental General Fund

	08 Audit	09 Audit	10 Audit	11 Audit	12 Audit	13 Est.
BSAPP	\$4,400	\$4,012	\$3,937	\$3,780	\$3,838	\$3,838
Gen Fund	\$32,457,480	\$29,415,583	\$29,304,809	\$27,968,576	\$28,666,234	\$29,227,521
Supp Gen	\$8,038,581	\$8,769,542	\$8,769,542	\$8,769,542	\$8,769,542	\$8,855,060
Total	\$40,496,061	\$38,185,125	\$38,074,351	\$36,738,118	\$37,435,776	\$38,082,581

F 150 & 155

Supplemental General Equalization

- ▶ USD 253 qualifies for equalization state aid of 64.18% or \$5,683,177 because of district poverty
- ▶ That amount is prorated to 78% or \$4,432,878
- ▶ Full payment of equalization would reduce the local effort required for the same supplemental general budget by \$1,250,299 or 7.311 mills



7/24/2013

**Summary of Total Expenditures By Function
(All Funds)**

	2010-2011 Actual	% of Tot	2011-2012 Actual	% of Tot	% inc/ dec	2012-2013 Budget	% of Tot	% inc/ dec
Instruction	36,328,870	61%	35,033,269	60%	-4%	37,912,057	58%	8%
Student & Instructional Support	5,911,495	10%	6,880,364	12%	16%	8,047,549	12%	17%
General Administration	1,361,990	2%	1,508,193	3%	11%	1,650,319	3%	9%
School Administration (Building)	2,125,599	4%	2,394,473	4%	13%	2,396,940	4%	0%
Operations & Maintenance	4,029,456	7%	3,941,846	7%	-2%	4,367,789	7%	11%
Capital Improvements	1,030,948	2%	364,531	1%	-65%	1,185,119	2%	225%
Debt Services	4,219,446	7%	4,038,973	7%	-4%	4,045,393	6%	0%
Other Costs	4,463,333	8%	4,661,970	8%	4%	5,478,933	8%	18%
Total Expenditures	59,471,137	100%	58,823,619	100%	-1%	65,084,099	100%	11%
Amount per Pupil	\$12,848		\$12,664		-1%	\$14,012		11%

The funds that are included in the categories above are: General, Supplemental General, Bilingual Education, At Risk (4yr Old), At Risk (K-12), Virtual Education, Capital Outlay, Driver Education, Extraordinary School Program, Summer School, Special Education, Vocational Education, Professional Development, Bond & Interest #1, Bond & Interest #2, No-Fund Warrant, Special Assessment, Parent Education, School Retirement, Student Materials Revolving & Textbook Rental, Tuition Reimbursement, Gifts/Grants, KPERS Special Retirement Contribution, Contingency, Special Liability Expense, Federal Funds, Adult Education, Adult Supplemental Education, Activity Fund and Special Education Coop Fund.

Note: Percentages on charts are within +/-1% due to rounding used. Pie graph percentages may differ from charts for this reason also.

Further definition of what goes into each category:

