

**PRIMER ON SCHOOL FINANCE LAW**

**IN THE THIRD JUDICIAL DISTRICT  
DISTRICT COURT OF SHAWNEE COUNTY KANSAS  
CIVIL DEPARTMENT**

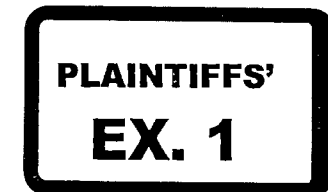
*Gannon et al. v. State of Kansas*

Case No.: 10-C-1569

**Submitted by:**

Alan L. Rupe, #08914  
Jessica L. Garner, #24178  
Jason D. Stitt, #22216  
KUTAK ROCK LLP  
1605 North Waterfront Parkway, Suite 150  
Wichita, KS 67206-6634  
(316) 609-7900 (Telephone)  
[Alan.Rupe@kutakrock.com](mailto:Alan.Rupe@kutakrock.com)  
[Jessica.Garner@kutakrock.com](mailto:Jessica.Garner@kutakrock.com)  
[Jason.Stitt@kutakrock.com](mailto:Jason.Stitt@kutakrock.com)

John S. Robb, #09844  
SOMERS, ROBB & ROBB  
110 East Broadway  
Newton, KS 67114  
(316) 283-4650 (Telephone)  
[JohnRobb@robblaw.com](mailto:JohnRobb@robblaw.com)



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**Plaintiffs' Claims With Respect to the Current School Funding Formula**

Plaintiffs present the following, non-exhaustive list of their position with regard to certain aspects of the current school funding formula:

A. Decreased Funding from constitutionally required levels. The *Montoy* Court predicted that the total annual increase in funding to school district general funds and supplemental general funds since January 3, 2005, based on the enactment of S.B. 549, would be an estimated \$755.6 million by the 2008-09 school year. The *Montoy* court dismissed the case based upon this level of increased funding after finding that lesser increases would not resolve the constitutional inadequacies. The total funding available to school districts in Kansas has been now been cut \$455.6 million per year. At the same time, district costs have increased, student achievement requirements have increased and the State has continued to allow tax cuts and abatements that reduce revenue.

B. Base State Aid Per Pupil decreased and is inadequate to achieve state and federal mandates. Base State Aid Per Pupil is the lodestar that drives the school finance formula. It has not been set a level shown by the state's own studies to cover the known costs of providing the required educational outputs. The *Montoy* reforms increased the BSAPP from \$3,863 in 2002-03 to \$4,316 in 2006-07; to \$4,374 in 2007-08; to \$4,433 in 2008-09 and to \$4,492 in 2009-10 and each year thereafter (although the cuts intervened and this level was never funded). The current statutory BSAPP of \$4,492 is not currently being funded. Instead, the BSAPP has been reduced, through allotment and under-appropriation, to \$3780 for 2011-12, a level lower than when the *Montoy* case was tried.

C. At-Risk Student and Other Weightings underfunded. The at-risk and other student weightings compensate for the increased cost to educate students that are at-risk or have other exceptionalities. These weightings are an integral part of the school funding formula and are not currently being fully funded, as shown by the cost studies done by the state and due to the multiplier effect of underfunding the Base State Aid Per Pupil.

D. Local Option Budget (LOB) reliant upon local elections. The original intent and purpose of LOB was to allow individual districts to fund enhancements to a constitutionally adequate education provided and financed by the funding formula. *Montoy III*, 279 Kan. at 834 (citing *Montoy II*, 278 Kan. at 774). S.B. 549, however, now provides that school districts are required to use LOB State Aid moneys to fund basic educational expenses. As a result, LOBs are no longer "local" but are required to be used for state mandated programs and requirements, and are reliant upon the outcomes of local elections for adoption. This subjects state required funding levels to local political and district wealth influences in an arbitrary and discriminatory manner.

E. Local Option Budget (LOB) State Aid underfunded. The original intent and purpose of LOB was to allow individual districts to fund enhancements to a constitutionally adequate education provided and financed by the funding formula. *Montoy III*, 279 Kan. at 834 (citing *Montoy II*, 278 Kan. at 774). S.B. 549, however, now provides that school districts are required to use LOB State Aid moneys to fund basic educational expenses. As a result, LOBs are no longer "local" and are required to be used for state mandated programs and requirements.

Wealth-based disparities in school funding violate Art. 6, § 6 of the Kansas Constitution. *See e.g., Unified School District Number 229 v. State of Kansas*, 256 Kan. 232, 885 P.2d 1170 (1994) ("U.S.D. 229"). Variances in district property wealth make a property tax equalization scheme necessary to level the playing field across the state on raising LOB moneys. LOB State Aid is provided for this purpose. LOB State Aid has been under-appropriated and was only paid at 91.7% of entitlement for 2010-11 and 85.7% of entitlement for 2011-12. This underfunding of LOB State Aid further amplifies the cuts required to balance local budgets and makes the budget cut effect non-uniform across the state. Because the wealthiest districts in the state do not need such aid and receive no such aid, they are not impacted in the same manner by the State's failure to fully fund these payments. The State's failure to fully fund this aspect of the formula for those districts entitled thereto causes severe inequities in the system and prevents those districts from being suitably funded.

F. Suspended Capital Outlay Equalization Payments. Wealth-based disparities in school funding violate Art. 6, § 6 of the Kansas Constitution. *See e.g., U.S.D. 229*, 256 Kan. 232. Capital Outlay Equalization Payments were incorporated into the school funding formula to combat wealth-based disparities in raising funds for capital expenditures. Because the wealthiest districts in the state do not need such aid and receive no such aid, they are not impacted in the same manner by the State's failure to fully fund these payments. The State's failure to fully fund this aspect of the formula for those districts entitled thereto causes severe inequities in the system and prevents those districts from being suitably funded.

G. Failure to Comply with K.S.A. 72-64c03. The State, through its legislature, has a duty to give education first priority in (1) the budgeting process and (2) payment priority pursuant to K.S.A. 72-64c03. The State has failed to meet this duty.

H. Failure to Comply with K.S.A. 72-64c04. The State, through its legislature, had a duty to increase State Aid to schools by not less than a percentage equal to the percentage increase in the Consumer Price Index (urban) during the preceding fiscal year pursuant to K.S.A. 72-64c04. Although the law has sunset, the State failed to meet that duty during the time that the requirement was in effect. By not meeting the duty during the time it was effective, the under-funding has been compounded into future years.

I. Substantive Legislation in Appropriation Acts. In contravention of Article 2, § 16 of the Kansas Constitution, the State continues to substantively legislate important components of education in Kansas and the school funding formula within appropriations bills. Those actions are void. Items that are being substantively legislated within appropriation bills include (1) suspension of the Capital Outlay State Aid Equalization scheme; (2) effectively setting the quantity, quality and distribution of education in Kansas by contravening the statutory level of the Base State Aid Per Pupil by under-appropriation; and (3) effectively setting the quantity and quality of education in Kansas by contravening the statutory level of LOB equalization aid by under-appropriation.

### History Leading to Adoption of Current School Funding Formula

The adoption of Article 6 of the Kansas Constitution in 1966 is described in *Mock v. Kansas*, Case No. 91-CV-1009, slip op. at 491 (Kan. Dist. Ct. Shawnee Co., Oct. 14, 1991) (citing the Education Amendments to the Kansas Constitution, Publication, No. 256, Dec. 1965, Kansas Legislative Council, pg 2) as follows:

The present text of Article 6, the education article, dates from amendments made in 1966. House Concurrent Resolution No. 537 stated the intent of the legislature in seeking amendment of the education article: [t]hat the Kansas legislative council is hereby directed to make a study of the scope, function, and organization of the state in supervising education to comply with the constitutional requirement of a uniform system of public schools, *The Education Amendment to the Kansas Constitution*, Publication No. 256, Dec. 1965 Kansas Legislative Council, page v.

The committee assigned to review and recommend changes to the education article stated that by including an article on education in the original Kansas Constitution "the people secure[d] themselves what is of first importance by placing binding responsibilities on the legislative, executive, and judiciary documents." *Education Amendment* at page 2. The committee further noted, "[t]he constitution of 1861 placed a responsibility on the legislature to establish a uniform system of schools," and that "equality of educational opportunity is a goal which has been generally accepted." *ID.* at 3.

After several floor amendments, the current Education Article was finally adopted, submitted to a popular vote, and ratified by the people, all in 1966. A careful examination of the current text of the article reveals four, essential, clear, and unambiguous mandates from the people (the source of all power in our democratic form of government):

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

Section 2. State board of education and state board of regents. (a) The legislature shall provide for a state board of education which shall have general supervision of public schools . . . all the educational interests of the state, except educational functions delegated by law to the state board of regents. (Emphasis added).

Section 5. Local public schools. Local public schools under the general supervision of the state board of education shall be maintained, developed and operated by locally elected boards. When authorized by law, such boards may make and carry out agreements for cooperative operation and administration of educational programs under the general supervision of the state board of

education, but such agreements shall be subject to limitation, change or termination by the legislature. (Emphasis added).

Section 6. Finance. (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. (Emphasis added).

As further explained in *Unified School District Number 229 v. State*, 256 Kan. 232, 885

P.2d 1170 (1994):

At the time of the ratification of Article 6, school finance was controlled by the State School Foundation Fund Act. L.1965, ch. 402. This Act was the most comprehensive school finance legislation to that point in Kansas history. Fundamental to the legislation was an indexing of a geographic area's ability to fund public education. Money was then distributed commensurate with the "index" and other factors. Each county assessed a levy to finance the state aid. School districts were also empowered to levy ad valorem taxes to fund operating expenses, but were restricted from increasing the budget to no more than 104 percent of the operating expenses per pupil in the preceding school year. L.1965, ch. 402, § 15. If a district found this inadequate, a school budget review board could authorize additional expenditures in certain specified situations, such as where there had been "unusual occurrences". The review board consisted of the state superintendent, the state controller, and the state budget director. Hence, districts did not have the ability to raise budgets beyond the statutory limits without state authorization, even if the voters of the district wished to do so. L.1965, ch. 402, §§ 15, 16. In 1967, the legislature authorized school boards to seek voter approval to exceed budgetary limitations. L.1967, ch. 409, § 18. This authorization was later repealed. In 1970, the budget limitations were replaced with the so-called "school tax lid." L.1970, ch. 402.

The School Foundation Fund Act and related school finance statutes were determined to be unconstitutional by the District Court of Johnson County in *Caldwell v. State*, case No. 50616 (Johnson County District Court, slip op. August 30, 1972). The court found that the law failed to provide equalization aid sufficient to offset the disparity in either tax effort or per pupil operating expenditures, "thereby making the educational system of the child essentially the function of, and dependent on, the wealth of the district in which the child resides." Responding to this decision, the legislature enacted the School District Equalization Act (SDEA) in 1973. L.1973, ch. 292. Seeking resource equalization, SDEA distributed state aid based upon district wealth. The higher the assessed valuation and taxable income of the district, which were the measures of the district's wealth, the lower the state aid. The lower the wealth, the higher the aid. A district below the spending median was given authority to

increase the district budget, upon voter approval, to the level of the median budget per pupil within the district's enrollment category or a maximum of 15 percent. L.1973, ch. 292, § 26. The alternative 15 percent cap was eliminated in 1978, allowing a district, upon voter approval, to raise the budget to the median budget per pupil in the same enrollment category. L.1978, ch. 296, § 6. In 1979, the limitation was lifted entirely, and the district was allowed to increase its budget by any amount approved by the voters. L.1979, ch. 221, § 3. Some of these modifications were prompted by litigation.

In 1975, the constitutionality of the SDEA was challenged by numerous parties, including 41 unified school districts. The District Court of Chautauqua County found the Act unconstitutional. The legislature amended the Act, but the court did not hear further evidence and dismissed the case. On appeal, the Supreme Court reversed and remanded for further proceedings. *Knowles v. State Board of Education*, 219 Kan. 271, 547 P.2d 699 (1976). On remand, the case was transferred to the District Court of Shawnee County and the judge presiding over this division, the Honorable E. Newton Vickers, ruled the SDEA was constitutional. *Knowles v. State Board of Education*, 77CV251 (Shawnee County District Court, slip op. January 26, 1981). The SDEA became the subject of litigation again in 1990 as several school districts and individuals, including several of the plaintiffs in this action, challenged the constitutionality of the statutes. On October 14, 1991, the Honorable Terry L. Bullock issued an opinion answering 10 questions which formed governing rules of law applicable to the challenges. *Mock v. State of Kansas*, 91CV1009 (Shawnee County District Court, slip op. October 14, 1991). The decision prompted the Governor and legislative leadership to appoint a task force to investigate legislative alternatives which would satisfy the guidelines in the decision. This task force issued a report recommending a new formula granting each district the same base state aid per pupil (BSAPP) and then allowing for certain adjustments for student needs and district size. Report of the Governor's Task Force on Public School Financing (November 2, 1991).

In 1992, the legislature repealed the SDEA and enacted the School District Finance and Quality Performance Act. L.1992, ch. 280.

In *Unified School District Number 229 v. State*, 256 Kan. 232, 885 P.2d 1170 (1994), the Supreme Court, for the first time, considered the merits of a school finance case. In *U.S.D. 229*, the Supreme Court upheld the School District Finance and Quality Performance Act (SDFQPA) as constitutional. The decision set the stage for *Montoy I*.

The *Montoy* cases began in 1999, five years after previous challenges to the State's, through its legislature, school funding scheme. Plaintiffs filed a lawsuit against the State of Kansas, the Governor, the members of the Kansas State Board of Education, and the Commissioner of the Kansas State Department of Education alleging (1) a violation of Art. VI, § 6 of the Kansas Constitution; (2) a violation of equal rights protection under the Kansas Constitution; and (3) a violation of the substantive due process rights under the Kansas Constitution. In 2001, at the district court level, Judge Terry Bullock dismissed the challenge

just prior to trial, finding that he was bound the *U.S.D. 229* holding that the legislature has the ultimate responsibility for determining what is suitable financing. *Montoy v. State of Kansas*, 275 Kan. 145, 62 P.3d 228 (2003) (*Montoy I*) (discussing *Unified School District No. 229 v. State*, 256 Kan. 232, 885 P.2d 1170 (1994)).

On appeal to the Supreme Court, Plaintiffs argued that the district court erred in dismissing their claims. In what ultimately became the first in a series of decisions in the *Montoy* cases, the Court found genuine issues of material fact to exist, and reversed and remanded the district court's decision. *Montoy I*, 275 Kan. at 145. Pivotal in that decision was the Court's finding that "the issue of suitability is not stagnant." *Id.* at 153 (citing *Unified School District No. 229*, 256 Kan. at 258).

On remand following a bench trial, the district court held that the SDFQPA, K.S.A. § 72-6405, "stands in blatant violation of Article VI of the Kansas Constitution." *Montoy v. State of Kansas*, No. 99-C-1738, 2003 WL 22902963, at \*42 (Kan. Dist. Ct. Shawnee County, Dec. 2, 2003). This time, it was the State who appealed to the Supreme Court, and in *Montoy II*, the Supreme Court held that the public school financing formula adopted by the State, through its legislature, had "failed to meet its [Art. VI, § 6] burden." *Montoy v. State of Kansas*, 278 Kan. 769, 771, 120 P.3d 306, 308 (2005) (*Montoy II*). In that decision, the Court mandated increased funding for Kansas schools; found that the then-current financing formula increased disparities in funding; and the formula was not based on any cost analysis but was instead based on "political and other factors not relevant to education." *Montoy II*, 278 Kan. at 775. The Court withheld its formal opinion pending corrective action by the State, through its legislature, and stated that "[w]e have in this brief opinion endeavored to identify problem areas in the present formula as well as legislative changes in the immediate past that have contributed to the present funding deficiencies. We have done so in order that the legislature take steps it deems necessary to fulfill its constitutional responsibility." *Id.* at 776.

In response to *Montoy II*, the State, through its legislature, enacted House Bill 2247, and on June 3, 2005, the Supreme Court issued its Opinion (supplemental to *Montoy II*) on the constitutionality of that bill. *Montoy v. State of Kansas*, 279 Kan. 817, 819, 112 P.3d 923 (*Montoy IV*). The Court held the funding scheme was not in compliance with the *Montoy II* decision because it did not appropriately consider (1) actual costs of providing adequate education and (2) the equity of the distribution of that funding. *Montoy IV*, 279 Kan. at 818. Thus, the Court ordered that the State, through its legislature, implement a minimum increase of \$285 million above the 2004-05 school year funding level for the 2005-06 school year. This amount was roughly one-third of the total increased funding needed to reach adequacy, as shown by the State's own cost study. Thereafter, the State, through its legislature, again enacted changes to the school finance formula through Senate Bill 549 ("SB 549").

The funding formula addressed by this Court three and one-half years ago in *Montoy V* provided \$755.6 million in additional funding to schools. This Court found that the legislative process was in substantial compliance with its previous orders. *Montoy v. State of Kansas*, 282 Kan. 9, 24, 138 P.3d 755, 765 (2006) (*Montoy V*). The Court, however, specifically did not hold that the new funding scheme was constitutional. The Court dismissed the case without considering the constitutionality of SB 549. But, the court explained that their dismissal of the case was not to be interpreted as a determination that SB 549 was constitutional. *Montoy V*.

("The constitutionality of S.B. 549 is not before this court. It is new legislation and, if challenged, its constitutionality must be litigated in a new action filed in the district court.").

The Supreme Court's decision to dismiss the case was based largely on the assumption that the Kansas Legislature a) had made genuine efforts to consider the costs of achieving adequate student outcomes across varied populations and settings in Kansas, and b) had gone to sufficient lengths to redesign the state school finance formula in ways that linked that formula with those costs. The court explained:

The legislature has undertaken the responsibility to consider actual costs in providing a suitable system of school finance by commissioning the LPA to conduct an extensive cost study, creating the 2010 Commission to conduct extensive monitoring and oversight of the school finance system, and creating the School District Audit Team within LPA to conduct annual performance audits and monitor school district funding as directed by the 2010 Commission.

### Explanation of Current School Funding Formula

The basis for the current school funding formula, S.B. 549, was signed by the Governor on May 19, 2006. It “materially and fundamentally changed the way K-12 is funded [in Kansas].” *Montoy V*, 282 Kan. 9; 138 P.3d at 760. The following is an explanation of the changes, as described by the Supreme Court in *Montoy V*:

S.B. 549 adopted a 3-year funding scheme for K-12. It also alters the formula components by creating two additional at-risk weightings: the high-density at-risk weighting which provides additional at-risk funding for districts with high percentages of at-risk students; and the nonproficient at-risk weighting, which provides \$ 10 million in additional funding in 2006-07 for students who are not proficient in reading or math, but are not classified as at-risk (eligible for the federal free lunch program).

An additional fundamental change occurred in providing flexibility to local districts to spend money received for at-risk, preschool at-risk, and bilingual education programs interchangeably. More significant are the changes that S.B. 549 made in the LOB.