Instruction - 1000

Student & Instructional Support - 2100 & 2200

General Administration - 2300

School Administration (Building) - 2400

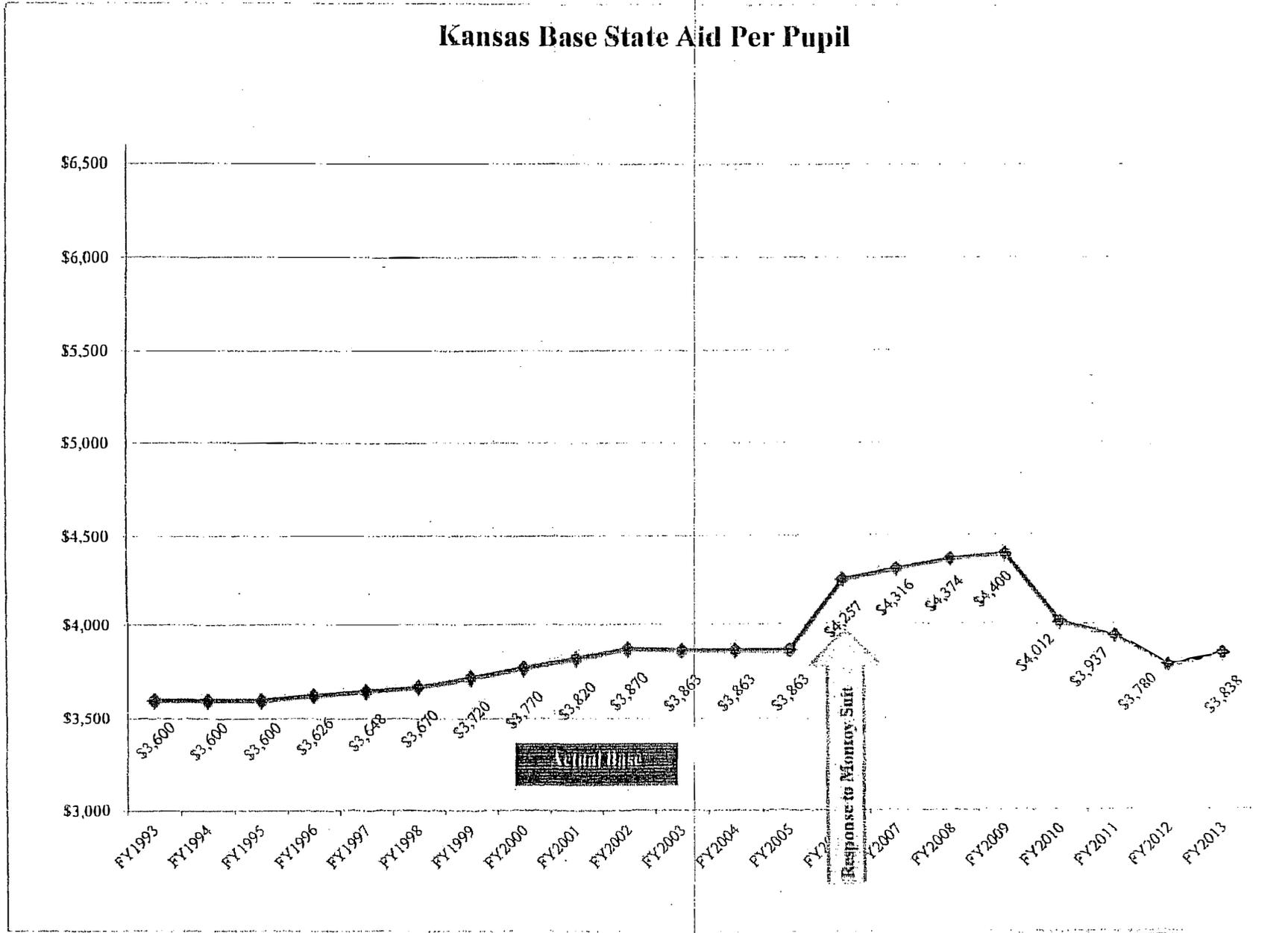
Operations & Maintenance - 2600

Other Costs - 2500, 2900 and 3000 and all others not included elsewhere

Capital Improvements - 4000

Debt Services - 5100 Transfers - 5200

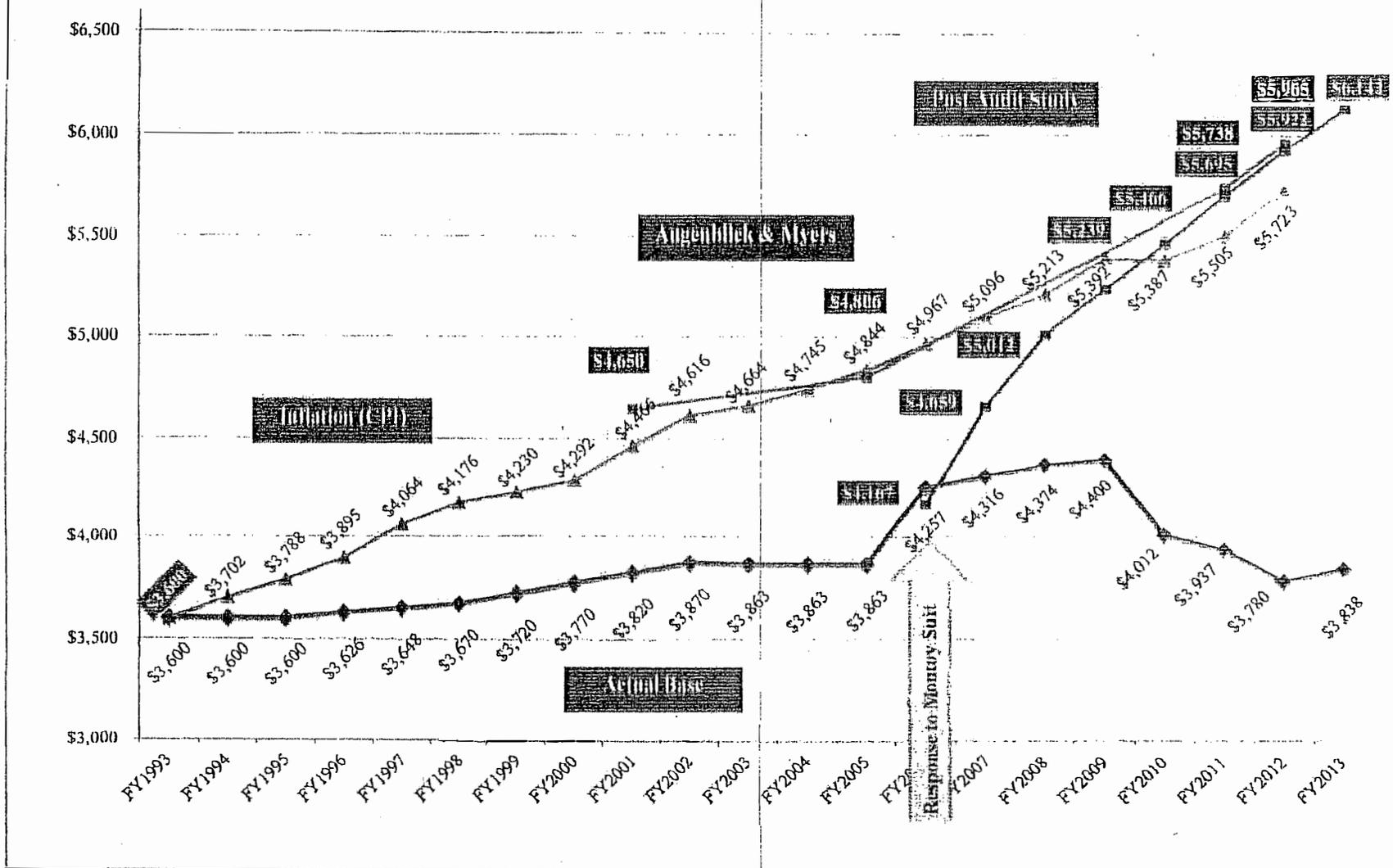
Kansas Base State Aid Per Pupil



Actual Base: from Kansas Fiscal Facts (LEG003707) & SB294

PLAINTIFFS'
EX. 233

Kansas Base State Aid Per Pupil



■ Actual Base: from Kansas Fiscal Facts (LEG003707) & SB294
 ■ Inflation (CPI): from U.S. Department of Labor - All Urban Consumers - Kansas City, MO-KS - All Items. Base of 3600 adjusted for inflation each year (BLS000001-4)
 ■ Augenblick & Myers: from May 2002 Study (LEG001414), June 2005 Update (LEG003516), October 2011 Update (EXP-MYIERS000073), all amounts direct from reports except 2012 adjusted for inflation
 ■ Post Audit Study: from January 2006 Cost Study (USD443 001586), January 17, 2006 Memo (LEG003410), all amounts direct from reports. 2007 through 2012 amounts are in 2007 dollars