The school finance formula provided a feature designed to equalize the ability of districts with lower property wealth to raise money through the use of the LOB. The formula was designed so that districts with an assessed valuation per pupil (AVPP) below the 75th percentile would receive supplemental aid in an amount designed to bring them up to par with the district at the 75th percentile of AVPP. Under this formula, districts with an AVPP above the 75th percentile would not receive supplemental state aid. K.S.A. 72-6434.

The legislature has increased equalization in two ways. First, it increased the LOB equalization threshold from the 75th percentile to the 81.2 percentile of AVPP. K.S.A. 2005 Supp. 72-6434(a). Accordingly, districts with an assessed valuation per pupil below the 81.2 percentile would receive supplemental aid on the LOBs in an amount designed to bring those districts up to par with the districts at the 81.2 percentile of AVPP.

Second, the 25 percent LOB cap on supplemental general state aid was eliminated. See S.B. 3, sec. 12(b). In S.B. 549, the LOB authority was increased to 30 percent for the 2006-07 school year and 31 percent for 2007-08 and thereafter. An election would be required to adopt an LOB in excess of 31 percent. S.B. 549 did not change the AVPP threshold and did not impose a limit on equalization supplemental aid.

S.B. 549 further requires that such supplemental state aid be used to meet accreditation requirements, provide programs required by law, and improve student performance. S.B. 549, sec. 20(e)(1). The 3-year cumulative total of such aid under S.B. 549 is \$ 74 million. Added to H.B. 2247/S.B. 3's increase of \$ 47.7 million, the estimated increase since *Montoy II* is \$ 121.7 million.

Under the prior structure, LOB state aid funding has never been considered part of the foundation level of funding provided by the State for a district's basic operating expenses. However, S.B. 549 now requires that supplemental state aid

be applied to meet basic educational requirements, essentially making LOB state aid part of the foundation level of funding.

Further, the 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. *Montoy III*, 279 Kan. at 834 (citing *Montoy II*, 278 Kan. at 774). S.B. 549, however, now provides that school districts are required to use LOB state aid moneys to fund basic educational expenses . . . .

In addition, S.B. 549 increases the BSAPP from \$ 4,257 to \$ 4,316 in 2006-07; to \$ 4,374 in 2007-08; and to \$ 4,433 in 2008-09. That amounts to an increase of \$ 101.25 million over the 3 years, and \$ 183.75 million since January 3, 2005. The low enrollment weighting adjustment was lowered to 1,637 pupils in 2006-07 and 1,622 pupils in 2007-08 and 2008-09. The high enrollment weighting (formerly the correlation weighting) threshold was lowered to correspond to the changes in the low enrollment weighting, resulting in \$ 18.5 million over the 3-year period.

At-risk weighting was increased to 0.278 for 2006-07, 0.378 for 2007-08, and 0.456 for 2008-09, resulting in an estimated 3-year cumulative increase of \$ 152.55 million. The 3-year total for high-density at-risk is \$ 29.6 million. Bilingual weighting remained unchanged at .395 (based upon the number of student contact hours in a bilingual program). Special education excess costs reimbursement is set at 92 percent, totaling an estimated \$ 80.3 million over 3 years, and \$ 111.5 million since January 3, 2005. S.B. 549 provides an estimated total funding increase of \$ 466.2 million. The total increase in funding since January 3, 2005, is an estimated \$ 755.6 million.

S.B. 549 leaves intact the cost-of-living weighting, which is a new local property tax levy intended to al-low districts with higher regional costs to raise additional revenue, purportedly to fund higher teacher salaries, although the requirement that funds be used for that purpose was removed from the statute. See 279 Kan. at 835. While we stayed the effect of this provision last year due to concerns about wealth-based disparities, nevertheless, this new component alters the funding formula.

A description of how the system works, as contained in the Kansas Legislator Briefing Book 2012, is available at the “Summary” tab. A more detailed look at the system, as described in the July 1, 2011 memorandum regarding School District Finance and Quality Performance Act Formula for Computer General State Aid, is available at the “Summary: More Detail” tab. A more detailed look at the operation of the amendments to the 1992 School District Finance and Quality Performance Act and the 1992 School District Capital Improvements State Aid Law is available at the “Amendments” tab.



Education

I-1 School Finance

Other Education reports available

I-2 Higher Education Deferred Maintenance

I-3 Postsecondary Technical Education Authority

Sharon Wenger, Principal Analyst 785-296-3181 Sharon.Wenger@krd.ks.gov

Kansas Legislator Briefing Book 2012

Education

I-1 School Finance

School District Finance and Quality Performance Act; Bond and Interest State Aid Program

2011-2012 School Year

The School District Finance and Quality Performance Act provides the formula for computing General State Aid and Supplemental General State Aid for the 286 unified school districts in Kansas.

- General State Aid Formula

Base State Aid Per Pupil x Adjusted Enrollment = State Financial Aid

- According to KSA 72-6410, the Base State Aid Per Pupil (BSAPP) is \$4,492. However, appropriations only have been made to fund a BSAPP of \$3,780 for the 2011-2012 school year.
Enrollment Adjustments
- Low Enrollment
This weight applies to school districts having unweighted full-time equivalent enrollments of under 1,622. The low enrollment factors were adjusted during the 2006 Session. Note: A district cannot receive both low enrollment and correlation weighting.

Kansas Legislative Research Department

- High Enrollment (Correlation)
This weight applies to districts having unweighted full-time equivalent enrollments of 1,622 and over. It is determined by multiplying the full-time equivalent enrollment by a factor of 0.029942. Note: A district cannot receive both low enrollment and correlation weighting.
Transportation
This weight 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 transportation formula is:
The formula-derived per pupil cost of transportation (a statutorily prescribed factor) divided by the BSAPP, with the product, thereof multiplied by the number of pupils transported 2.5 miles or more in the current year, equals the number of weighted transportation students.
Vocational Education
This weight is determined by multiplying the full-time equivalent 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.
Bilingual Education
This weight is determined by multiplying the full-time equivalent enrollment in bilingual education programs approved by the State Board of Education by a factor of 0.395. Revenue generated by the weight must be spent either for bilingual or at-risk education.
At-Risk Pupil
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 a factor of 0.456.
Pupils who receive services 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.
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 between 40.0 percent and 49.99 percent would use a 0.06 factor.
- Those districts that have free meal student percentages of 50.0 percent or more or have a density of 212.1 students per square mile and a free lunch percentage of at least 35.1 percent and above would use 0.10 factor.

- Medium Density At-Risk Weighting

Those districts having free meal student percentages between 40.0 percent and 49.99 percent multiply the number of at-risk students by a factor of 0.06.

In addition, if a school district becomes ineligible for medium-density at-risk weighting, the weighting shall be the greater of the weighting in the current school year; prior school year; or the average of the current school year and preceding two school years.

- Non-Proficient At-Risk Weighting

This weight is determined by calculating the number of pupils in a school district who are not eligible for the federal free lunch program and who scored below proficiency, or failed to meet the standard established by the State Board of Education, on either the reading or math state assessments in the preceding school year. This number is then multiplied by 0.0465. The product is the non-proficient at-risk weighting for the preceding school year.

If the State Board determines that students in a school district are unable to take the state assessments as a result of a natural or manmade disaster, the non-proficient at-risk weighting for the school district will be equal to the school district's non-proficient at-risk weighting for the preceding school year.

- School Facilities

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

In order to qualify for this weight, the district must have utilized at least 25.0 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.

- 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 a budget that includes 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.

The amount authorized by the tax levy divided by the BSAPP amount equals the ancillary school facilities enrollment adjustment.

The tax levying authority may grant an extension for an additional three years if the school district's board determines 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 may be levied during the extension period is computed by first determining the amount produced by the tax levied 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, 75.0 percent, 50.0 percent, and 25.0 percent, respectively, are the amounts that may be levied during the three-year period.

- 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. Note: 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 Local Option Budget provision of the law. Special education funding remains a separate categorical aid program distributed on the basis of a statutory formula.

- 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 district which has higher than the average statewide cost-of-living based on housing cost. The State Board of Education is required to determine which districts are eligible to apply for this weighting. The district will be deemed eligible if its average cost of living is at least 25.0 percent higher than the statewide average. In addition, to be eligible, the district must have adopted a local option budget in an amount equal to at least 31.0 percent of the state financial aid for the district. The cap that can be levied is 5.0 percent of the district's state financial aid calculation. The local school board is required to pass and publish a resolution authorizing the levy, and the resolution is subject to protest petition.

If a school district already was authorized to levy a tax to finance the cost-of-living weighting in the 2006-07 school year, the law allows the district to continue to levy the tax at a rate that generates the same amount of revenue that was generated during the 2006-07 school year. The law allows this as long as the district adopts a local option budget which equals or exceeds the amount of local option budget adopted in the 2006-07 school year.

- Declining Enrollment Weighting

Any school district that has adopted a local option budget in an amount that equals at least 31.0 percent of the state financial aid for the district and has declining enrollment 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 5.0 percent of the district's general fund budget. The levy is equalized up to the 75th percentile. 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.

o 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).

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. 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.

o Virtual School Act

The 2008 Legislature passed the Virtual School Act. For each school year that a school district has a virtual school, the district is entitled to Virtual School State Aid. Virtual School State Aid is calculated by multiplying the number of full-time equivalent pupils enrolled in a virtual school times 105.0 percent of the unweighted BSAPP.

In addition, virtual schools receive a non-proficient weighting of 25.0 percent multiplied by the full-time equivalent enrollment of non-proficient pupils in an approved at-risk program offered by the virtual school.

Advanced placement course funding of 8.0 percent of the BSAPP is paid to virtual schools for each pupil enrolled in at least one advanced placement course if the pupil is enrolled in a resident school district that:

- Does not offer advanced placement courses;
- Contains more than 200 square miles; or
- Has an enrollment of at least 250 pupils.

Moneys received as Virtual School State Aid are required to be deposited in a Virtual School Fund. Expenses of the virtual school will be paid from this fund.

In addition, a pupil with an Individualized Education Plan (IEP) and attending a virtual school is counted as the proportion of one pupil, to the nearest tenth that the pupil's attendance at the non-virtual school bears to full-time attendance. Any student enrolled in a virtual school is not counted in the enrollment calculation. The law requires school districts to provide adequate training to teachers who teach in virtual schools or virtual programs. The definition of a virtual school requires that students make academic progress toward the next grade level and demonstrate competence in subject matter for each class in which a student is enrolled, and it requires age-appropriate students to complete state assessment tests.

- The Local Option Budget and Supplemental General State Aid

The law provides that, in addition to General State Aid, a school district board may approve Local Option Budget spending in any 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. Certain limitations and constraints apply to use of Local Option Budget authority:

- o Below average spending districts (general fund budget and supplemental general fund budget combined) gain authority in accord with a formula applicable to them.
- o Above average spending districts that had a Local Option Budget in school year 1996-1997 are entitled to a specified percentage of the authority the district was authorized to adopt in 1996-1997.
- o Additional authority can be gained by a school board through adoption of a resolution. If certain conditions are not met in increasing the authority, the resolution is subject to a 5.0 percent protest petition and election procedure (or, in one instance, a board initiated election).
- o A district may operate under authority adopted prior to the 1997-1998 school year until the authority specified in that resolution expires.

- School District Bond Principal and Interest Obligation State Aid Payments

Bond and interest state aid is based on an equalization principle which is designed to provide state aid in an amount inversely related to school district assessed valuation per pupil. One matching rate is applicable for the duration of bond and interest 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 5.0 percent for contractual bond and interest obligations incurred prior to July 1, 1992, and 25.0 percent for contractual bond and interest obligations incurred on July 1, 1992 and thereafter.

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

**Base State Aid Per Pupil History**

2005-06	\$4,257
2006-07	\$4,316
2007-08	\$4,374
2008-09	\$4,400 (originally \$4,433)
2009-10	\$4,280 (following adjournment of the 2009 Legislature)
2009-10	\$4,012 (after the Governor's November 2009 allotment)
2010-11	\$3,937
2011-12	\$3,780

- Fund Flexibility

Legislation passed in 2011 allows school districts to expend a portion of the unencumbered balances held in particular funds. The following funds would be considered the first priority for use: at-risk education; bilingual education; contingency reserve; driver training; parent education; preschool-aged at-risk; professional development; summer program; virtual school; and vocational education. The textbook and student materials revolving fund is the second priority with the special education fund the last priority for use. Local school boards are not limited to using the funds in the priority list and are not required to expend the total unencumbered balance before utilizing the unencumbered balance in another fund.

This law limits the amount of money a school district can use from its unencumbered balance through a formula that will be calculated by the State Board of Education.

The formula follows:

- o Determine the adjusted enrollment of the district, excluding special education and related services weighting;
- o Subtract the amount of Base State Aid Per Pupil (BSAPP) appropriated to the Department of Education for FY 2012 from \$4,012; and
- o Multiply the difference between the amount of BSAPP appropriated to the Department of Education and \$4,012 by the adjusted enrollment.

Implementation of the bill establishes the aggregate amount that can be expended from the unencumbered balance for the 2011-2012 school year. The bill also requires that 65.0 percent of the aggregate amount authorized to be spent would be used in the classroom or for instruction as defined in KSA 72-64c01.

*Kansas Legislative Research Department*

For more information, please contact:

Sharon Wenger, Principal Analyst  
[Sharon.Wenger@klrd.ks.gov](mailto:Sharon.Wenger@klrd.ks.gov)

Reagan Cussimano, Senior Fiscal Analyst  
[Reagan.Cussimano@klrd.ks.gov](mailto:Reagan.Cussimano@klrd.ks.gov)

Kansas Legislative Research Department  
300 SW 10th Ave., Room 68-West, Statehouse  
Topeka, Kansas 66612  
Phone: (785) 296-3181  
Fax: (785) 296-3824

# KANSAS LEGISLATIVE RESEARCH DEPARTMENT

68-West-Statehouse, 300 SW 10th Ave.  
Topeka, Kansas 66612-1504  
(785) 296-3181 • FAX (785) 296-3824

kslegres@klrd.ks.gov

http://www.kslegislature.org/klrd

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

(2011-12 School Year)

### SCHOOL DISTRICT FINANCE AND QUALITY PERFORMANCE ACT FORMULA FOR COMPUTING GENERAL STATE AID

The following memorandum is a primer on school finance in Kansas. It provides a basic description of the major components of the Kansas school finance formula for the 2011 - 2012 school year.

One major component of the Kansas school finance formula is the technique known as student weightings. In addition to one full-time equivalent student receiving an amount of funding, known as Base State Aid Per Pupil, weightings are added to student count to reflect additional costs associated with serving that student. This memorandum will explain this concept in greater detail.

Any comments or questions regarding this information can be directed to Sharon Wenger, Principal Analyst, Kansas Legislative Research Department, at 785-296-3181 or email her at [Sharon.Wenger@klrd.ks.gov](mailto:Sharon.Wenger@klrd.ks.gov).

STATE FINANCIAL AID	<u>minus</u>	LOCAL EFFORT	<u>equals</u>	GENERAL STATE AID
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Kansas Legislative Research Department

July 1, 2011

**PART A**

**STATE FINANCIAL AID**

BASE STATE AID PER PUPIL (BSAPP)	<i>times</i>	ADJUSTED ENROLLMENT	<i>equals</i>	STATE FINANCIAL AID (SFA)
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The BSAPP for school year 2011-2012 is \$3,780. 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 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 full-time equivalent (FTE) enrollments of under 1,622. The weights were based on 1991-92 school district general fund budgets per pupil. In 2006 SB 549, the factor table was adjusted to reflect the higher base state aid per pupil. With a Base State Aid Per Pupil (BSAPP) of \$3,780 the low enrollment weight of districts having enrollments of 100 or fewer is \$3,834.18 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**

FTE Enrollment (Sept. 20)*		Factor		Low Enrollment Weight Adjustment
200	times	.749259	equals	149.9

\* See Correlation Weighting explanation.

**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 \$3,780; the high enrollment weighting is \$132.46 per pupil for all districts with enrollments of 1,622 and over.

**EXAMPLE**

FTE Enrollment (Sept. 20)*		Factor		Correlation Weight Adjustment
5,000	times	0.03504	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 = \$3,780

#### THEN

\$ 646	equals	0.17	and	500	so	weight adjustment	equals	85
\$3,780				x 0.17		for transportation		
				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	<b>times</b>	0.395	<b>equals</b> 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 .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	<b>times</b>	0.456	<b>equals</b> 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 0.10 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 0.10 factor.

**Medium Density At-Risk Weighting**

- Those districts that have an enrollment of at least 40 percent but less than 50 percent at-risk pupils are eligible for the medium density at-risk weighting. The medium density at-risk pupil weighting of each school district shall be determined by multiplying the number of at-risk pupils by .06. The product is the medium density at-risk pupil weighting of the district.
- If a school district becomes ineligible for medium density or high density at-risk pupil weighting because enrollment of at-risk pupils in the district falls below the requirement of subsection (6a), the weighting of the district shall be the greater of: (1) the weighting in the current school year; (2) the weighting in the prior school year;

or (3) the average of the weighting in the current school year and the preceding two school years.

**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:  $200 \times .0465 = 9.3$  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 .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.

**EXAMPLE**

<u>Enrollment of Pupils in New School Facility (Sept. 20)</u>	<u>Factor</u>	<u>School Facilities Weight Adjustment</u>
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	<b>divided by</b> \$3,780	<b>equals</b> 145.51

**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	<b>divided by</b> \$3,780	<b>equals</b> 171.96

**10. Declining Enrollment Weighting**

Any school district that is at its maximum local option budget 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<sup>th</sup> 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	\$3,780	equals	112.62

**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 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 local option budget (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	\$3,780	equals	145.51

\* 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.

**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 <u>less</u> Preschool Aged At-Risk Program Enrollment	1,375
	September 20 Enrollment in Preceding School Year <u>less</u> Preschool Aged At-Risk Program Enrollment	1,390
	Alternative Enrollment to Be Used in Current School Year	1,390
B.	September 20 Enrollment <u>less</u> 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 preschool 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:

<u>Example</u>	
\$ 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, <sup>1</sup>
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, <sup>1</sup>
None	10. Rental/lease vehicle excise tax receipts, <sup>1</sup> 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).
<b>TOTAL LOCAL EFFORT</b>	<b>\$2,510,000<sup>2</sup></b>

<sup>1</sup> 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.

<sup>2</sup> If the sum of a district's local effort exceeds its State Financial Aid 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 State Financial Aid (SFA).

EXAMPLE

	\$	7,838,208	SFA*
<u>minus</u>		<u>2,510,000</u>	Local Effort**
<u>equals</u>	\$	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.			

\* \$3,780 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 \$3,780 BSAPP is reduced to the level at which entitlements may be funded.

\*\* Sum of local effort items.

Note: SB 84 (2009 Legislative Session) provides an alternative formula for the calculation of the local option budget of a school district. The bill authorizes a school district to calculate its local option budget 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 local option budget using an amount equal to the amount appropriated for state aid for special education and related services in school year 2008-2009. (A school district may enact a local option budget 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 State Financial Aid (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 1996-97 are entitled to a specified percentage of the LOB authority the district was authorized to adopt in 1996-97.
- 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 1997-98 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 (SBOE) makes the following determinations:

- The average budget per full-time equivalent (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 2005-06, District A has an enrollment of 600 unweighted FTE students and a GF/LOB BPP of \$8,666.66 (total GF/LOB Budget = \$5,200,000). Under the formula, District A qualifies for LOB authority in 2005-06, as follows:

	\$	9,257.00	(GF/LOB BPP computed from above table)			
<b>minus</b>		<u>8666.66</u>	(District's GF/LOB BPP—Preceding School Year)			
<b>equals</b>	\$	590.34	(Difference)	<b>times</b>	600 FTE (Unweighted Enrollment)	<b>equals</b> \$ 354,204 (Potential LOB Authority)
<b>then</b>	\$	<u>354,204</u>		<b>equals</b>	6.81%	
	\$	5,200,000				
2007-08 GF/LOB is	\$	5,200,000		<b>so</b>	\$ 5,200,000	<b>times</b> 6.81% <b>equals</b> \$354,120 (Additional 2008-09 LOB Amount)

**LOB Authority for Average or Above Average Spending Districts  
That Had LOBs in 1996-97**

The board of education of any "average" or "above average spending" school district that had an LOB in 1996-97 may adopt on its own motion an 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 1996-97:

- 80.0 percent in 2001-02, and thereafter.

**EXAMPLE**

District B had 20.0 percent LOB authority in 1996-97. The LOB authority this district could adopt on its own motion in subsequent years would be:

<b>2001-02 and thereafter</b>	<b>16.0</b>
<b>NOTE:</b> 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 1997-98, 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 1997-98 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 1997-98 Under the "Below Average Spending" Formula and Whose LOB Authority Exceeds the Average for the Enrollment Grouping After the 1997-98 School Year**

If, after the 1997-98 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:

- If the district is operating under an LOB with a fixed LOB percentage increase and a specified number of years to which it applies, the sum of the LOB percentage authority of the district for the preceding year and the additional LOB authority in the district's resolution; or
- If the district is operating under a resolution authorizing continuous and permanent LOB authority, the LOB percentage adopted by the board.

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 district's LOB authority is equal to the average percent used of 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)	<b>subtracted from</b>	1.0	<b>times</b>	District's Local Option Budget	<b>equals</b>	Supplemental General State Aid
81.2nd Percentile Assessed Valuation Per Pupil (Prior Year)						

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 81.2nd percentile of AVPP. Under this formula, districts having AVPP above the 81.2nd percentile receive no supplemental general state aid.

**EXAMPLES**

DISTRICT 1		DISTRICT 2	
Prior Year District AVPP	\$50,500.00	Prior Year District AVPP	\$86,520
Prior Year 81.2nd Percentile AVPP	\$ 83,625	Prior Year 81.2nd Percentile AVPP	\$83,625
<b>so</b>		<b>so</b>	
\$50,500		\$86,520	
\$83,625	<b>equals then</b> 0.6039	\$83,625	<b>equals</b> 1.0346
	1.0000		
<b>minus</b>	<u>0.6039</u>		
<b>equals</b>	0.3961 State Aid Ratio		
	<b>then</b>		
	\$500,000 LOB		
<b>times</b>	<u>0.3961</u> State Aid Ratio		
<b>equals</b>	\$198,050 Supplemental General State Aid		

ATTACHMENT II

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

Bond and interest 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 bond and interest 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 bond and interest obligations incurred prior to July 1, 1992, and 25 percent for contractual bond and interest 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 BOND AND INTEREST PAYMENT OBLIGATION FOR SCHOOL YEAR	times	STATE AID PERCENTAGE FACTOR	equals	CAPITAL IMPROVEMENTS STATE AID
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EXAMPLES

DISTRICT 1		DISTRICT 2	
B&I Payment Obligations		B&I Payment Obligation	
Before 7-1-92	\$100,000	Before 7-1-92	\$100,000
After 7-1-92	\$ 80,000	After 7-1-92	\$ 80,000
District AVPP	\$ 47,510	District AVPP	\$ 58,510
	\$0		\$0
Before 7-1-92	\$100,000	After 7-1-92	\$ 80,000
Percentage Factor (From Table)	x 10%	Percentage Factor (From Table)	x NA
B&I State Aid	\$ 10,000	B&I State Aid	NA
	\$ 24,000		\$ 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

AVPP	Bond and Interest State Aid Percentages		State Aid Percentage Factor
	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%
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	

# KANSAS LEGISLATIVE RESEARCH DEPARTMENT

68-West-Statehouse, 300 SW 10th Ave.  
Topeka, Kansas 66612-1504  
(785) 296-3181 • FAX (785) 296-3824

kslegres@kird.ks.gov

http://www.kslegislature.org/kird

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## AMENDMENTS TO THE 1992 SCHOOL DISTRICT FINANCE AND QUALITY PERFORMANCE ACT AND THE 1992 SCHOOL DISTRICT CAPITAL IMPROVEMENTS STATE AID LAW (FINANCE FORMULA COMPONENTS)

This memorandum provides a chronology of the main amendments to two 1992 school finance enactments. Another Legislative Research Department memorandum describes in some detail the principal features of both of these laws.

### SCHOOL DISTRICT FINANCE AND QUALITY PERFORMANCE ACT

#### Primary Funding Program

#### State Financial Aid (SFA)

**Base State Aid Per Pupil (BSAPP).** A 1993 amendment, applicable beginning in the 1992-93 school year, provides that if appropriations in any school year for general state aid to school districts are not sufficient to pay districts' computed entitlements, the State Board of Education will reduce the Base State Aid Per Pupil to the amount necessary to match general state aid entitlements of districts with the amount of general state aid that is available. Following is a history of BSAPP:

School Year	BSAPP
1992-93	\$ 3,600*
1993-94	3600
1994-95	3600
1995-96	3,626
1996-97	3,648
1997-98	3,670
1998-99	3,720
1999-00	3,770
2000-01	3,820
2001-02	3,870
2002-03	3,863**
2003-04	3,863**
2004-05	3,863**
2005-06	4,257
2006-07	4316
2007-08	4,374
2008-09	4,400
2009-10	4,012***
2010-11	4,012

School Year	BSAPP
2011-12	3780

\* In 1992-93, some school districts did not benefit fully from BSAPP at \$3,600. In that year, SFA was the lesser of "formula" SFA or "transitional" SFA. Formula SFA was the district's BSAPP times its adjusted enrollment, and transitional SFA was the district's 1991-92 operating budget plus its state transportation, bilingual education, and vocational education aid and the proceeds of any 1991 transportation tax levy, the sum of which was increased by 10.0 percent plus the percentage equivalent to any enrollment increase in 1992-93 over 1991-92.

\*\* In 2002-03, 2003-04, and 2004-05, the statute states that the BSAPP is \$3,890; however, \$3,863 was funded.

\*\*\* After the 2009 Legislative Session ended, the Governor enacted allotments and the BSAPP was lowered to \$4,218 from \$4,280; then, in November 2009, the Governor enacted an additional allotment, bringing BSAPP to \$4,012.

During the regular 2005 Legislative Session, HB 2247 deleted correlation weighting and placed the funding attributable to this weighting into the BSAPP which increased it to \$4,107. In addition, \$115 was added to the BSAPP, which increased the amount to \$4,222. The 2005 Special Session provided additional funding of \$35 for a total BSAPP amount of \$4,257 in House Substitute for SB 3.

**Definition of the Term "Pupil."** A 1993 amendment provided that a pupil enrolled in grade 11 who concurrently is enrolled in a school district and a postsecondary education institution is counted as one full-time equivalent (FTE) pupil if the school district and postsecondary enrollment is at least five-sixths time. Otherwise, the combined enrollment is determined to the nearest one-tenth of full-time enrollment. (Under prior law, only pupils in grade 12 who were involved in concurrent enrollment were counted as one FTE if their combined enrollment was at least five-sixths time.)

In 1994, an amendment specified that the term "pupil" *excludes* pupils who reside at the Flint Hills Job Corps Center and pupils confined in and receiving services provided by a school district at a juvenile detention facility. School districts receive funding under a different law for providing educational services to children in these facilities. The district receives the lesser of two times BSAPP or actual costs of the education services provided. Subsequent legislation has expanded this exclusion from coverage under the general school finance law, as follows:

- **1995:** The Forbes Juvenile Attention Facility was added to the legislation that applies to the Flint Hills Job Corps Center and juvenile detention facilities.
- **1999:** An amendment added the term "juvenile detention facility" and defined it to include any community juvenile corrections center or facility, the Forbes Juvenile Attention Facility, and four newly designated facilities: Sappa Valley Youth Ranch of Oberlin, Parkview Passages Residential Treatment Center of Topeka, Charter Wichita Behavior Health System, L.L.C., and Salvation Army/Koch Center Youth Services.
- **2000:** An amendment deleted from the listing two facilities that had been added in 1999 due to their closure and added six new ones. Facilities added to the listing were the Clarence M. Kelley Youth Center, Trego County Secure Care Center, St. Francis Academy at Atchison, St. Francis Academy at Ellsworth, St.

Francis Academy at Salina, and St. Francis Center at Salina. The two facilities deleted were the Parkview Passages Residential Treatment Center of Topeka and Charter Wichita Behavior Health System, L.L.C.

- **2001:** An amendment added three new facilities: Liberty Juvenile Services and Treatment (Wichita USD 259), King's Achievement Center (Goddard USD 265), and Clarence M. Kelley Transitional Living Center (Topeka USD 501).
- **2003:** An amendment modified the definition of the term "juvenile detention facility" to mean:
  - a secure public or private facility, but not a jail, used for the lawful custody of accused or adjudicated juvenile offenders;
  - a level VI treatment facility licensed by the Kansas Department of Health and Environment which is a psychiatric residential treatment facility for individuals under the age of 21, and which conforms with the regulations of the Centers for Medicare/Medicaid Services and the Joint Commission on Accreditation of Health Care Organizations governing such facilities; and
  - a facility specifically identified in the statute (no new facilities were added to the listing by the 2003 Legislature).
- **2004:** An amendment specified that the term "pupil" excludes pupils enrolled in a virtual school in a district, but who is not a resident of the state of Kansas.
- **2007:** An amendment allows a student in the custody of the Secretary of Social and Rehabilitation Services or the Commissioner of the Juvenile Justice Authority and who is enrolled in Wichita USD 259, but housed, maintained, and receiving educational services at the Judge James V. Riddel Boys Ranch to be counted as two pupils. Another amendment specified that a pupil enrolled in a district, but housed, maintained, an receiving educational services at a psychiatric residential treatment facility, as defined by KSA 72-8187, is not counted. An additional amendment modified the definition of the term "juvenile detention facility" to mean any public or private facility, but not a jail, used for the lawful custody of accused or adjudicated juvenile offenders.
- **2009:** An amendment allows a student in the custody of the Secretary of Social and Rehabilitation Services or the Commissioner of the Juvenile Justice Authority and who is enrolled in the Atchison School District to be counted as two pupils.

A 1998 amendment added to the definition of the term "pupil" preschool-aged at-risk pupils who are enrolled in the district and are receiving services under an approved at-risk pupil assistance plan maintained by a school district. Such a pupil is counted as 0.5 FTE in the district. Preschool aged at-risk pupils are four-year-olds who have been selected by the State Board of Education in accord with guidelines consonant with those governing selection of pupils for participation in the Head Start program. The 1998 legislation authorized the State Board to select not more than 1,350 pupils to be counted in any school year. A 1999 amendment expanded the program to serve up to 1,794 pupils; a 2000 amendment expanded the program to serve up to 2,230 pupils; and a 2001 amendment expanded the program to serve up to 3,756

pupils in 2001–02 and 5,500 pupils in 2002–03 and thereafter. A 2005 amendment removed the cap on the number of children who can be served.

**Decreasing Enrollments.** A 1993 amendment provided that when the enrollment in the current school year had decreased from the preceding school year, a district could add to its enrollment for the current school year one-half of the number of pupils by which the enrollment in the current school year had decreased from the enrollment in the preceding school year, provided that no adjustment was made for decreases in enrollment in the current school year that exceeded 4.0 percent of the enrollment in the preceding school year. This provision became effective for the 1993–94 school year.

Legislation in 1997, which replaced the 1993 enactment, provided that a district in which enrollment has decreased from the preceding school year would use the enrollment of the preceding school year. Under this provision, the low enrollment and correlation weights of the preceding year are used. All other weights are determined on a current year basis.

Legislation in 1999 added a new condition applicable to districts that are experiencing enrollment decreases. The average of the sum of the enrollment for the current school year and for the two immediately preceding school years will be used in determining the district's general fund budget when the enrollment so determined is greater than the enrollment in either the current or the immediately preceding school year. (The low enrollment and correlation weights of the previous year are used. All other weights are determined on a current year basis.) The 1999 amendment also included technical changes to assure that any preschool aged at-risk four-year-old pupils receiving service under this law are treated only as an add-on based on the current year's enrollment of such pupils.

Legislation in 2002 provides that, if the State Board of Education determines that the enrollment of a school 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 will be 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, except that the enrollment decrease provisions of the general law apply if they are more beneficial to the district than the four-year average. For this purpose, "disaster" means the occurrence of widespread or severe damage, injury, or loss of life or property resulting from flood, earthquake, tornado, wind, storm, drought, blight, or infestation.

(For discussion of special one-year exceptions, see "Miscellaneous" heading.)

**Operating Expenses.** A 1994 amendment excluded from the definition of the term "operating expenses" expenditures for which the district receives state reimbursement grants for the provision of educational services for pupils residing at the Flint Hills Job Corps Center or confined in juvenile detention facilities. A 1999 amendment expanded the listing of facilities to which this provision applies to include the Forbes Juvenile Attention Facility, Sappa Valley Youth Ranch of Oberlin, Parkview Passages Residential Treatment Center of Topeka, Charter Wichita Behavior Health System, L.L.C., and Salvation Army/Koch Center Youth Services. A 2000 amendment added six and deleted two facilities from this listing. Those added were: Clarence M. Kelley Youth Center, Trego County Secure Care Center, St. Francis Academy at Atchison, St. Francis Academy at Ellsworth, St. Francis Academy at Salina, and St. Francis Center at Salina. Those deleted (due to closure) were the Parkview Passages Residential Treatment Center of Topeka and Charter Wichita Behavior Health System, L.L.C. A 2001 amendment added Liberty Juvenile Services and Treatment (Wichita USD 259), King's Achievement Center (Goddard USD

265), and Clarence M. Kelley Transitional Living Center (Topeka USD 501). A 2002 amendment deleted the statutory listing under this provision of the law and replaced it with a reference to the definition of "juvenile detention facility" contained in the main definition section of the school finance law (KSA 2001 Supp. 72-6407, as amended).

**Low Enrollment Weight.** A 1995 amendment changed application of the low enrollment weight from all school districts with under 1,900 enrollment to all districts under 1,800 enrollment, to be phased in over a four-year period, as follows: under 1,875 in 1995–96, 1,850 in 1996–97, 1,825 in 1997–98, and 1,800 in 1998–99 and thereafter. A 1997 amendment accelerated the foregoing schedule so that as of July 1, 1997, the low enrollment weight provision was applicable to school districts with under 1,800 enrollment. The law since has been amended in both 1998 and 1999. A 2005 amendment changed the formula for computing the low enrollment weight for those districts to which the weight applies and provided for low enrollment weighting to districts with less than 1,662 students. A 2006 amendment changed the formula by decreasing the enrollment to 1,637 in 2007; and 1,622 in 2008 and thereafter. (See table below.)

School Year	Low Enrollment Weight Threshold
1992–93	under: 1,900
1993–94	1,900
1994–95	1,900
1995–96	1,875
1996–97	1,850
1997–98	1,800
1998–99	1,750
1999–00	1,725
2000–01	1,725
2001–02	1,725
2002–03	1,725
2003–04	1,725
2004–05	1,725
2005–06	1,662
2006–07	1,637
2007–08	1,622

For districts greater than 1,662 enrollment, low enrollment weight was replaced by the correlation weight (discussed below).

**Correlation (High Enrollment) Weight.** A 1995 amendment added the "correlation weighting" pupil weight. This provision was to be phased in over a four-year period, as follows: in 1995–96, the weight was available to all districts with enrollments of 1,875 or more; in 1996–97, to districts of 1,850 or more; in 1997–98, to districts of 1,825 or more; and in 1998–99, to districts of 1,800 or more. The law also provided that if in any year the appropriation of general state aid was insufficient to fully fund the BSAPP, taking into account the correlation weight step scheduled for implementation in that year, only the portion of the correlation weight step would be implemented that could be accomplished without prorating the BSAPP. That point on the implementation schedule was to serve as the reference point in the next year for continuing the correlation weight implementation process. Each "regular" implementation step was designed to lower the threshold to apply to school districts having 25 fewer FTE pupils than in the preceding school year. The process was to continue until the correlation weight applied to all districts with 1,800 or more enrollment.

If the correlation weight had been phased in over a four-year period in four equal steps, the weight would have been 0.9031 percent of BSAPP in 1995–96, 1.8062 percent in 1996–97, 2.7090 percent in 1997–98, and 3.6121 percent in 1998–99 and thereafter.

Legislation in 1997 accelerated the correlation weight implementation schedule so that the provision was fully implemented in the 1997–98 school year. That meant that the correlation weight applied at the 3.6121 percent rate to all districts having enrollments of 1,800 or more beginning in the 1997–98 school year. The correlation weight factor was modified by both the 1998 and 1999 Legislatures. A 1998 amendment applied the correlation weight factor to all school districts with 1,750 and over enrollment, beginning in the 1998–99 school year and the 1999 amendment applied the correlation weight factor to all school districts with 1,725 and over enrollment, beginning in 1999–2000. A 2005 amendment accelerated the correlation weight to 1,662 or more beginning in the 2005–06 school year. A 2006 amendment changes the name from "correlation weighting" to "high enrollment weighting" and adjusts the weighting to 1,637 in the 2006–07 school year and 1,622 in the 2007–08 school year. A history of correlation weight adjustment is shown below.

School Year	Correlation Weight Threshold	Correlation Weight (Percent)
1992–93	none	0.0
1993–94	none	0.0
1994–95	none	0.0
1995–96	1,875 and over	0.9031
1996–97	1,850	1.8062
1997–98	1,800	3.6121
1998–99	1,750	5.4183
1999–00	1,725	6.3211
2000–01	1,725	6.3211
2001–02	1,725	6.3211
2002–03	1,725	6.3211
2003–04	1,725	6.3211
2004–05	1,725	6.3211
2005–06	1,662	0.0215
2006–07	1,637	0.0299
2007–08	1,622	0.0350

**At-Risk Pupil Weight.** A 1997 amendment increased the at-risk pupil weight from 0.05 to 0.065, commencing with the 1997–98 school year. A 1998 amendment increased this weight to 0.08, commencing with the 1998–99 school year, a 1999 amendment increased the weight to 0.09 commencing with the 1999–2000 school year, and a 2001 amendment increased the weight to 0.10 in 2001–02 and thereafter. A 2005 amendment increased the at-risk pupil weight from 0.10 to .193 for the 2005–06 school year, and thereafter.