Per Capita Personal Income 2008 -2010 Selected Counties Listed in Order

		Personal income				Per capita personal income ¹			
		(millions of dollars)			Percent change	(dollars)			2010
FIPS	County	2008	2009	2010	2009-2010 ²	2008	2009	2010	Rank in State
20199	Wallace	63	67	82	23.1	43,341	45,325	55,139	1
20091	Johnson	30,802	28,680	29,478	2.8	57,880	53,171	54,015	2
20071	Greeley	55	59	65	10.7	44,273	48,627	51,817	3
20017	Chase	133	128	139	8.9	47,275	45,993	49,841	6
20161	Riley *	2,842	2,935	3,140	7.0	40,928	41,931	43,932	12
20031	Coffey	370	368	373	1.3	43,252	42,924	43,279	13
20051	Ellis *	1,180	1,071	1,114	4.0	42,142	37,765	39,154	28
20177	Shawnee *	6,640	6,672	6,835	2.4	37,847	37,741	38,341	33
20173	Sedgwick *	19,663	18,310	18,696	2.1	40,452	36,989	37,444	42
20045	Douglas *	3,651	3,722	3,816	2.5	33,490	33,820	34,305	62
20003	Anderson	264	261	245	-6.0	32,419	32,196	30,261	97
20011	Bourbon	458	451	457	1.3	30,300	29,762	30,135	98
20037	Crawford *	1,199	1,150	1,158	0.7	30,735	29,507	29,566	99
20175	Seward	689	651	679	4.5	30,608	28,620	29,514	100
20005	Atchison	502	487	488	0.2	29,844	28,717	28,893	101
20159	Rice	321	290	291	0.4	31,567	28,864	28,807	102
20207	Woodson	92	86	95	10.6	27,565	25,971	28,732	103
20111	Lyon *	992	950	963	1.3	27,874	28,138	28,601	104
20209	Wyandotte	4,416	4,336	4,321	-0.4	28,472	27,720	27,378	105

* Location of a university Source: US Department of Commerce: BEA April 2012 & ESU CEE