The 2001 amendment also directed that an amount equal to 0.01 be used by the district for achieving mastery of basic reading skills by completion of the third grade in accordance with standards established by the State Board of Education. A school district must include

information in its at-risk pupil assistance plan as the State Board of Education requires regarding the district's remediation strategies and its results in achieving the State Board's third grade reading mastery standards. A school district's report must include information documenting remediation strategies and improvement made by pupils who performed below the expected standard on the State Board's second grade diagnostic reading test. A school district whose third grade pupils substantially meet the State Board standards for mastery of third grade reading skills, upon request, may be released by the Board from the requirement to dedicate a specific portion of the at-risk weight to this reading initiative.

School Year	At-Risk Pupil Weight (Percent)
1992-93	5.0
1993-94	5.0
1994-95	5.0
1995-96	5.0
1996-97	5.0
1997-98	6.5
1998-99	8.0
1999-00	9.0
2000-01	9.0
2001-02	10.0*
2002-03	10.0*
2003-04	10.0*
2004-05	10.0*
2005-06	19.3*
2006-07	27.8*
2007-08	37.8
2008-09	45.6

\* 1.0 percent is targeted at mastery of third grade reading skills.

**High Density At-Risk Weighting.** A 2006 amendment provided, beginning in 2006-07, a new weighting factor for school districts with high percentages of students receiving free meals. Those districts that have free meal percentages between 40.0 percent and 49.9 percent receive an additional weighting of 0.04 percent; and districts with 50.0 percent or more free meal students receive an additional weighting of 0.08 percent. Districts with a density of 212.1 students per square mile and a free lunch rate of 35.1 percent and above receive an additional weighting of 0.8 percent.

This weighting was amended during the 2008 Legislative Session. Districts having an enrollment of at least 40.0 percent at-risk pupils have an additional weighting of 0.06. Enrollments of at least 50.0 percent at-risk pupils or an enrollment of at least 35.1 percent at-risk pupils and 212.1 pupils per square mile receive an additional weighting of 0.10. The Legislature changed the law allowing school districts to use current school year, prior school year, or the average of the weighting in the current school year and the preceding two school years.

**Non-Proficient At-Risk Weighting.** A 2006 amendment provides, for school year 2006-07, a new weighting factor for students who, based on state assessments, are not proficient in reading or math and who are not eligible for the federal free lunch program. This weighting is computed on a percentage of students below proficient and not on free lunch divided by the number of students taking the test and applied to the enrollment (less the number of students on free lunch) of the school district.

**Bilingual Education Weight.** A 2005 amendment provides, beginning in 2005-06, an increased weighting factor for bilingual education classes. The weighting factor is increased from 0.2 to 0.395.

**Ancillary School Facilities Weight.** A 1997 amendment provides, beginning in 1997-98, an amount equal to the levy approved by the State Court of Tax Appeals (SCOTA) to defray costs associated with commencing operation of a new facility is converted to a pupil weight called "ancillary school facilities weighting," this weight to be calculated each year by dividing the amount of the levy authority approved by SCOTA by BSAPP.

The school district levies a property tax for the amount approved by SCOTA. See "New School Facilities—Special Taxing Authority" (page 18). The proceeds of the tax levy are forwarded to the State Treasurer who credits the money to the State School District Finance Fund (SSDFF). Effectively, there was no change in the previous policy that this element of new facilities spending authority be supported entirely by the property taxpayers of the school district. The main differences are that the spending authority becomes a part of the school district general fund rather than additional LOB authority and the proceeds of this school district tax levy are credited to the SSDFF rather than to the district's supplemental general fund.

A 2011 amendment allows any school district having authority for ancillary school facilities weighting, cost of living weighting, or declining enrollment weighting to spend the motor vehicle-related revenue derived as a result of these weightings. Prior law allowed a school district to receive this revenue, but not spend the revenue.

**Declining Enrollment Weighting.** A 2005 amendment created a new declining enrollment weighting in addition to the other provisions provided in law for declining enrollment (See page 4). The provision provides that any district that is at its maximum LOB and has declined in enrollment 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 5.0 percent of the district's general fund budget. The levy would be equalized by the state up to the 75th percentile. However, if the amount of appropriation for declining enrollment state aid is less than the amount each district is entitled to receive, the State Board will prorate the amount appropriated amount the districts.

A 2011 amendment allows any school district having authority for ancillary school facilities weighting, cost of living weighting, or declining enrollment weighting to spend the motor vehicle-related revenue derived as a result of these weightings. Prior law allowed a school district to receive this revenue, but not spend the revenue.

**Special Education and Related Services Weighting.** A 2001 provision directed that the amount of state special education services categorical aid a school district receives during the current school year be converted to a pupil weighting for purposes of determining the State Financial Aid of a school district (the school district's general fund budget). This is accomplished by dividing the amount of state special education services aid the district receives by BSAPP and treating the result as an additional number of weighted pupils of the district. In turn, an

amount equal to the amount attributable to the weighting is defined as "local effort" and, therefore, as a deduction in computing the general state aid entitlement of the district.

The amount of state special education services aid the district receives is deposited in the school district general fund and is then transferred to the district's special education fund. This procedure, which increases the size of a school district's general fund budget for purposes of the LOB calculation, was especially beneficial to school districts which sponsored a special education cooperative, as it was the sponsoring district that received state special education services aid distribution. This change in law did not benefit the other districts in the cooperative nor did it benefit districts in a special education interlocal agreement, as the state special education services aid was paid to the interlocal and not to any of the individual school districts.

Legislation in 2002 provided that each school district which had paid amounts for special education and related services pursuant to a special education cooperative agreement or a special education interlocal agreement was entitled to special education services aid in proportion to the amount paid by the district in the current school year for the provision of special education and related services to the aggregate of all amounts paid by all school districts participating in the interlocal or cooperative entity in the current school year.

Legislation in 2011 changed the starting date of the portion of the special education school finance formula that determines the minimum and maximum amount of special education state aid a school district may receive. This provision now goes into effect for the 2012–13 and the 2013–14 school years and ends on June 30, 2014. (Prior law would have made this section effective with the 2011–12 school year with an expiration date of June 30, 2013.)

**Legislation in 2008.** Medicaid Replacement State Aid entitles each school district providing special education and related services to pupils who receive Medicaid to receive Medicaid Replacement State Aid, subject to appropriation, in an amount not to exceed \$9.0 million per year. The State Board of Education will compute Medicaid Replacement State Aid for each district by dividing the appropriation by the number of pupils in the state receiving Medicaid special education and related services and multiplying the quotient by the number of exceptional pupils receiving Medicaid-provided special education and related services in each school district. The product is the amount of Medicaid Replacement State Aid the district is entitled to receive. The Kansas Health Policy Authority will certify the number of exceptional pupils receiving Medicaid services as of March 1 of each year. This provision takes effect in school year 2007–08 and ends with school year 2009–10.

**Cost-of-Living Weighting.** A 2006 amendment creates a new cost-of-living weighting. The provision provides that any district in which the average appraised value of a single-family residence is more than 25.0 percent higher than the statewide average value may apply for additional funding from the State Board of Education in an amount not to exceed 0.05 percent of the district's budget. The local school board would be required to pass and publish a resolution authorizing the levy, subject to protest petition, and the district also must have levied the maximum percentage allowed Local Option Budget.

A 2011 amendment allows any school district having authority for ancillary school facilities weighting, cost of living weighting, or declining enrollment weighting to spend the motor vehicle-related revenue derived as a result of these weightings. Prior law allowed a school district to receive this revenue, but not spend the revenue.

## Local Effort

A 1993 amendment clarified that any tuition a school district receives for enrollment of a nonresident student for "regular" education services is to be deposited in the school district general fund and treated as a portion of the district's "local effort." (This provision became effective for the 1992–93 school year.)

Legislation in 1995 phases out the school district general fund budget participation in motor vehicle tax distributions over the period of FY 1996 through FY 2000.

A 1997 amendment provided that 75.0 percent (rather than 100.0 percent) of the federal Impact Aid that may be counted as local effort under the state's school finance law will be so counted. An exception was that the deduction remained at 100.0 percent for the Fort Leavenworth school district. A 1999 amendment reduced to 75.0 percent the Impact Aid deduction for the Fort Leavenworth school district. An amount equal to the federal impact aid not subject to deduction as local effort may be credited to any program weighted fund, categorical fund, or to the capital outlay fund. A 2005 amendment reduced from 75.0 percent to 70.0 percent of the federal Impact Aid that may be counted as local effort under the state's school finance law.

A 2001 amendment directs that state aid a school district receives for special education services, including aid under the catastrophic special education aid program, is treated as local effort. (This was added in connection with the 2001 special education and related services weight described above.)

## General Fund Property Tax Rate

A 1994 amendment set the school district general fund property tax rate applicable for the 1994–95 and 1995–96 school years at 35 mills. (The 35 mill tax rate in 1994–95 and 1995–96 was not a change in policy from the previous law, except that under the previous law, the 35 mill rate would have continued from year to year until changed by the Legislature. Rather, the amendment responded to the opinion of the Shawnee County District Court in the school finance litigation in which the judge interpreted the former property tax levying provision to constitute a "state" property tax levy. As such, the tax could not be imposed for a period in excess of two years. This finding was not contested before the Kansas Supreme Court in the school finance litigation that on December 2, 1994, upheld the constitutionality of 1992 and 1993 school finance legislation.)

A 1996 amendment set the school district general fund property tax rate at 35 mills for the 1996–97 school year and 33 mills for the 1997–98 school year. The legislation further specified that this rate could not exceed 31 mills for the 1998–99 school year.

A 1997 amendment modified the 1996 legislation (described above) by setting the school district general fund property tax rate for the 1997–98 and 1998–99 school years at 27 mills in each year. This legislation also provided for exemption of \$20,000 of the appraised valuation of residential property from application of that levy.

A 1998 amendment set the school district general fund property tax rate for the 1998–99 and 1999–2000 school years at 20 mills in each year. Also exempted from application of this levy for the two-year period was \$20,000 of the appraised valuation of residential property. A 1999 amendment extended the 20 mill uniform tax rate and the \$20,000 residential property tax

exemption to the 2000–01 school year, and a 2005 amendment extended these provisions to the 2005–06 and 2006–07 school years.

**History of Uniform General Fund Mill Rate**

Tax Year	Rate (Mills)
1992	32
1993	33
1994	35
1995	35
1996	35
1997	27*
1998	20*
1999	20*
2000	20*
2001	20*
2002	20*
2003	20*
2004	20*
2005	20*
2006	20*
2007	20*
2008	20*
2009	20*

\*Plus \$20,000 residential property appraised valuation exemption.

**Contingency Reserve Fund**

A 1993 amendment increased the statutory maximum cap on the contingency reserve fund from 1.0 percent to 2.0 percent of the general fund budget. Further, the 1993 amendment provided that if the amount in the contingency reserve fund of a district exceeded the cap due to a decrease in enrollment, the district could maintain the "excess amount" in the contingency reserve fund until the amount is depleted by expenditures from the fund.

A 1995 amendment increased the contingency reserve fund cap from 2.0 percent to 4.0 percent. Also, the restraints on school district use of the contingency reserve fund were relaxed somewhat. Under the prior law, in order to tap this fund, the expenditure had to be for a financial emergency or contingency that could not reasonably have been foreseen at the time the general fund budget of the district was adopted. The new standard for expenditures for the fund is that expenditures must be attributable to financial contingencies not anticipated when the general fund budget was adopted.

A 2002 amendment removed the restriction that expenditures from this fund be attributable to financial contingencies not anticipated when the general fund budget was adopted, leaving to the school board the matter of determining when a financial contingency exists prompting expenditures from this fund.

A 2005 amendment increased the contingency reserve fund cap from 4.0 percent to 6.0 percent for school year 2005–06 only. Beginning with school year 2006–07, the cap will return to the 4.0 percent amount.

A 2006 amendment made the 6.0 percent cap permanent.

In 2009, SB 161 limited to 10.0 percent the balance maintained in a school district's contingency reserve fund until school year 2012–2013, when the amount returns to current law, which requires that the amount in a district's contingency reserve fund cannot exceed 6.0 percent of a district's general fund. However, the provisions of SB 161 will not be imposed on any school district whose state financial aid is computed under current law (KSA 72-6445a) related to districts formed by consolidation or disorganization or districts with decreasing enrollments. Any such district may maintain the excess amount in the contingency fund until the amount in the fund is depleted.

**Special Funds**

A 1993 amendment added the new summer program fund to the statutory listing of "categorical" funds. (This was done in connection with legislation that authorized school districts, under certain circumstances, to charge fees for summer programs.)

A 1994 amendment added the new extraordinary school program fund to the statutory listing of "categorical" funds. (This was done in connection with provisions of 1994 HB 2553 which authorized school districts to implement extraordinary school programs and, under certain circumstances, to charge fees for them.)

**Funding For Districts Formed by Disorganization and Attachment and by Districts Formed by Consolidation**

The 2002 Legislature provided, effective commencing with the 2001–02 school year and prior to July 1, 2004, that a school district which was enlarged due to disorganization of one district and its attachment to the enlarged district would be entitled to State Financial Aid (school district general fund budget) in the current school year equal to the State Financial Aid of the districts as they were defined in the year preceding the disorganization and attachment. For the next three school years, the district will be entitled to the amount of State Financial Aid it received in the preceding year under this provision or the amount of State Financial Aid the district would receive under operation of the school finance formula in that year, whichever is greater.

An amendment in FY 2004 now requires that any districts that consolidate on or after June 30, 2005, will receive the amount of State Financial Aid they received in the preceding year or the amount of State Financial Aid the districts will receive under operation of the school finance formula in that year, whichever is greater, and will continue to receive the enhanced formula for the next two years.

If the attachment occurred on or after July 1, 2004, the district would receive the State Financial Aid of the districts for the year in which the attachment was implemented. For the next school year, the State Financial Aid of the district would be the greater of the amount the district



received in the preceding year or the amount the district would receive under operation of the school finance formula in that year.

These provisions applied only when all of the territory of the district being disorganized was attached to one other district.

Amendments also applied this method of determining State Financial Aid to districts which consolidate.

The basic concept contained in the legislation was enacted by the 1999 Legislature and was applied to districts that merged through consolidation. The 2002 legislation extended the concept to a school district which was enlarged due to disorganization of a district and attachment of its territory to another district and enhanced somewhat the financial incentives for disorganization and attachment or consolidation. (2002 SB 551, Sec. 1)

2008 legislation changed current school district consolidation law. This bill provides a school district desiring to consolidate before July 1, 2011, with another district with fewer than 150 pupils, a guaranteed combined general fund budget for the year in which the consolidation takes place plus two school years. Any school district with an enrollment of less than 150 pupils desiring to consolidate after July 1, 2011, will receive only the combined general fund budget for the current year plus one year. If a district has more than 150 pupils but fewer than 200 pupils, the combined general fund budgets will be guaranteed for the current year plus three years. For a district with more than 200 pupils, the combined general fund budgets will be guaranteed for the current year plus four years. If three or more districts wish to combine, regardless of the number of pupils enrolled in the districts, the combined general fund budget will be guaranteed for the current year plus four years. In all scenarios, a consolidated district will receive either the guaranteed general fund budget or the actual computed amount under current law, whichever is higher. The bill makes parallel changes to another provision in law relating to the disorganization of a district and the attachment of the territory of the disorganized district to another school district.

The law allows local boards of education desiring to consolidate school districts to enter into an agreement requiring a majority of the qualified electors of each school district proposed to be consolidated to vote in favor of the consolidation.

In 2009, SB 41 amended state law dealing with school district consolidation and disorganization. In situations where a school district disorganizes and the territory of the disorganized district is attached to more than one district, the state financial aid of the disorganized district is allocated to the districts to which the territory of the former district is attached. The state financial aid is allocated on the same proportional basis that the assessed valuation of the territory attached to each district bears to the assessed valuation of the entire disorganized district.

#### State Funding Sources—General State Aid

A 1993 amendment eliminated (effective beginning in the 1992–93 school year) the requirement that the enhanced sales and income taxes imposed by the 1992 school finance legislation be treated as a demand transfer from the State General Fund to the State School District Finance Fund (SSDFF) for school district general state aid. (Under the original provision, two of three transfers scheduled for FY 1993, totaling \$170,005,000, were made from the State General Fund to the SSDFF before the provision was repealed.)

See also, "Ancillary School Facilities Weight," (page 7) and "New School Facilities—Special Taxing Authority," (page 18) for a discussion of certain school district property tax levy proceeds that are deposited in the SSDFF and used for general state aid.

Appropriation action by the 2000 Legislature (Senate Sub. for HB 2513, Sec. 60(j)) directed the expenditure of \$1.0 million from the Children's Initiative Fund (tobacco money) for general state aid to fund a portion of four-year-old at-risk enrollment under the school finance law. The 2001 Legislature increased this funding to \$4.5 million in 2001–02. The 2005 Legislature again increased the funding to a total of \$5.3 million for FY 2006.

#### Local Option Budget (LOB)/Supplemental General State Aid

**Disposition of Money Remaining in the Supplemental General Fund at the End of the School Year.** The 1992 legislation provided that any money remaining in the supplemental general fund at the end of the school year would be transferred to the school district general fund. A 1993 amendment, effective beginning in 1992–93, revised this provision of the law as follows:

- If the district received no supplemental general state aid for its LOB in the current school year and if the district is authorized to adopt an LOB in the ensuing school year, the cash balance remaining in the supplemental general fund at the end of the school year must be maintained in that fund or transferred to the general fund. However, if the district is not authorized to adopt an LOB in the ensuing school year, the cash balance in the supplemental general fund must be transferred to the district's general fund.
- If the district received supplemental general state aid in the current school year, transferred or expended the entire amount of the budgeted LOB for the school year, and is authorized to adopt an LOB in the ensuing school year, the cash balance remaining in the supplemental general fund must be maintained in that fund or transferred to the general fund. However, if the district is not authorized to adopt an LOB in the ensuing year, the total cash balance remaining in the supplemental general fund must be transferred to the general fund.
- If the district received supplemental general state aid in the current school year, did not transfer or expend the entire amount budgeted in the LOB for the school year, and is authorized to adopt an LOB in the ensuing school year, the State Board will determine the ratio of the amount of supplemental general state aid received to the amount of the district's LOB for the school year and multiply the total amount of cash balance remaining in the supplemented general fund by that ratio. An amount equal to the amount of the product must be transferred to the general fund of the district. The amount remaining in the supplemental general fund will be maintained in that fund or transferred to the general fund. However, if the district is not authorized to adopt an LOB in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund must be transferred to the general fund.

**LOB "Cap."** A 1995 amendment deleted the provision of law which required that the LOB maximum percentage, *i.e.*, 25.0 percent of SFA (the base budget), be reduced by the same number of percentage points by which BSAPP was increased. A 2005 amendment provided that

the maximum percentage be increased to 27.0 percent of SFA for FY 2006, to 29.0 percent for FY 2007, and to 30.0 percent for FY 2008 and thereafter. In addition, a district would be allowed to increase its LOB from 25.0 percent to 27.0 percent on board action for the school year 2005–06 only. After the 2005–06 school year, all local boards must stand for a protest petition to increase their LOB above 25.0 percent. A 2006 amendment increased the maximum percentage to 30.0 percent for FY 2007, and to 31.0 percent for FY 2008 and thereafter.

**"Subsequent" LOB Resolutions.** A 1996 amendment provided that a school district board that has adopted an initial LOB resolution at some percentage less than the maximum authorized by law (25.0 percent of SFA) is authorized to adopt any number of subsequent resolutions so long as, in total, the percentages authorized in the resolutions do not exceed the maximum percentage authorized by law and do not extend beyond the duration of the initial resolution. (The previous law permitted only one additional resolution during the duration of the initial resolution.)

**LOB—Lease-Purchase Expenditure Limitations.** Another 1996 amendment prohibited a school district board of education from making LOB expenditures or transfers to the district's general fund for any lease-purchase agreement involving acquisition of land and buildings under KSA 72-8225, as amended.

**LOB Authority—Limited One-Year Extension for Certain School Districts.** Another 1996 amendment applied to any school district that had adopted an LOB for the 1996–97 school year and which in order to adopt an LOB for the next school year would be required to adopt a new LOB resolution subject to the protest petition/election provisions of the then existing law. Any such district, by a majority vote of its board, was authorized to adopt an LOB for the 1997–98 school year in an amount not in excess of the percentage of SFA that the district's LOB resolution authorized the board to adopt in 1996–97. (Another amendment to the same section of law limited the 1997–98 extension authority to 75.0 percent of the 1996–97 LOB authorization. School boards were permitted to operate under either of these two authorizations.)

**LOB Authority—Provisions for Permanent Authority and Other Changes.** Legislation enacted in 1997 made numerous changes in the law concerning LOB authority; however, such authority continues to be subject to a limitation of the state prescribed percentage of a school district's general fund budget.

Beginning in 1997–98, 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 (SBOE) makes the following determinations:

- The average budget per full-time equivalent (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. (If the district's budget per pupil exceeds the average for the enrollment grouping, this procedure does not apply.)
- The product (of multiplying the district's budget per pupil difference by FTE enrollment) 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. This LOB authority is determined in accord with the following schedule: 20.0 percent of the calculated amount in 1997–98; 40.0 percent in 1998–99; 60.0 percent in 1999–2000; 80.0 percent in 2000–01; and 100.0 percent in 2001–02, and thereafter.

If a district was authorized to adopt and did adopt an LOB in 1996–97 and qualifies for LOB authority as a "below average spending" district, calculated as described above, the LOB percentage of the district is the sum of the LOB percentage the district was authorized to budget in that year and the percentage for which the district qualifies under the formula. If the district was not authorized to adopt an LOB in 1996–97, the district qualifies for the LOB authority calculated under the formula. In subsequent years, the district's LOB authority is calculated in the same manner as applies to a district that had an LOB in 1996–97 and that also qualified for LOB authority as a "below average spending" district.

Any LOB percentage of a school district that qualifies for additional LOB authority under the above formula is recognized as perpetual authority. This includes LOB authority acquired by adoption of an LOB resolution and gained pursuant to this formula.

For the grouping of school districts with enrollments under 100, the average FTE amount is the average amount for school districts having enrollments of 75–125; for the grouping of school districts with enrollments of 100–299.9, the average FTE amount is determined under a linear transition schedule beginning with the average FTE amount for districts having enrollments of 75–125 and ending with the average FTE amount of districts having enrollments of 200–399.9; for the grouping of school districts with enrollments of 300–1,799.9, the average FTE amount is determined under a linear transition schedule beginning with the average FTE amount of districts having enrollments of 200–399.9 and ending with the average FTE amount of districts having enrollments of 1,800 and over; and for the grouping of school districts with enrollments of 1,800 and over, the average FTE amount is the average amount for all such districts.

The board of education of any "average" or "above average spending" school district that had an LOB in 1996–97 may adopt on its own motion an 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 1996–97: 100.0 percent in 1997–98, 95.0 percent in 1998–99, 90.0 percent in 1999–2000, 85.0 percent in 2000–01, and 80.0 percent in 2001–02, and thereafter.

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 additional LOB authority under that formula applies in determining the total LOB authority of the district.

As an alternative to the procedures described above, a school district board of education may adopt a resolution for a specified LOB percentage that is subject to a 5.0 percent protest

petition election. In the resolution the board will specify the number of years for which the LOB authority is sought. (Under prior law, the duration of a resolution could not exceed four years.) Subsequent resolutions to increase this authority (always subject to the aggregate 25.0 percent cap) also are authorized. The duration of subsequent resolutions may not exceed that of the original resolution.

If, after the 1997–98 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:

- If the district is operating under an LOB with a fixed LOB percentage increase and a specified number of years to which it applies, the sum of the LOB percentage authority of the district for the preceding year and the additional LOB authority in the district's resolution; or
- If the district is operating under a resolution authorizing continuous and permanent LOB authority, the LOB percentage adopted by the board.

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.

In addition to the LOB authority available under the foregoing provisions, beginning in 1997–98, a school district is authorized to adopt a resolution to increase its LOB authority under one of two alternative procedures:

- A school district board of education may seek authority for continuous and permanent LOB authority, in which case, the board, in any school year, may increase its LOB to any level it chooses, subject to the state prescribed percentage aggregate cap.
- 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 district opts to submit the question directly to the electors and the question is lost, the matter may not be submitted to the electors again for a period of nine months.

When 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 state prescribed percentage aggregate cap. The duration of a subsequent resolution may not exceed that contained in the initial resolution.

These provisions do not apply to a district that already has continuous and permanent authority to increase its LOB.

A district operating under LOB authority obtained prior to passage of this bill, with authority that extends to the 1997–98 school year or beyond, may continue to operate under the resolution until its expiration or abandon the resolution and operate under the new provisions of the bill.

**Supplemental General State Aid Calculation Adjustment.** A 1997 provision directed that, for the purpose of computing supplemental general state aid entitlements, the measure of school district assessed valuation is adjusted to net out assessed valuation attributable to Kansas Neighborhood Revitalization Act tax increment financing rebates paid by school districts. To accomplish this, the county clerk certifies annually the assessed valuation adjustment to the Commissioner of Education. The adjustment is determined by dividing the total of the tax increment rebates paid by the district during the preceding 12 months by the total of the ad valorem levy rates of the district in the previous year.

**Supplemental General State Aid Percentage Increase.** A 2005 provision increased the Supplemental General State Aid percentage from the 75th percentile to the 81.2 percentile beginning in the 2005–06 school year.

**Adoption of a Local Option Budget In Excess of 30.0 Percent.** A 2006 law requires a school district election to authorize the adoption of a Local Option Budget in excess of 30.0 percent.

**Alternative Formula for Calculation of the Local Option Budget.** A 2009 law authorizes a school district to calculate its Local Option Budget (LOB) using a Base State Air Per Pupil (BSAPP) of \$4,433 in any school year in which the BSAPP is less than that amount. In addition, the LOB can be calculated based on the special education appropriation for school year 2008–09.

#### **New School Facilities—Special Taxing Authority**

**New School Facilities—Special Taxing Authority for Operations.** A 1993 amendment permitted a school district to seek approval from the State Board of Tax Appeals (SBOTA) for authority to levy a property tax to pay certain costs associated with commencing operation of new school facilities. In order to seek this authority, the school district must have begun operation of one or more new school facilities in the preceding or current school year, or both; have adopted the maximum 25.0 percent LOB; and have had an enrollment increase in each of the last three school years (preceding the current school year) which averages 7.0 percent or more. A 1995 amendment replaced this enrollment increase standard with the standard that the district must be experiencing extraordinary enrollment growth, as determined by the State Board of Education.

Under the procedure, the school district applies to SBOTA for authority to levy a property tax for an amount equal to the cost of operating the new facility that is not financed from any other source provided by law. (This amount could be adjusted for any year to reflect the inapplicability in that year of the school facilities weighting adjustment.) SBOTA may authorize the district to levy an amount not in excess of the costs attributable to commencing facility operation above the amount provided for this purpose under the school finance law. The separate tax levying authority is for a period of not to exceed two years. A 1997 amendment

provided that, rather than depositing proceeds of this tax levy in the school district's supplemental general fund and budgeting them in the LOB as an addition to the maximum amount that otherwise is budgeted in the LOB, the proceeds would be forwarded to the State Treasurer who would credit the money to the SSDFF. The State Board of Education then converts the amount of the levy authorized by SBOTA to an ancillary school facilities weight for the district. (See "Ancillary School Facilities Weight," page 8.)

School districts may continue the tax levying authority beyond the initial two-year period for an additional three years, in accord 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 the amount 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, 75.0 percent, 50.0 percent, and 25.0 percent, respectively, are the amounts that may be levied during the three-year period. A 1997 amendment specified that the amount of this levy authorization, forwarded to the State Treasurer and credited to the SSDFF, produces ancillary school facilities weight for the district.

#### SCHOOL DISTRICT BOND AND INTEREST STATE AID PROGRAM

##### School District Capital Improvements State Aid Program

A 1993 amendment clarified the law by specifying that the entitlement of state aid to assist school districts in making bond and interest payments is contingent upon the district's general obligation bonds having been issued pursuant to approval of the electors by election.

A 1997 provision directed that for the purpose of computing bond and interest state aid entitlements, the measure of school district assessed valuation is adjusted to net out assessed valuation attributable to Kansas Neighborhood Revitalization Act tax increment financing rebates paid by school districts. To accomplish this, the county clerk certifies annually the assessed valuation adjustment to the Commissioner of Education. The adjustment amount is determined by dividing the total of the tax increment rebates paid by the district during the preceding 12 months by the total of the ad valorem levy rates of the district in the previous year.

A proviso added to 1999 HB 2489, Sec. 7(l), with respect to appropriations for FY 2000, specified that bond and interest state aid payments may be made only for payment of general obligation bonds approved by the voters under KSA 72-6761. (This was intended to exclude payments for bonds issued under KSA 12-1769 for joint city-school purposes.)

**Joint Committee on Building Construction Approval.** A 2006 amendment requires that any school district that has experienced the greater of at least a 5.0 percent or at least a 50-pupil decline each year for the three previous school years must seek a recommendation from the Joint Committee on State Building Construction prior to issuing new bonds. The Building Committee will make a recommendation to the State Board of Education and if the State Board of Education, by a majority vote, does not recommend the building project, the district will not be entitled to receive state aid if it proceeds to issue such bonds. The amendment does not require

a district that does not receive state aid for construction projects to go before the Joint Committee on State Building Construction or the State Board of Education.

#### MISCELLANEOUS

**FY 1993 Special Appropriation Lapse Provision.** 1993 H. Sub. for SB 437 contained a lapse of \$9,569,870 in an appropriation of the 1992 Legislature for general state aid. However, an attached proviso was that if the sum of the 1992-93 local effort and remittance to the SSDFF were less than \$892,613,000, the State Finance Council could restore the difference between the actual amount and the forgoing sum to the extent of the amount of the lapse. (The sum of the 1992-93 local effort and remittance totaled \$914.4 million.)

**1993-94 Special Enrollment Adjustment Due to Flooding.** 1994 HB 2768 provided that for the purpose of determining "enrollment" and "adjusted enrollment" of the Elwood (USD 486), Wathena (USD 406), and Kaw Valley (USD 321) school districts in the 1993-94 school year, the greater of such enrollments determined on September 20, 1992, or September 20, 1993, would be used. This provision responded to the devastating impact of the flooding in these communities during the summer of 1993. The notion was that, because of the temporary relocation of a number of children due to the floods, there would be a reduction in the September 20, 1993, enrollment count. The estimated fiscal note of this provision in FY 1994 was \$272,880.

**1995-96 and 1996-97 Special Enrollment Adjustment Due to Fort Riley Downsizing.** 1995 Senate Sub. for HB 2152 provided for the 1995-96 school year that in the following school districts the terms "enrollment" and "adjusted enrollment" were the enrollment count on September 20, 1995, unless the enrollment was lower than on September 20, 1994. If the September 20, 1995, count was lower than the September 20, 1994, count, 90.0 percent of the difference between the two counts was added to the actual September 20, 1995 count. The school districts to which this provision applied were: Wamego (USD 320), Pottawatomie West (USD 323), Riley County (USD 378), Clay Center (USD 379), Manhattan (USD 383), Blue Valley (USD 384), Morris County (USD 417), Abilene (USD 435), Chapman (USD 473), Geary County (USD 475), Rural Vista (USD 481), Herington (USD 487), Mill Creek Valley (USD 329), and Wabaunsee East (USD 330). This provision was prompted by concerns about the effects the downsizing of the Fort Riley Military Reservation might have on the school districts most directly affected.

Legislation in 1996 (HB 2967) extended the foregoing concept to the 1996-97 school year, that is, if the September 20, 1996, count was lower than the September 20, 1995, count as determined under the 1995 provision, 90.0 percent of the difference between the two counts was added to the 1996 count.

**2005-06 and 2006-07 Special Enrollment Adjustment Due to Increased Activity Duty Military.** Legislation in 2005 (HB 2059) provided a second date for enrollment count on February 20. The minimum requirement is that an increase of 25 students or 1.0 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 has occurred.

**Enrollment Adjustment for Foreign Exchange Students.** Legislation in 2005 revises the September 20 pupil count by stating that a foreign exchange student will not be counted unless that student was enrolled for at least one semester or two quarters.

**Enrollment Adjustment for Out-of-State Students.** Legislation in 2005 revises the September 20 pupil count by stating that no out-of-state students will be counted unless the receiving school district has entered into an agreement with the sending state for payment of tuition or the district has applied to the State Board of Education, which has authority to make a funding determination. A student whose parent is an employee of the school district where the student is enrolled, whose parent has paid taxes on real property in Kansas during the current or preceding school year, or a pupil who attended public school in Kansas during the 2004–05 school year will be counted as a Kansas resident pupil for state financial aid purposes. A 2006 amendment repealed this provision in law.

**Shawnee Heights (USD 450)—Deposit of Certain Back Tax Receipts.** Legislation in 1995 (Senate Sub. for HB 2152) provided that proceeds from taxes attributable to the school district general fund that may be paid to the Shawnee Heights school district on property of Heartland Park of Topeka for the 1988 through 1991 tax years and be distributed to the school district as the result of a final and binding judicial decree may be deposited in the district's supplemental general fund or may be disposed of as provided by statute for school district miscellaneous revenues. (This means that any such tax payment would not be treated as local effort, an offset against the district's general state aid entitlement.)

**Piper (USD 203)—Supplemental General State Aid and School District Capital Improvements State Aid.** Legislation in 1995 (Senate Sub. for HB 2152) specified that, in the 1994–95 and 1995–96 school years, in computing the Piper (USD 203) entitlements of supplemental general state aid (for the LOB) and school district capital improvements state aid, the assessed valuation of the Woodlands race track (owned by Sunflower Racing, Inc.) would not be used in determining the district's assessed valuation per pupil.

If USD 203 subsequently received any proceeds from taxes that may be paid upon Woodlands for either or both the 1994–95 and 1995–96 school years, the State Board of Education would deduct an equal amount from future payments of state aid to which the district was entitled (for these two programs).

**1997–98—Special Enrollment Adjustment Related to the Closure of Topeka State Hospital and Winfield State Hospital and Training Center.** Legislation in 1996 (HB 2167) provided that for the 1997–98 school year in the following school districts the terms "enrollment" and "adjusted enrollment" meant the enrollment count on September 20 of the current school year, unless the enrollment was lower than on September 20 of the preceding school year. If the September 20 count of the preceding school year was greater than the September 20 count of the current school year, 90.0 percent of the difference between the two counts was added to the actual September 20 count. The school districts to which this provision applied were Winfield (USD 465), Arkansas City (USD 470), Topeka (USD 501), Auburn-Washburn (USD 437), Seaman (USD 345), Shawnee Heights (USD 450), and Silver Lake (USD 372).

Legislation in 1997 (HB 2031) repealed this provision. The purpose intended to be served by the 1996 legislation was considered to be addressed sufficiently by the 1997 legislation applicable to school districts that are experiencing enrollment decreases.

**Blue Valley (USD 229) and Olathe (USD 233)—"Special" Facilities Weight for the 1996–97 School Year.** Legislation in 1997 on provided that, for the 1996–97 school year only,

the school facilities weight is increased from 0.25 to 0.33 for districts which commenced operating a new facility in the 1995–96 or 1996–97 school years and that qualify for the weight and which, in addition, are experiencing extraordinary enrollment growth as determined by the State Board of Education and have received approval from SBOTA to levy a tax for the purpose of financing costs associated with operation of new school facilities. The additional amount of the weight (0.08) offset a like amount of local option budget authority that had been approved by SBOTA—applicable only to Blue Valley (USD 229) and Olathe (USD 233).

**1998–99—Fort Leavenworth (USD 207) Appropriation for Capital Improvements.** The 1998 Legislature appropriated for FY 1998 the sum of \$1,310,760 to Fort Leavenworth USD 207 for capital improvement aid. This action was designed to compensate the district for the results of an FY 1995 federal payment voucher coding error. The voucher for \$1,310,760 was coded as a P.L. 874, section b payment. Under Kansas law, to the extent authorized by federal law, these payments are treated as a deduction in computing a school district's state aid entitlement. In fact, the voucher should have been coded as a P.L. 874, section f payment. These payments are used exclusively for capital outlay projects and are not deductions under the Kansas law. The FY 1998 appropriation offsets the deduction made in computing the school district's general state aid entitlement due to the federal voucher coding error. (1998 Senate Sub. for HB 2895, Sec. 2(a).)

**Funding of Districts Formed by Consolidation.** The 1999 Legislature provided that any school district formed by consolidation will be entitled to state financial aid equal to the amount of state financial aid of the former districts in the year preceding the consolidation for the first two years of operation of the consolidation. (1999 SB 171, sec. 12.)

**2002–03 and 2003–04 Local Option Budget: "Hold Harmless" Provision.** The 2002 Legislature added a "hold harmless" provision applicable to school districts which in the 2001–02 school year sponsored a special education cooperative. If such a school district adopted a 25.0 percent LOB for the 2002–03 school year and if the amount of the LOB was less than the amount of the LOB in 2001–02, the district was permitted to add to its 25.0 percent LOB in 2002–03 two-thirds of the difference between the 2001–02 and 2002–03 amounts. Using the 2001–02 school year as the base, this same provision applied in the 2003–04 school year, but the add-on amount was one-third of the difference. A second "hold harmless" provision applied to school districts which sponsored a special education cooperative in the 2001–02 school year and which adopted an LOB equal to the district prescribed percentage of the district in the 2002–03 school year. If the district's LOB in 2002–03 school year was less than the 2001–02 school year, an amount equal to one-third of the difference was added to the 2002–03 LOB. (The estimated fiscal note of the hold harmless provision was \$625,000.) (2002 Senate Sub. for HB 2094, sec. 7)

#### Virtual School Act; School District Disaster Aid

The 2008 Legislature passed the Virtual School Act. For each school year that a school district has a virtual school, the district is entitled to Virtual School State Aid. Virtual School State Aid is calculated by multiplying the number of full-time equivalent pupils enrolled in a virtual school times 105.0 percent of the unweighted Base State Aid per Pupil (BSAPP).