USD Name	2012-13 FTE Enr.	20 year Earnings Analysis	State Rank of 20 yr earnings	District Avg Teacher Salary	State Rank	Base + Fringe	State Rank Base + Fringe
Coffeyville	1,746.6	\$1,166,229	5	\$56,832	13	\$48,895	1
Syracuse	452.0	\$1,067,851	19	\$56,770	14	\$45,961	2
Wichita	45,287.9	\$1,175,076	3	\$58,619	8	\$45,915	3
Lyndon	421.0	\$1,057,115	31	\$54,086	47	\$45,512	4
Shawnee Mission	26,185.9	\$1,271,602	1	\$66,899	1	\$45,360	5
Olathe	26,895.8	\$1,148,570	8	\$64,957	2	\$45,292	6
Girard	1,000.0	\$1,034,589	48	\$56,177	20	\$45,170	7
Garden City	7,003.7	\$1,077,650	17	\$55,745	26	\$44,959	8
Jefferson West	858.6	\$1,078,776	16	\$59,667	6	\$44,515	9
Marmaton Valley	288.0	\$1,036,225	44	\$51,036	110	\$44,429	10
Liberal	4,512.3	\$1,084,736	13	\$54,183	46	\$44,416	11
Hugoton	1,007.5	\$1,018,966	56	\$60,453	4	\$44,391	12
McLouth	485.5	\$1,035,500	45	\$48,826	170	\$44,316	13
Blue Valley	21,134.6	\$1,155,113	6	\$63,733	3	\$44,305	14
Kansas City	18,984.2	\$1,219,650	2	\$54,767	39	\$44,100	15
Lakin	604.4	\$1,021,102	55	\$55,060	34	\$43,953	16
Osborne County	297.0	\$1,060,110	25	\$49,370	156	\$43,883	17
Moundridge	395.0	\$1,071,353	18	\$53,836	52	\$43,880	18
Washington County	359.5	\$988,084	77	\$56,443	17	\$43,387	19
Piper-Kansas City	1,770.7	\$1,052,545	32	\$56,626	16	\$43,349	20
Galena	774.9	\$1,031,050	51	\$54,943	35	\$43,308	21
Osawatomie	1,089.0	\$1,033,556	49	\$52,330	79	\$43,300	22.5
Oswego	441.0	\$1,034,744	47	\$50,802	116	\$43,300	22.5
Graham County	357.5	\$1,024,678	54	\$57,291	12	\$43,257	24
Pittsburg	2,716.8	\$1,174,207	4	\$54,041	48	\$43,232	25
Hays	2,804.4	\$1,096,150	10	\$59,288	7	\$43,210	26
Riverton	745.0	\$1,043,450	38	\$55,440	30	\$43,206	27
Gardner-Edgerton	5,060.1	\$1,094,146	11	\$53,973	49	\$43,057	28
Scott County	853.4	\$1,000,610	64	\$54,191	45	\$43,037	29
Spring Hill	2,178.9	\$1,015,331	58	\$53,651	54	\$42,783	30
Kismet-Plains	656.6	\$1,082,125	14	\$58,219	9	\$42,750	31
Independence	1,935.3	\$1,039,529	41	\$52,689	71	\$42,680	32
Baxter Springs	957.5	\$1,057,664	29	\$52,442	77	\$42,653	33
Dodge City	6,154.3	\$1,149,870	7	\$54,605	41	\$42,618	34
Maize	6,416.6	\$1,078,973	15	\$56,201	19	\$42,508	35
Louisburg	1,706.7	\$1,036,648	43	\$52,965	65	\$42,494	36
Onaga-Havensville-Wheaton	320.5	\$1,067,458	20	\$48,695	175	\$42,374	37
De Soto	6,623.1	\$1,041,991	39	\$53,621	55	\$42,342	38
Chanute	1,780.7	\$1,050,214	34	\$54,272	43	\$42,268	39
Turner-Kansas City	3,801.0	\$1,032,093	50	\$51,741	92	\$42,203	40
Emporia	4,179.6	\$992,316	71	\$51,926	89	\$38,991	111



Required Elements of the Compulsory School Attendance Disclaimer Form

K.S.A. 72-1111 requires that the compulsory school attendance disclaimer include information on:

- the academic skills that the child has not yet achieved
- the difference in future earning power between a high school graduate and a high school dropout, and
- a listing of educational alternatives that are available for the child

The following information was compiled by KSDE and may be used in the final counseling session.

Academic skills that the child has not yet achieved

Please feel free to create your own list of academic skills the child has not yet achieved.

Knowing how to learn	Being a team member	Self-management
Writing	Self-esteem	Using computer to process information
Reading	Arithmetic/Mathematics	Sociability
Listening	Responsibility	Evaluating information
Thinking skills	Speaking	Problem solving
Interpreting information	Decision-making	Leadership
Being able to work with cultural diversity		

Difference in future earning power between a high school graduate and a high school dropout

Please feel free to do your own research to attain lifetime earnings figures. The following analysis was based on data from the Bureau of Labor Statistics, 2010, Bureau of the Census. Data below are annual averages for persons 25 and over, and are for full-time wage and salary workers. <http://stats.bls.gov/emp/emptab7.htm>.