In addition, virtual schools receive a non-proficient weighting of 25.0 percent multiplied by the full-time equivalent enrollment of non-proficient pupils in an approved at-risk program offered by the virtual school.

Advanced placement course funding of 8.0 percent of the BSAPP is paid to virtual schools for each pupil enrolled in at least one advanced placement course if the pupil is enrolled in a resident school district that:

- Does not offer advanced placement courses;
- Contains more than 200 square miles; or
- Has an enrollment of at least 260 pupils.

Moneys received as Virtual School Aid are required to be deposited in a Virtual School Fund. Expenses of the virtual school will be paid from this Fund.

In addition, a pupil with an Individualized Education Plan (IEP) and attending a virtual school is counted as the proportion of one pupil, to the nearest tenth that the pupil's attendance at the non-virtual school bears to full-time attendance. Any student enrolled in a virtual school is not counted in the enrollment calculation. The law requires school districts to provide adequate training to teachers who teach in virtual schools or virtual programs. The definition of a virtual school requires that students make academic progress toward the next grade level and demonstrate competence in subject matter for each class in which a student is enrolled, and it requires age-appropriate students to complete state assessment tests.

This law also establishes procedures that address declining school district adjusted enrollment as a result of a qualified disaster. In this regard, the bill applies to the following school districts: USD 101, Erie; USD 257, Iola; USD 367, Osawatomie; USD 422, Greensburg; USD 445, Coffeyville; USD 446, Independence; USD 461, Neodesha; and USD 484, Fredonia. The school district must meet two criteria. First, a state of disaster emergency must be declared within the district by the Governor and the President of the United States (pursuant to the Stafford Act). Second, as a result of the disaster, destruction or damage to housing must have caused the district's adjusted enrollment to decline by at least 25 students or 2.0 percent of the district's enrollment.

The law also allows qualifying districts to determine their budget using the adjusted enrollment of the district in school year 2006-2007. This calculation is used in computing the general fund budget of a district for the second, third, and fourth years following the 2006-07 school year.

The law also guarantees USD 253, Emporia; USD 251, North Lyon County; USD 252, Southern Lyon County; and USD 284, Chase County, 98.0 percent of the adjusted enrollment in the 2007-08 base school year when calculating the general fund budget of the school district for the 2008-09 school year. This provision is applicable only for the 2008-09 school year.

#### **K-12 Special Education; Catastrophic Special Education Aid; Medicaid Replacement State Aid**

The 2010 Legislature amended the special education catastrophic state aid law for the 2009-10 school year by increasing the threshold for eligibility to \$36,000 (current threshold is \$25,000) and by requiring that state special education state aid and federal special education state aid, including Medicaid Replacement State Aid, be deducted in determining the amount of reimbursement per special education student. In school year 2010-11 and years thereafter, the catastrophic state aid reimbursement threshold increases to twice the state aid per special teacher from the previous year. State and federal special education aid, including Medicaid

Replacement State Aid, shall be deducted in determining the amount of reimbursement per special education student.

Beginning in school year 2011-12, the new law directed the State Board of Education to determine the minimum and maximum amounts of state aid paid to districts for the costs of special teachers. Minimum and maximum factors will be determined by dividing the total special education per teacher entitlement by the full-time equivalent enrollment of all school districts to determine an average per pupil amount. Any district with a special education per pupil amount below 75.0 percent of that statewide average will receive additional funding; districts receiving 150.0 percent of that average will have funding decreased. (Each district's special education aid will continue to be determined by amounts per special teacher.) This provision would sunset on June 30, 2013.

Finally, the Legislature amended a provision in the special education law which provides for the payment of Medicaid Replacement State Aid to school districts. Under the law, during the school years of 2007-08, 2008-09, and 2009-10, the State Board of Education was required to designate a portion of special education state aid as Medicaid replacement. This funding cannot exceed \$9.0 million in any school year. The new law removed the designated school years resulting in continuation of Medicaid Replacement State Aid permanently.

#### **Uniform Accounting System**

The 2011 Legislature established a uniform reporting system for receipts and expenditures for school districts to begin on July 1, 2012. The State Board of Education (Board) is required to develop and maintain the system. The system includes all funds held by a school district, regardless of the source of moneys held in the funds; allows districts to record any information required by state or federal law; provides records by fund, accounts, and other pertinent classifications; and includes amounts appropriated, revenue estimates, actual revenues or receipts, amounts available for expenditure, total expenditures, unencumbered cash balances (excluding state aid receivable), and actual balances. In addition, the system must allow for data to be searched and compared on a district-by-district basis.

Each school district is required to annually submit a report to the Board on all construction activity undertaken by the school district financed by the issuance of bonds. This report is required to include all revenue, expenditures of bond proceeds authorized by law, the dates for commencement and completion of construction activity, and the estimated and actual cost of the construction activity. The Board determines the form and manner of this report.

The Department of Education also is required to annually publish on its website a copy of Budget Form 150, the estimated legal maximum general fund budget, or any successor document containing the same or similar information, submitted by each district. School districts also are required to annually publish the same information.

The Department of Education also is required to annually publish the following expenditures for each school district on a per pupil basis: (1) total expenditures; (2) capital outlay expenditures; (3) bond and interest expenditures; and (4) all other expenditures not included in (2) or (3).

### Fund Flexibility

The 2011 Legislature passed a law which allowed school districts to expend a portion of the unencumbered balances held in particular funds. The following funds would be considered the first priority for use: at-risk education; bilingual education; contingency reserve; driver training; parent education; preschool-aged at-risk; professional development; summer program; virtual school; and vocational education. The textbook and student materials revolving fund is the second priority with the special education fund the last priority for use. Local school boards are not limited to using the funds in the priority list and are not required to expend the total unencumbered balance before utilizing the unencumbered balance in another fund.

The law limits the amount of money a school district can use from its unencumbered balance through a formula that will be calculated by the State Board of Education.

The formula follows:

- Determine the adjusted enrollment of the district, excluding special education and related services weighting;
- Subtract the amount of Base State Aid Per Pupil (BSAPP) appropriated to the Department of Education for FY 2012 from \$4,012; and
- Multiply the difference between the amount of BSAPP appropriated to the Department of Education and \$4,012 by the adjusted enrollment.

Implementation of the law establishes the aggregate amount that can be expended from the unencumbered balance for the 2011–12 school year. The bill also requires that 65.0 percent of the aggregate amount authorized to be spent would be used in the classroom or for instruction as defined in KSA 72-64c01.

**KANSAS CONSTITUTION  
ARTICLE TWO: LEGISLATIVE**

**Section 16: Subject and title of bills; amendment or revival of statutes.** No bill shall contain more than one subject, except appropriation bills and bills for revision or codification of statutes. The subject of each bill shall be expressed in its title. No law shall be revived or amended, unless the new act contain the entire act revived or the section or sections amended, and the section or sections so amended shall be repealed. The provisions of this section shall be liberally construed to effectuate the acts of the legislature.

**Section 24: Appropriations.** No money shall be drawn from the treasury except in pursuance of a specific appropriation made by law.

**KANSAS CONSTITUTION  
ARTICLE SIX: EDUCATION**

**Section 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.

**Section 2: State board of education and state board of regents.**

(a) The legislature shall provide for a state board of education which shall have general supervision of public schools, educational institutions and all the educational interests of the state, except educational functions delegated by law to the state board of regents. The state board of education shall perform such other duties as may be provided by law.

(b) The legislature shall provide for a state board of regents and for its control and supervision of public institutions of higher education. Public institutions of higher education shall include universities and colleges granting baccalaureate or postbaccalaureate degrees and such other institutions and educational interests as may be provided by law. The state board of regents shall perform such other duties as may be prescribed by law.

(c) Any municipal university shall be operated, supervised and controlled as provided by law.

**Section 3: Members of state board of education and state board of regents.**

(a) There shall be ten members of the state board of education with overlapping terms as the legislature may prescribe. The legislature shall make provision for ten member districts, each comprised of four contiguous senatorial districts. The electors of each member district shall elect one person residing in the district as a member of the board. The legislature shall prescribe the manner in which vacancies occurring on the board shall be filled.

(b) The state board of regents shall have nine members with overlapping terms as the legislature may prescribe. Members shall be appointed by the governor, subject to confirmation by the senate. One member shall be appointed from each congressional district with the remaining members appointed at large, however, no two members shall reside in the same county at the time of their appointment. Vacancies occurring on the board shall be filled by appointment by the governor as provided by law.

(c) Subsequent redistricting shall not disqualify any member of either board from service for the remainder of his term. Any member of either board may be removed from office for cause as may be provided by law.

**Section 4: Commissioner of education.** The state board of education shall appoint a commissioner of education who shall serve at the pleasure of the board as its executive officer.

**Section 5: Local public schools.** Local public schools under the general supervision of the state board of education shall be maintained, developed and operated by locally elected boards. When authorized by law, such boards may make and carry out agreements for cooperative operation and administration of educational programs under the general supervision of the state board of education, but such agreements shall be subject to limitation, change or termination by the legislature.

**Section 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.

**Section 7: Savings clause.**

(a) All laws in force at the time of the adoption of this amendment and consistent therewith shall remain in full force and effect until amended or repealed by the legislature. All laws inconsistent with this amendment, unless sooner repealed or amended to conform with this amendment, shall remain in full force and effect until July 1, 1969.

(b) Notwithstanding any other provision of the constitution to the contrary, no state superintendent of public instruction or county superintendent of public instruction shall be elected after January 1, 1967.

(c) The state perpetual school fund or any part thereof may be managed and invested as provided by law or all or any part thereof may be appropriated, both as to principal and income, to the support of the public schools supervised by the state board of education.



**KANSAS CONSTITUTION  
BILL OF RIGHTS**

**Section 18: Justice without delay.**

All persons, for injuries suffered in person, reputation or property, shall have remedy by due course of law, and justice administered without delay.

**U.S. CONSTITUTION**

**AMENDMENT 14.  
RIGHTS AND IMMUNITIES  
OF CITIZENS**

**Section 1: Citizenship; privileges or immunities; due process clause.**

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

## SELECTED KANSAS STATUTES

### CHAPTER 46. LEGISLATURE ARTICLE 11. LEGISLATIVE POST AUDIT

#### 46-1131. [Repealed] Cost study to assist legislature to make suitable finance of educational interests of state.

(a) The purpose of this section is to assist the legislature in the gathering of information which is necessary for the legislature's consideration when meeting its constitutional duties to: (1) Provide for intellectual, educational, vocational and scientific improvement in public schools established and maintained by the state; and (2) make suitable provision for the finance of educational interests of the state. The division of post audit shall conduct a professional cost study analysis to estimate the costs of providing programs and services required by law.

(b) As used in this section, "law" means any: (1) State statute; and (2) rules and regulations or standards relating to student performance outcomes adopted by the state board.

(c) The cost study analysis shall be based upon data available through school year 2004-2005. Subject to the provisions of subsection (d), the cost study analysis shall be conducted as directed by the legislative post audit committee.

(d) Any cost study analysis conducted pursuant to this section shall include: (1) A determination of the services or programs required by law to be provided by school districts and a review of the high school graduation requirements and the school performance accreditation system, pupil assessments and other requirements of K.S.A. 72-6439, and amendments thereto. (2) A review of the admissions requirements established by the state board of regents pursuant to K.S.A. 76-716, and amendments thereto, state scholarship requirements established by the state board of regents, (3) a study of the actual costs incurred in a sample of school districts to provide reasonable estimates of the costs for regular elementary and secondary education as required by law, including instruction, administration, support staff, supplies, equipment and building costs. (4) A study of the actual costs incurred in a sample of school districts to provide reasonable estimates of the costs for specialized education services as required by law including, but not limited to, special education and related services, bilingual education and at-risk programs. (5) A study of the factors which may contribute to the variations in costs incurred by school districts of various sizes and in various regions of the state when providing services or programs as required by law. Such study shall include all

administrative costs of providing program and services as required by law. (6) An analysis in a sample of districts as determined by the legislative post auditor showing such things as: (A) The percent of the estimated costs of providing programs and services as required by law that could have been funded by the various types of state aid the districts received in the most recently completed school year, as well as the percent funded by the district's local option budget; (B) the percent of district funding that is spent on instruction; (C) the percent of district funding that is spent on administration including central administration; and (D) the percent of district funding that is spent on support services. (7) A review of relevant studies that assess whether there is a correlation between amounts spent on education and student performance. (8) A review to determine whether students who are counted as a basis for computing funding for specialized educational services are actually receiving those services. (9) Any additional reviews or analyses the legislative post auditor considers relevant to the legislature's decisions regarding the cost of funding services or programs required by law.

(e) The division also shall conduct a professional cost study analysis considering the same factors specified in subsection (d), except that such cost study analysis shall consider only those curriculum related services and programs mandated by state statute.

(f) In conducting such cost analysis study, historical data and expenditures may be used to estimate future reasonable and actual costs so long as any examination of historical data and expenditures corrects any recognized inadequacy of such data or expenditure through a reliable method of extrapolation. The cost study analysis shall incorporate these requirements and any report to the legislature must demonstrate how the incorporation was accomplished.

(g) In conducting such cost analysis study and subject to the limitations of the budget of the division and appropriations therefor, the legislative post auditor may enter into contracts with consultants as the post auditor deems necessary.

(h) In conducting such cost study analysis, the legislative post auditor shall have the authority to access all books, accounts, records, files, documents and correspondence, confidential or otherwise, as authorized in conducting an audit under the legislative post audit act.

(i) Following the completion of such cost analysis study, the legislative post auditor shall submit a detailed report thereon to the legislature on or before the first day of the 2006 legislative session. If additional time is needed to provide the most accurate information relating to any area of requested study, the legislative post auditor shall so report to the legislature, explaining the reasons for the need for additional time and providing a reasonable time frame for completion of that aspect of the study. In that event, the legislative post auditor

shall submit a report on that portion of the study which has been completed before the start of the 2006 legislative session and the balance of such report shall be submitted within the time frame established by the legislative post auditor when requesting additional time.

(j) For any agency required to be audited under K.S.A. 74-7283 et seq., and amendments thereto, in time to be reviewed and evaluated during the 2006, 2007 or 2008 regular session of the legislature, such review and evaluation shall be moved forward one year.

(k) The provisions of this section shall be part of and supplemental to the legislative post audit act.

**HISTORY:** L. 2005, ch. 152, § 3; L. 2005, ch. 2, § 13 (Special Session); July 28. Repealed, L. 2008, ch. 112, § 11. May 1.

CHAPTER 46. LEGISLATURE  
ARTICLE 12. LEGISLATIVE  
COORDINATING COUNCIL

**46-1225 [Repealed] School  
district finance, professional  
evaluation.**

(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 school district finance and quality performance act 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 operating 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.

(c) Within the limits of appropriations therefor, the legislative coordinating council shall secure consultant services to conduct the professional evaluation of school district finance required by this section and provide for a presentation to the governor and the legislature of the findings of the evaluation along with recommendations for components of a school district finance plan that will fulfill the state's obligation to provide a suitable education for Kansas children. The findings of the evaluation and recommendations shall be presented to the governor and the legislature: at the beginning of the 2002 legislative session.

(d) The legislative coordinating council shall designate a special committee to assist the council in

discharging its responsibilities under this section, including prepare a request for proposals for the conduct of school finance system evaluation; advertise nationally for such proposals; evaluate the proposals; recommend to the council a consultant or consultants best qualified to conduct the study; consult with the council concerning terms and conditions of the consulting contract; act in an advisory capacity to assist the consultant in the conduct of the evaluation; on behalf of the Council, receive from the consultant regular reports of progress; and receive the final report of the consultant three weeks prior to formal submission of the report to the 2002 legislature on January 14, 2002. The special committee shall be composed of some or all of the members of the legislative educational planning committee as determined by the legislative coordinating council. The legislative coordinating council shall determine the number of members of the special committee who shall be members of the house of representatives, members of the senate, members of the majority party and members of the minority party.

(e) For the purpose of the professional evaluation of school district finance, the term "suitable education" means a curricular program consisting of the subjects and courses required under the provisions of K.S.A. 72-1101, 72-1103 and 72-1117, and amendments thereto, the courses in foreign language, fine arts and physical education required to qualify for a state scholarship under the provisions of K.S.A. 72-6810 through 72-6816, and amendments thereto, and the courses included in the precollege curriculum prescribed by the board of regents under the provisions of K.S.A. 76-717, and amendments thereto.

**HISTORY:** L. 2001, ch. 215, § 10; May 31. Repealed, L. 2005, ch. 152, § 45; July 1.

CHAPTER 46. LEGISLATURE  
ARTICLE 34.  
2010 COMMISSION

**46-3401. 2010 commission;  
membership, appointment;  
meetings.**

(a) There is hereby established the 2010 commission. The commission shall be composed of 11 members as follows:

(1) One member appointed by the speaker of the house of representatives;

(2) one member appointed by the president of the senate;

(3) one member appointed by the minority leader of the house of representatives;

(4) one member appointed by the minority leader of the senate;

(5) the chairperson of the house education committee;

(6) the chairperson of the senate education committee;

(7) one member appointed jointly by the speaker of the house of representatives, the minority leader of the house of representatives, the president of the senate and the minority leader of the senate;

(8) two members appointed by the governor, of which one shall be a person licensed by the state board of education;

(9) the legislative post auditor, or the designee thereof; and

(10) the attorney general, or the designee thereof.

The legislative post auditor and the attorney general shall serve ex officio and shall be nonvoting members of the commission.

(b) Except as specifically provided in paragraphs (5) and (6) of subsection (a), nothing in this section shall be construed as requiring the appointment of legislators to the commission. Of the members of the commission, one member shall be from the professional and business sector who is recognized for leadership and expertise in such person's field and one member shall be a certified public accountant who is recognized for expertise in the area of school district financial operations and who regularly conducts or has regularly conducted audits of school districts.

(c) A member appointed by the speaker or minority leader of the house of representatives, one of the members appointed by the governor and the member appointed pursuant to paragraph (7) of subsection (a) shall serve for terms of two years and until a successor is appointed and qualified. A member appointed by the president or minority leader of the senate and one member appointed by the governor shall serve for terms of four years and until a successor is appointed and qualified. Terms of members of the legislature appointed to the commission shall expire at the expiration of the legislative term for which such legislator was elected. Except for vacancies created by the expiration of a

legislative term, a vacancy shall be filled for the unexpired term by appointment in the manner prescribed by this section for the original appointment.

(d) Members of the commission attending regular or special meetings or subcommittee meetings authorized by the commission, shall be paid amounts for expenses, mileage and subsistence as provided in subsection (e) of K.S.A. 75-3223, and amendments thereto. Expenses for the commission shall be part of the budget of the legislative coordinating council and shall be subject to the council's approval.

(e) The members of the commission annually shall select a chairperson and vice-chairperson from the membership of the commission.

(f) The commission may meet at any time and at any place within the state on the call of the chairperson. A quorum of the commission shall be six voting members. All actions of the commission shall be by motion adopted by a majority of those voting members present when there is a quorum.

(g) In accordance with K.S.A. 46-1204, and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the commission.