	(2006 Census)		
<u>Level of education completed</u>	<u>Lifetime Earnings</u>	<u>Median Weekly Earnings in 2010</u>	<u>Unemployment Rate in 2010 (%)</u>
Less than a high school diploma	\$ 941,000	\$ 444	14.9 %
High school graduate	1,266,000	626	10.3
Some college, no degree	1,518,000	712	9.2
Associate degree	1,620,000	767	7.0
Bachelor's degree	2,284,000	1,038	5.4
Master's degree	2,402,000	1,272	4.0
Professional degree	3,073,000	1,610	2.4
Doctoral degree	3,707,000	1,550	1.9

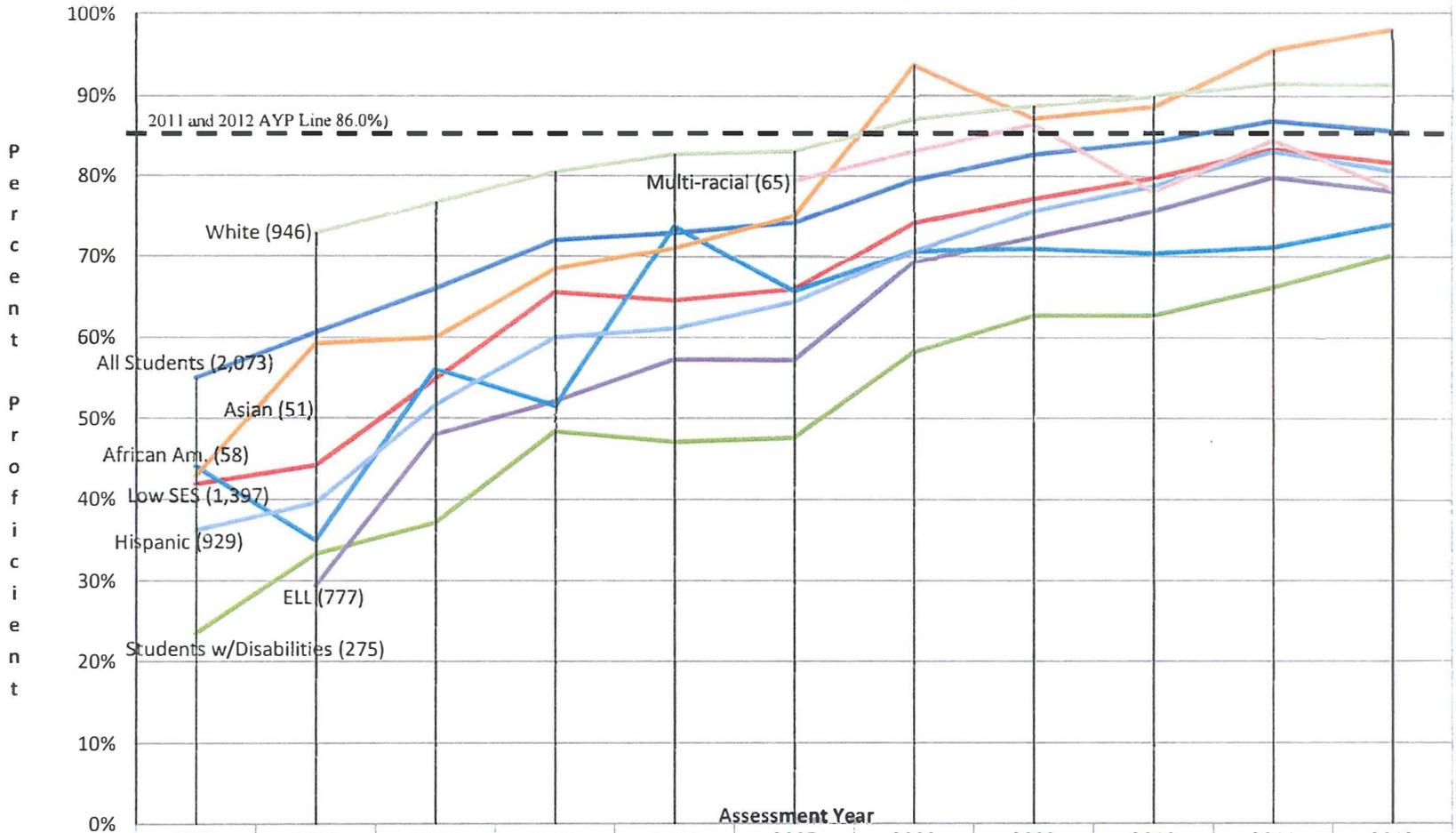
Facts about Education, Earnings and Occupations