(h) The staff of the office of the revisor of statutes, the legislative research department and the division of legislative administrative services shall provide such assistance as may be requested by the commission. Upon request of the commission, the state board of education and the center for innovative school leadership established pursuant to K.S.A. 2011 Supp. 76-767, and amendments thereto, shall provide consultants and assistance when requested by the commission. In addition and upon the request of the commission, the state board of education and school districts shall provide any information and supporting documentation related thereto.

(i) The commission shall cease to exist on December 31, 2010.

**HISTORY:** L. 2005, ch. 152, § 7; July 1.

**46-3402. Same; powers and  
duties.**

The commission shall:

(a) Conduct continuous and on-going monitoring of the implementation and operation of the school district finance and quality performance act and other provisions of law relating to school finance and the quality performance accreditation system;

(b) evaluate the school district finance and quality performance act and determine if there is a fair and equitable relationship between the costs of the weighted components and assigned weightings;

(c) determine if existing weightings should be adjusted;

(d) determine if additional school district operations should be weighted;

(e) review the amount of base state aid per pupil and determine if the amount should be adjusted;

(f) evaluate the reform and restructuring components of the act and assess the impact thereof;

(g) evaluate the system of financial support, reform and restructuring of public education in Kansas and in other states to ensure that the Kansas system is efficient and effective;

(h) conduct other studies, as directed by the legislative coordinating council, relating to the improving, reforming or restructuring of the educational system and the financing thereof;

(i) conduct hearings and receive and consider suggestions from teachers, parents, the department of education, the state board of education, other governmental officers and agencies and the general public concerning suggested improvements in the educational system and the financing thereof;

(j) appoint advisory committees when deemed necessary. Such advisory committees shall conduct hearings and seek a wide variety of input from individuals and groups affected by and concerned with the quality, efficiency and cost of public elementary and secondary education in Kansas. Such individuals and groups shall include, but not be limited to, teachers, parents, students, the department of education, the state board of education, other governmental officers and agencies, professional educational organizations and associations, the business community, institutions of higher education, other persons who have an interest in the quality and efficiency of elementary and secondary education in Kansas and members of the general public interested in the improvement in the state's educational system and the financing thereof. The chairperson of any such advisory committee shall be a member of the 2010 commission;

(k) make any recommendation it deems is necessary to guide the legislature to fulfill goals established by the legislature in meeting its constitutional duties of the legislature to: (A) Provide for intellectual, educational, vocational and scientific improvement in public schools established and maintained by the state; and (B) make suitable provision for the finance of the educational interests of the state;

(l) examine the availability of revenues to ensure adequate funding of elementary and secondary education in the state;

(m) examine school district efficiencies and whether districts are using best practices to deliver a high quality level of services and programs;

(n) examine school district consolidation and impediments thereto;

(o) examine voluntary activities, including extracurricular activities, which affect educational costs;

(p) monitor and evaluate associations and organizations that promote or regulate voluntary or extracurricular activities including, but not limited to, the Kansas state high school activities association;

(q) conduct other studies, as directed by the legislature, relating to the improving, reforming or restructuring of the educational system and the financing thereof;

(r) make and submit annual reports to the legislature on the work of the commission concerning

recommendations of the commission relating to the improving, reforming or restructuring of the educational system and the financing thereof and other topics of study directed to the commission by the legislative coordinating council. Such report also shall include recommendations for legislative changes and shall be submitted to the legislature on or before December 31 of each year.

**HISTORY:** L. 2005, ch. 152, § 8; July 1.

## CHAPTER 60. PROCEDURE, CIVIL ARTICLE 2. RULES OF CIVIL PROCEDURE

### 60-223. Class actions.

(a) Prerequisites. One or more members of a class may sue or be sued as representative parties on behalf of all members only if: (1) The class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class.

(b) Types of class actions. A class action may be maintained if the prerequisites of subsection (a) are satisfied and if:

(1) Prosecuting separate actions by or against individual members would create a risk of: (A) Inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the party opposing the class; or (B) adjudications with respect to individual class members that as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests; or

(2) the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole; or

(3) the court finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. The matters pertinent to these findings include: (A) The class member's interest in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already begun by or against class members; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and (D) the likely difficulties in managing a class action.

(c) Certification order; notice to class members; judgment; issues classes; subclasses. (1) Certification order. (A) Time to issue. At an early practicable time after a person sues or is sued as a class representative, the court must determine by order whether to certify the action as a class action.

(B) Defining the class; appointing class counsel. An order that certifies a class action must define the class and the class claims, issues or defenses, and must appoint class counsel under subsection (g).

(C) Altering or amending the order. An order that grants or denies class certification may be altered or amended before final judgment.

(2) Notice. (A) For subsection (b)(1) or (b)(2) classes. For any class certified under subsection (b)(1) or (b)(2), the court may direct appropriate notice to the class.

(B) For subsection (b)(3) classes. For any class certified under subsection (b)(3), the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice must clearly and concisely state in plain, easily understood language:

- (i) The nature of the action;
- (ii) the definition of the class certified;
- (iii) the class claims, issues or defenses;
- (iv) that a class member may enter an appearance through an attorney if the member so desires;
- (v) that the court will exclude from the class any member who requests exclusion;
- (vi) the time and manner for requesting exclusion;

and

(vii) the binding effect of a class judgment on members under subsection (c)(3).

(3) Judgment. Whether or not favorable to the class, the judgment in a class action must:

(A) In an action maintained as a class action under subsection (b)(1) or (b)(2), include and describe those whom the court finds to be class members; and

(B) in an action maintained as a class action under subsection (b)(3), include and specify or describe those to whom the notice provided in subsection (c)(2) was directed, who have not requested exclusion, and whom the court finds to be class members.

(4) Particular issues. When appropriate, an action may be brought or maintained as a class action with respect to particular issues.

(5) Subclasses. When appropriate, a class may be divided into subclasses that are each treated as a class under this section.

(d) Conducting the action. (1) In general. In conducting an action under this section, the court may issue orders that:

(A) Determine the course of proceedings or prescribe measures to prevent undue repetition or complication in presenting evidence or argument;

(B) require, to protect class members and fairly conduct the action, giving appropriate notice to some or all class members of:

- (i) Any step in the action;
- (ii) the proposed extent of the judgment; or
- (iii) the members' opportunity to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or to otherwise come into the action;

(C) impose conditions on the representative parties or on intervenors;

(D) require that the pleadings be amended to eliminate allegations about representation of absent persons and that the action proceed accordingly; or

(E) deal with similar procedural matters.

(2) Combining and amending orders. An order under subsection (d)(1) may be altered or amended from time

to time and may be combined with an order under K.S.A. 60-216, and amendments thereto.

(e) Settlement, voluntary dismissal or compromise. The claims, issues or defenses of a certified class may be settled, voluntarily dismissed or compromised only with the court's approval. The following procedures apply to a proposed settlement, voluntary dismissal or compromise:

(1) The court must direct notice in a reasonable manner to all class members who would be bound by the proposal;

(2) if the proposal would bind class members, the court may approve it only after a hearing and on finding that it is fair, reasonable and adequate;

(3) the parties seeking approval must file a statement identifying any agreement made in connection with the proposal;

(4) if the class action was previously certified under subsection (b)(3), the court may refuse to approve a settlement unless it affords a new opportunity to request exclusion to individual class members who had an earlier opportunity to request exclusion, but did not do so; and

(5) any class member may object to the proposal if it requires court approval under this subsection (e); the objection may be withdrawn only with the court's approval.

(f) Appeals. The court of appeals may permit an appeal from an order granting or denying class action certification under this section if application is made to the court within 14 days after the order is entered. An appeal does not stay proceedings in the district court unless the district judge or the court of appeals so orders.

(g) Class counsel. (1) Appointing class counsel. Unless a statute provides otherwise, a court that certifies a class must appoint class counsel. In appointing class counsel, the court:

(A) Must consider:

(i) The work counsel has done in identifying or investigating potential claims in the action;

(ii) counsel's experience in handling class actions, other complex litigation and the types of claims asserted in the action;

(iii) counsel's knowledge of the applicable law; and

(iv) the resources that counsel will commit to representing the class;

(B) may consider any other matter pertinent to counsel's ability to fairly and adequately represent the interests of the class;

(C) may order potential class counsel to provide information on any subject pertinent to the appointment and to propose terms for attorney's fees and nontaxable costs;

(D) may include in the appointing order provisions about the award of attorney's fees or nontaxable costs under subsection (h); and

(E) may make further orders in connection with the appointment.

(2) Standard for appointing class counsel. When one applicant seeks appointment as class counsel, the court may appoint that applicant only if the applicant is adequate under subsection (g)(1) and (g)(4). If more than one adequate applicant seeks appointment, the court

must appoint the applicant best able to represent the interests of the class.

(3) Interim counsel. The court may designate interim counsel to act on behalf of a putative class before determining whether to certify the action as a class action.

(4) Duty of class counsel. Class counsel must fairly and adequately represent the interests of the class.

(h) Attorney's fees and nontaxable costs. In a certified class action, the court may award reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement. The following procedures apply:

(1) A claim for an award must be made by motion, subject to the provisions of this subsection, at a time the court sets. Notice of the motion must be served on all parties and, for motions by class counsel, directed to class members in a reasonable manner;

(2) a class member, or a party from whom payment is sought, may object to the motion;

(3) the court may hold a hearing and must find the facts and state its legal conclusions under subsection (a) of K.S.A. 60-252, and amendments thereto; and

(4) the court may refer issues related to the amount of the award to a special master as provided in K.S.A. 60-253, and amendments thereto.

**HISTORY:** L. 1963, ch. 303, 60-223; amended by Supreme Court order dated July 17, 1969; L. 1980, ch. 171, § 1; L. 1997, ch. 173, § 10; L. 2004, ch. 21, § 1; L. 2010, ch. 135, § 90; July 1.

## CHAPTER 72. SCHOOLS ARTICLE 11. SCHOOL ATTENDANCE, CURRICULUM AND ACCREDITATION

### 72-1101 Required subjects in elementary schools.

Every accredited elementary school shall teach reading, writing, arithmetic, geography, spelling, English grammar and composition, history of the United States and of the state of Kansas, civil government and the duties of citizenship, health and hygiene, together with such other subjects as the state board may determine. The state board shall be responsible for the selection of subject matter within the several fields of instruction and for its organization into courses of study and instruction for the guidance of teachers, principals and superintendents.

**HISTORY:** R.S. 1923, 72-1101; L. 1943, ch. 248, § 37; L. 1945, ch. 282, § 57; L. 1968, ch. 20, § 1; L. 1972, ch. 253, § 1; L. 1979, ch. 220, § 11; July 1.

### 72-1103. Required courses of instruction; graduation requirements.

All accredited schools, public, private or parochial, shall provide and give a complete course of instruction to all pupils, in civil government, and United States history, and in patriotism and the duties of a citizen, suitable to the elementary grades; in addition thereto, all accredited high schools, public, private or parochial, shall give a course of instruction concerning the government and institutions of the United States, and particularly of the constitution of the United States; and no student who has not taken and satisfactorily passed such course shall be certified as having completed the course requirements necessary for graduation from high school.

**HISTORY:** L. 1919, ch. 257, § 2; R.S. 1923, 72-1103; L. 1925, ch. 224, § 1; L. 1968, ch. 20, § 2; L. 1984, ch. 261, § 5; July 1.

### 72-1106. School term; exceptions; noncertificated personnel.

(a) Subject to the other provisions of this section, a school term during which public school shall be maintained in each school year by each school district organized under the laws of this state shall consist of not less than 186 school days for pupils attending kindergarten or any of the grades one through 11 and not less than 181 school days for pupils attending grade 12.

(b) Subject to a policy developed and adopted by the board of any school district, the board may provide for a school term consisting of school hours. A school term provided for in a policy adopted under this subsection

shall consist of: (1) For pupils attending kindergarten, not less than 465 school hours in each school year; and (2) for pupils attending any of the grades one through 11, not less than 1,116 school hours in each school year; and (3) for pupils attending grade 12, not less than 1,086 school hours in each school year. Each board of education which develops and adopts a policy providing for a school term in accordance with this subsection shall notify the state board of education thereof on or before September 15 in each school year for which the policy is to be in effect.

(c) Subject to a plan developed and adopted by the board of any school district, the board may schedule the school days required for a school term provided for under subsection (a), or the school hours required for a school term provided for in a policy adopted under subsection (b), on a trimestral or quarterly basis. Each board of education which develops and adopts a plan providing for the scheduling of the school days or school hours of the school term on a trimestral or quarterly basis shall submit the plan to the state board of education for approval prior to implementation. The plan shall be prepared in such form and manner as the state board shall require and shall be submitted at a time or times to be determined and specified by the state board.

(d) Subject to a policy developed and adopted by the board of any district as an adjunct to the district's disciplinary policy or as a part of the district's school improvement plan, the board may schedule school days in addition to the school days scheduled for a school term provided for under subsection (a), or school hours in addition to the school hours scheduled for a school term provided for in a policy adopted under subsection (b), or both such additional school days and school hours for pupils who are in need of remedial education or who are subject to disciplinary measures imposed under the district's disciplinary policy. Any school day or school hour scheduled for a pupil under a policy adopted under this subsection may be scheduled on weekends, before or after regular school hours, and during the summer months. Inexcusable absence from school on any school day or during any school hour by any pupil for whom additional school days or school hours have been scheduled under a policy adopted under this subsection shall be counted as an inexcusable absence from school for the purposes of K.S.A. 72-1113, and amendments thereto.

(e) If the board of any school district, or its designee, shall determine that inclement weather will cause hazardous driving conditions, the board, or its designee, may close any or all of the schools within the district. The amount of time pupils have been in attendance when such determination is made shall be considered a school day of a school term or shall be considered the number of school hours for pupils to be in attendance at school in a day, whichever is applicable. Consonant with the other provisions of this section, a board may schedule any number of days or hours in excess of the regularly scheduled school days or school hours which the board determines will be necessary to compensate for those school days or school hours that schools of the district will remain closed during the

school term due to hazardous driving conditions. If the number of days or hours schools remain closed due to hazardous driving conditions exceeds the number of days or hours scheduled by the board to compensate for such school days or school hours, the excess number of days or hours, not to exceed whichever is the lesser of (1) the number of compensatory days or hours scheduled by the board or (2) five days or the number of school hours regularly scheduled in five days, that schools remain closed due to such conditions shall be considered school days or school hours.

(f) The state board of education may waive the requirements of law relating to the duration of the school term upon application for such waiver by a school district. Such waiver may be granted by the state board of education upon: (1) Certification by a board that, due to the persistence of inclement weather, hazardous driving conditions have existed in the school district for an inordinate period of time; and (2) a determination by the state board that the school district cannot reasonably adjust its schedule to comply with statutory requirements. Such waiver shall not exempt a school district from providing a school offering for each pupil which is substantially equivalent to that required by law.

(g) Time reserved for parent-teacher conferences for discussions on the progress of pupils may be considered part of the school term.

(h) Time reserved for staff development or inservice training programs for the purpose of improving staff skills, developing competency in new or highly specialized fields, improving instructional techniques, or curriculum planning and study may be considered part of the school term for an aggregate amount of time equal to the amount of time in excess of the school term which is scheduled by a board of education for similar activities.

(i) Boards of education may employ noncertificated personnel to supervise pupils for noninstructional activities.

**HISTORY:** L. 1876, ch. 122, art. 5, § 2; R.S. 1923, 72-1106; L. 1943, ch. 248, § 38; L. 1957, ch. 384, § 1; L. 1969, ch. 314, § 1; L. 1975, ch. 366, § 1; L. 1975, ch. 367, § 1; L. 1976, ch. 309, § 1; L. 1977, ch. 243, § 1; L. 1978, ch. 288, § 1; L. 1979, ch. 221, § 8; L. 1980, ch. 217, § 1; L. 1982, ch. 293, § 1; L. 1984, ch. 261, § 6; L. 1984, ch. 262, § 2; L. 1991, ch. 220, § 1; L. 1991, ch. 219, § 1; L. 1992, ch. 280, § 40; L. 2001, ch. 215, § 11; July 1.

## 72-1111. Compulsory school attendance; exemptions.

(a) Subject to the other provisions of this section, every parent or person acting as parent in the state of Kansas, who has control over or charge of any child who has reached the age of seven years and is under the age of 18 years and has not attained a high school diploma or a general educational development (GED) credential, shall require such child to be regularly enrolled in and attend continuously each school year (1) a public school for the duration of the school term provided for in K.S.A.

72-1106, and amendments thereto, or (2) a private, denominational or parochial school taught by a competent instructor for a period of time which is substantially equivalent to the period of time public school is maintained in the school district in which the private, denominational or parochial school is located. If the child is 16 or 17 years of age, the parent or person acting as parent, by written consent, or the court, pursuant to a court order, may allow the child to be exempt from the compulsory attendance requirements of this section.

(b) If the child is 16 or 17 years of age, the child shall be exempt from the compulsory attendance requirements of this section if: (1) The child is regularly enrolled in and attending a program recognized by the local board of education as an approved alternative educational program; (2) the child and the parent or person acting as parent attend a final counseling session conducted by the school during which a disclaimer to encourage the child to remain in school or to pursue educational alternatives is presented and signed by the child and the parent or person acting as parent. The disclaimer shall include information regarding 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 drop out, and a listing of educational alternatives that are available for the child; or (3) the child is regularly enrolled in a school as required by subsection (a) and is concurrently enrolled in a postsecondary educational institution, as defined by K.S.A. 74-3201b, and amendments thereto. The provisions of this clause (3) shall be applicable to children from and after July 1, 1997 and shall relate back to such date.

(c) Any child who is under the age of seven years, but who is enrolled in school, is subject to the compulsory attendance requirements of this section. Any such child may be withdrawn from enrollment in school at any time by a parent or person acting as parent of the child and thereupon the child shall be exempt from the compulsory attendance requirements of this section until the child reaches the age of seven years or is re-enrolled in school.

(d) Any child who is determined to be an exceptional child, except for an exceptional child who is determined to be a gifted child, under the provisions of the special education for exceptional children act is subject to the compulsory attendance requirements of such act and is exempt from the compulsory attendance requirements of this section.

(e) Any child who has been admitted to, and is attending, the Kansas academy of mathematics and science, as provided in K.S.A. 72-9711 et seq., and amendments thereto, is exempt from the compulsory attendance requirements of this section.

(f) No child attending public school in this state shall be required to participate in any activity which is contrary to the religious teachings of the child if a written statement signed by one of the parents or a person acting as parent of the child is filed with the proper authorities of the school attended requesting that

the child not be required to participate in such activities and stating the reason for the request.