- College graduates age 25 and over earn nearly twice as much as workers who stopped with a high school diploma.
- College graduates have experienced growth in real (inflation-adjusted) earnings since 1979. In contrast, high school dropouts have seen their real earnings decline.
- From 1979 to 2000, the earnings of college-educated women grew nearly twice as fast as the earnings of men, but these women still earn less than men.
- The unemployment rate for workers who dropped out of high school is nearly four times the rate for college graduates.

A list of educational alternatives

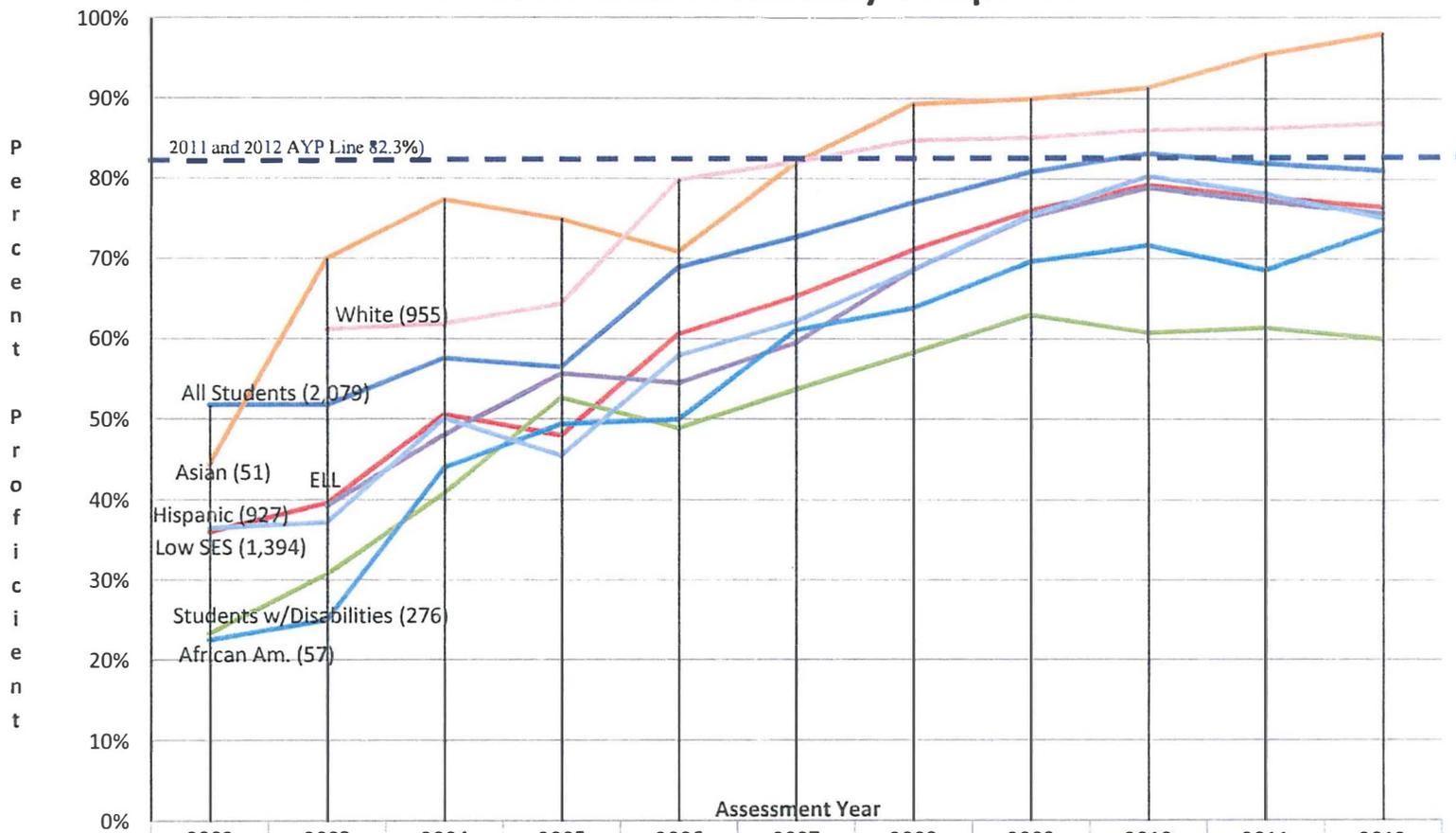
Kansas DropINs, a dropout prevention initiative within KSDE, maintains a list of alternative education opportunities available in Kansas on their website: <http://www.ksde.org/Default.aspx?tabid=4361>. Additional educational alternatives may be available at the local level.

USD 253 Reading Assessment Proficiency Comparisons 2002-2012



	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
All Students (2,073)	0.550	0.606	0.660	0.720	0.729	0.742	0.795	0.827	0.843	0.869	0.857
Low SES (1,397)	0.419	0.442	0.548	0.656	0.646	0.660	0.742	0.772	0.798	0.834	0.817
Students w/Disabilities (275)	0.235	0.333	0.371	0.484	0.471	0.476	0.582	0.627	0.627	0.662	0.702
ELL (777)		0.294	0.480	0.521	0.573	0.572	0.693	0.724	0.757	0.799	0.782
African Am. (58)	0.441	0.350	0.560	0.515	0.737	0.657	0.707	0.710	0.704	0.712	0.741
Asian (51)	0.429	0.593	0.600	0.685	0.711	0.750	0.938	0.872	0.886	0.955	0.980
Hispanic (929)	0.362	0.396	0.516	0.600	0.611	0.644	0.707	0.757	0.788	0.831	0.807
Multi-racial (65)						0.794	0.831	0.865	0.781	0.845	0.785
White (946)		0.729	0.767	0.805	0.827	0.831	0.871	0.887	0.900	0.915	0.914

USD 253 Math Assessment Proficiency Comparisons 2002-2012



	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
All Students (2,079)	0.518	0.518	0.576	0.565	0.689	0.727	0.771	0.809	0.832	0.820	0.811
Low SES (1,394)	0.360	0.396	0.506	0.480	0.606	0.653	0.711	0.761	0.793	0.778	0.766
Students w/Disabilities (276)	0.233	0.307	0.408	0.527	0.489	0.537	0.583	0.630	0.608	0.614	0.601
ELL (773)		0.392	0.481	0.557	0.545	0.595	0.686	0.753	0.789	0.773	0.758
African Am. (57)	0.225	0.250	0.440	0.494	0.500	0.611	0.639	0.696	0.717	0.686	0.737
Asian (51)	0.444	0.700	0.774	0.750	0.709	0.820	0.894	0.900	0.914	0.955	0.980
Hispanic (927)	0.365	0.372	0.501	0.455	0.579	0.622	0.686	0.755	0.804	0.782	0.752
White (955)		0.612	0.619	0.644	0.799	0.821	0.848	0.852	0.862	0.864	0.870