(g) When a recognized church or religious denomination that objects to a regular public high school education provides, offers and teaches, either individually or in cooperation with another recognized church or religious denomination, a regularly supervised program of instruction, which is approved by the state board of education, for children of compulsory school attendance age who have successfully completed the eighth grade, participation in such a program of instruction by any such children whose parents or persons acting as parents are members of the sponsoring church or religious denomination shall be regarded as acceptable school attendance within the meaning of this act. Approval of such programs shall be granted by the state board of education, for two-year periods, upon application from recognized churches and religious denominations, under the following conditions:

(1) Each participating child shall be engaged, during each day on which attendance is legally required in the public schools in the school district in which the child resides, in at least five hours of learning activities appropriate to the adult occupation that the child is likely to assume in later years;

(2) acceptable learning activities, for the purposes of this subsection, shall include parent (or person acting as parent) supervised projects in agriculture and homemaking, work-study programs in cooperation with local business and industry, and correspondence courses from schools accredited by the national home study council, recognized by the United States office of education as the competent accrediting agency for private home study schools;

(3) at least 15 hours per week of classroom work under the supervision of an instructor shall be provided, at which time students shall be required to file written reports of the learning activities they have pursued since the time of the last class meeting, indicating the length of time spent on each one, and the instructor shall examine and evaluate such reports, approve plans for further learning activities, and provide necessary assignments and instruction;

(4) regular attendance reports shall be filed as required by law, and students shall be reported as absent for each school day on which they have not completed the prescribed minimum of five hours of learning activities;

(5) the instructor shall keep complete records concerning instruction provided, assignments made, and work pursued by the students, and these records shall be filed on the first day of each month with the state board of education and the board of education of the school district in which the child resides;

(6) the instructor shall be capable of performing competently the functions entrusted thereto; and

(7) in applying for approval under this subsection a recognized church or religious denomination shall certify its objection to a regular public high school education and shall specify, in such detail as the state board of education may reasonably require, the program of instruction that it intends to provide and no such program

shall be approved unless it fully complies with standards therefor which shall be specified by the state board of education.

If the sponsors of an instructional program approved under this subsection fail to comply at any time with the provisions of this subsection, the state board of education shall rescind, after a written warning has been served and a period of three weeks allowed for compliance, approval of the programs, even though the two-year approval period has not elapsed, and thereupon children attending such program shall be admitted to a high school of the school district.

(h) As used in this section:

(1) "Parent" and "person acting as parent" have the meanings respectively ascribed thereto in K.S.A. 72-1046, and amendments thereto.

(2) "Regularly enrolled" means enrolled in five or more hours of instruction each school day. For the purposes of subsection (b)(3), hours of instruction received at a postsecondary educational institution shall be counted.

**HISTORY:** L. 1874, ch. 123, § 1; L. 1903, ch. 423, § 1; L. 1919, ch. 272, § 1; L. 1923, ch. 182, § 1; R.S. 1923, 72-4801; L. 1965, ch. 409, § 1; L. 1968, ch. 356, § 1; L. 1969, ch. 316, § 1; L. 1976, ch. 310, § 1; L. 1980, ch. 217, § 3; L. 1984, ch. 263, § 1; L. 1996, ch. 229, § 121; L. 1997, ch. 157, § 1; Revived and Amend., L. 2004, ch. 185, § 1; L. 2008, ch. 118, § 1; July 1.

## 72-1117 Kansas history and government, required course; duties of state board.

(a) The state board of education shall provide for a course of instruction in Kansas history and government, which shall be required for all students graduating from an accredited high school in this state.

(b) The state board of education shall prescribe the school year, not later than the 1990-91 school year, in which the requirement of subsection (a) shall become applicable and may provide for such waivers from the requirement as the board deems appropriate.

**HISTORY:** L. 1988, ch. 277, § 1; July 1.

## 72-1126 Community service programs; duties of state board.

(a) The state board of education shall provide for a community service program to be offered to all accredited high schools in this state.

(b) As used in this section, the term "community service" means a service performed by a high school student, without monetary compensation or remuneration, for the purpose of benefiting the student's community. The service performed may include, but not by way of limitation, mentoring or tutoring elementary school pupils, assisting in a nursing home or adult care center, providing lawn care or performing other tasks for senior citizens or disabled persons, assisting in a

homeless shelter or a soup kitchen, organizing or assisting in fund raisers for disaster victims and other needy persons, assisting community-based nonprofit agencies that provide programs and services for low-income people, the disabled and the elderly, assisting fraternal organizations in charitable activities.

**HISTORY:** L. 2002, ch. 167, § 8; July 1.

### **72-1127 Accredited schools; mandatory subjects and areas of instruction; legislative goals.**

(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:

(1) Development of sufficient oral and written communication skills which enable students to function in a complex and rapidly changing society;

(2) acquisition of sufficient knowledge of economic, social and political systems which enable students to understand the issues that affect the community, state and nation;

(3) development of students' mental and physical wellness;

(4) development of knowledge of the fine arts to enable students to appreciate the cultural and historical heritage of others;

(5) training or preparation for advanced training in either academic or vocational fields so as to enable students to choose and pursue life work intelligently;

(6) development of sufficient levels of academic or vocational skills to enable students to compete favorably in academics and the job market; and

(7) needs of students requiring special education services.

(d) Nothing in this section shall be construed as relieving the state or school districts from other duties and requirements imposed by state or federal law including, but not limited to, at-risk programs for pupils needing intervention, programs concerning special education and related services and bilingual education.

**HISTORY:** L. 2005, ch. 152, § 6; July 1.

## **CHAPTER 72. SCHOOLS**

### **ARTICLE 11a. KANSAS CHALLENGE TO SECONDARY SCHOOL PUPILS**

#### **72-11a02. Legislative declaration; purpose and intention of act.**

(a) The legislature hereby declares that secondary school pupils should be challenged continuously in order to maintain their interests in the pursuit of education and skills critical to success in the modern world. Therefore, it is the purpose and intention of the Kansas challenge to secondary school pupils act to provide a means whereby school districts in cooperation with institutions of postsecondary education may provide new and exciting challenges to secondary school pupils by encouraging them to take full advantage of the wealth of postsecondary education opportunities available in this state.

(b) The provisions of this section shall take effect and be in force from and after July 1, 1993.

**HISTORY:** L. 1993, ch. 265, § 4; April 29.

**CHAPTER 72. SCHOOLS  
ARTICLE 64. SCHOOL DISTRICT  
FINANCE AND QUALITY  
PERFORMANCE**

**72-6405 Citation of act;  
nonseverable provisions,  
exception.**

(a) K.S.A. 72-6405 through 72-6440, the provisions of chapter 152, sections 1 through 18 of chapter 194 of the 2005 session laws of Kansas and sections 1 through 6 of chapter 197 of the 2006 session laws of Kansas, and amendments thereto, shall be known and may be cited as the school district finance and quality performance act.

(b) Except for the provisions of K.S.A. 2010 Supp. 75-2321, and amendments thereto, the provisions of the school district finance and quality performance act are not severable. Except for the provisions of K.S.A. 2010 Supp. 75-2321, and amendments thereto, if any provision of that act is stayed or is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would not have enacted the remainder of such act without such stayed, invalid or unconstitutional provision.

**HISTORY:** L. 1992, ch. 280, § 1; L. 2005, ch. 194, § 19; L. 2006, ch. 197, § 8; July 1.

**72-6406 Definitions; district;  
board; state board.**

(a) "District" means a school district organized under the laws of this state which is maintaining public school for a school term in accordance with the provisions of K.S.A. 72-1106, and amendments thereto.

(b) "Board" means the board of education of a school district.

(c) "State board" means the state board of education.

(d) The provisions of this section shall take effect and be in force from and after July 1, 1992.

**HISTORY:** L. 1992, ch. 280, § 2; May 28.

**72-6407 Definitions.**

(a) (1) "Pupil" means any person who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 maintained by the district or who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 in another district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, or who is regularly enrolled in a district and attending special education services provided for preschool-aged exceptional children by the district.

(2) Except as otherwise provided in paragraph (3) of this subsection, a pupil in attendance full time shall be counted as one pupil. A pupil in attendance part time

shall be counted as that proportion of one pupil (to the nearest 1/10) that the pupil's attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as 1/2 pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil's postsecondary education enrollment and attendance together with the pupil's attendance in either of the grades 11 or 12 is at least 5/6 time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest 1/10) that the total time of the pupil's postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil's vocational education enrollment and attendance together with the pupil's attendance in any of grades nine through 12 is at least 5/6 time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest 1/10) that the total time of the pupil's vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance. A pupil enrolled in a district and attending a non-virtual school and also attending a virtual school shall be counted as that proportion of one pupil (to the nearest 1/10) that the pupil's attendance at the non-virtual school bears to full-time attendance. Except as provided by this section for preschool-aged exceptional children and virtual school pupils, a pupil enrolled in a district and attending special education and related services, provided for by the district shall be counted as one pupil. A pupil enrolled in a district and attending special education and related services provided for by the district and also attending a virtual school shall be counted as that proportion of one pupil (to the nearest 1/10) that the pupil's attendance at the non-virtual school bears to full-time attendance. A pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district shall be counted as 1/2 pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as 1/2 pupil. A pupil in the custody of the secretary of social and rehabilitation services or in the custody of the commissioner of juvenile justice and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddel Boys Ranch, shall be counted as two pupils. Except as provided in section 1 of chapter 76 of the 2009 Session Laws of the state of Kansas, and amendments thereto, a pupil in the custody of the secretary of social and rehabilitation services or in the custody of the commissioner of juvenile justice and enrolled in unified school district No. 409, Atchison, Kansas, but housed, maintained and receiving educational services at the youth residential center located on the grounds of the former Atchison juvenile correctional facility, shall be counted as two pupils.

(3) A pupil residing at the Flint Hills job corps center shall not be counted. A pupil confined in and receiving educational services provided for by a district at a juvenile detention facility shall not be counted. A pupil enrolled in a district but housed, maintained, and receiving educational services at a state institution or a psychiatric residential treatment facility shall not be counted.

(b) "Preschool-aged exceptional children" means exceptional children, except gifted children, who have attained the age of three years but are under the age of eligibility for attendance at kindergarten.

(c) "At-risk pupils" means pupils who are eligible for free meals under the national school lunch act and who are enrolled in a district which maintains an approved at-risk pupil assistance plan.

(d) "Preschool-aged at-risk pupil" means an at-risk pupil who has attained the age of four years, is under the age of eligibility for attendance at kindergarten, and has been selected by the state board in accordance with guidelines consonant with guidelines governing the selection of pupils for participation in head start programs.

(e) "Enrollment" means: (1) (A) Subject to the provisions of paragraph (1)(B), for districts scheduling the school days or school hours of the school term on a trimestral or quarterly basis, the number of pupils regularly enrolled in the district on September 20 plus the number of pupils regularly enrolled in the district on February 20 less the number of pupils regularly enrolled on February 20 who were counted in the enrollment of the district on September 20; and for districts not specified in this paragraph (1), the number of pupils regularly enrolled in the district on September 20; (B) a pupil who is a foreign exchange student shall not be counted unless such student is regularly enrolled in the district on September 20 and attending kindergarten or any of the grades one through 12 maintained by the district for at least one semester or two quarters or the equivalent thereof;

(2) if enrollment in a district in any school year has decreased from enrollment in the preceding school year, enrollment of the district in the current school year means whichever is the greater of (A) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled, plus enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled, or (B) the sum of enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled and the average (mean) of the sum of (i) enrollment of the district in the current school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils are enrolled and (ii) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled and (iii) enrollment in the school year next preceding the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled; or

(3) the number of pupils as determined under K.S.A. 72-6447 or K.S.A. 2010 Supp. 72-6448, and amendments thereto.

(f) "Adjusted enrollment" means: (1) Enrollment adjusted by adding at-risk pupil weighting, program weighting, low enrollment weighting, if any, high density at-risk pupil weighting, if any, medium density at-risk pupil weighting, if any, nonproficient pupil weighting, if any, high enrollment weighting, if any, declining enrollment weighting, if any, school facilities weighting, if any, ancillary school facilities weighting, if any, cost of living weighting, if any, special education and related services weighting, and transportation weighting to enrollment; or (2) adjusted enrollment as determined under K.S.A. 2010 Supp. 72-6457 or 72-6458, and amendments thereto.

(g) "At-risk pupil weighting" means an addend component assigned to enrollment of districts on the basis of enrollment of at-risk pupils.

(h) "Program weighting" means an addend component assigned to enrollment of districts on the basis of pupil attendance in educational programs which differ in cost from regular educational programs.

(i) "Low enrollment weighting" means an addend component assigned to enrollment of districts pursuant to K.S.A. 72-6412, and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such districts in comparison with costs attributable to maintenance of educational programs by districts having to which high enrollment weighting is assigned pursuant to K.S.A. 2010 Supp. 72-6442b, and amendments thereto.

(j) "School facilities weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to commencing operation of new school facilities.

(k) "Transportation weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to the provision or furnishing of transportation.

(l) "Cost of living weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2010 Supp. 72-6449, and amendments thereto, apply on the basis of costs attributable to the cost of living in the district.

(m) "Ancillary school facilities weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 72-6441, and amendments thereto, apply on the basis of costs attributable to commencing operation of new school facilities. Ancillary school facilities weighting may be assigned to enrollment of a district only if the district has levied a tax under authority of K.S.A. 72-6441, and amendments thereto, and remitted the proceeds from such tax to the state treasurer. Ancillary school facilities weighting is in addition to assignment of school facilities weighting to enrollment of any district eligible for such weighting.

(n) "Juvenile detention facility" has the meaning ascribed thereto by 72-8187, and amendments thereto.

(o) "Special education and related services weighting" means an addend component assigned to



enrollment of districts on the basis of costs attributable to provision of special education and related services for pupils determined to be exceptional children.

(p) "Virtual school" means any school or educational program that: (1) is offered for credit; (2) uses distance-learning technologies which predominately use internet-based methods to deliver instruction; (3) involves instruction that occurs asynchronously with the teacher and pupil in separate locations; (4) requires the pupil to make academic progress toward the next grade level and matriculation from kindergarten through high school graduation; (5) requires the pupil to demonstrate competence in subject matter for each class or subject in which the pupil is enrolled as part of the virtual school; and (6) requires age-appropriate pupils to complete state assessment tests.

(q) "Declining enrollment weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2010 Supp. 72-6451, and amendments thereto, apply on the basis of reduced revenues attributable to the declining enrollment of the district.

(r) "High enrollment weighting" means an addend component assigned to enrollment of districts pursuant to K.S.A. 2010 Supp. 72-6442b, and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such districts as to correlate to low enrollment weighting assigned to enrollment of districts pursuant to K.S.A. 72-6412, and amendments thereto.

(s) "High density at-risk pupil weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2010 Supp. 72-6455, and amendments thereto, apply.

(t) "Nonproficient pupil" means a pupil who is not eligible for free meals under the national school lunch act and who has scored less than proficient on the mathematics or reading state assessment during the preceding school year and who is enrolled in a district which maintains an approved proficiency assistance plan.

(u) "Nonproficient pupil weighting" means an addend component assigned to enrollment of districts on the basis of enrollment of nonproficient pupils pursuant to K.S.A. 2010 Supp. 72-6454, and amendments thereto.

(v) "Psychiatric residential treatment facility" has the meaning ascribed thereto by K.S.A. 72-8187, and amendments thereto.

(w) "Medium density at-risk pupil weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2010 Supp. 72-6459, and amendments thereto, apply.

**HISTORY:** L. 1992, ch. 280, § 3; L. 1993, ch. 264, § 8; L. 1994, ch. 307, § 12; L. 1995, ch. 160, § 1; L. 1997, ch. 41, § 1; L. 1998, ch. 118, § 1; L. 1999, ch. 165, § 1; L. 2000, ch. 95, § 1; L. 2001, ch. 215, § 1; L. 2001, ch. 215, § 4; L. 2002, ch. 193, § 1; L. 2003, ch. 104, § 7; L. 2004, ch. 124, § 4; L. 2005, ch. 194, § 16; L. 2005, ch. 2, § 10 (Special Session); L. 2006, ch. 197, § 9; L. 2007, ch. 185, § 1; L. 2008, ch. 172, § 2; L. 2009, ch. 76, § 2; Apr. 23.

## 72-6408 Definitions; school year.

(a) "School year" means the twelve month period ending June 30.

(b) "Current school year" means the school year during which general state aid is determined by the state board under K.S.A. 72-6416, and amendments thereto.

(c) "Preceding school year" means the school year immediately before the current school year.

(d) "September 20" has its usual meaning, except that in any year in which September 20 is not a day on which school is maintained, it shall mean the first day after September 20 on which school is maintained.

(e) "February 20" has its usual meaning, except that in any year in which February 20 is not a day on which school is maintained, it shall mean the first day after February 20 on which school is maintained.

(f) The provisions of this section shall take effect and be in force from and after July 1, 1992.

**HISTORY:** L. 1992, ch. 280, § 4; May 28.

## 72-6409 Definitions; funds; operating expenses; budgets.

(a) "General fund" means the fund of a district from which operating expenses are paid and in which is deposited the proceeds from the tax levied under K.S.A. 72-6431, and amendments thereto, all amounts of general state aid under this act, payments under K.S.A. 72-7105a, and amendments thereto, payments of federal funds made available under the provisions of title I of public law 874, except amounts received for assistance in cases of major disaster and amounts received under the low-rent housing program, and such other moneys as are provided by law.

(b) "Operating expenses" means the total expenditures and lawful transfers from the general fund of a district during a school year for all purposes, except expenditures for the purposes specified in K.S.A. 72-6430, and amendments thereto.

(c) "General fund budget" means the amount budgeted for operating expenses in the general fund of a district.

(d) "Budget per pupil" means the general fund budget of a district divided by the enrollment of the district.

(e) "Program weighted fund" means and includes the following funds of a district: Vocational education fund, preschool-aged at-risk education fund and bilingual education fund.

(f) "Categorical fund" means and includes the following funds of a district: Special education fund, food service fund, driver training fund, adult education fund, adult supplementary education fund, area vocational school fund, professional development fund, parent education program fund, summer program fund, extraordinary school program fund, and educational excellence grant program fund.

**HISTORY:** L. 1992, ch. 280, § 5; L. 1993, ch. 264, § 9; L. 1994, ch. 310, § 2; L. 2003, ch. 9, § 1; L. 2003, ch.

158, § 7; L. 2005, ch. 152, § 13; L. 2006, ch. 197, § 10; July 1.

## 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.

## 72-6411 Transportation weighting; definitions.

(a) The transportation weighting of each district shall be determined by the state board as follows:

(1) Determine the total expenditures of the district during the preceding school year from all funds for transporting pupils of public and nonpublic schools on regular school routes;

(2) divide the amount determined under (1) by the total number of pupils who were included in the enrollment of the district in the preceding school year and for whom transportation was made available by the district;

(3) multiply the quotient obtained under (2) by the total number of pupils who were included in the enrollment of the district in the preceding school year, were residing less than 2 1/2 miles by the usually traveled road from the school building they attended, and for whom transportation was made available by the district;

(4) multiply the product obtained under (3) by 50%;

(5) subtract the product obtained under (4) from the amount determined under (1);

(6) divide the remainder obtained under (5) by the total number of pupils who were included in the enrollment of the district in the preceding school year, were residing 2 1/2 miles or more by the usually traveled road from the school building they attended and for whom transportation was made available by the district. The quotient is the per-pupil cost of transportation;

(7) on a density-cost graph plot the per-pupil cost of transportation for each district;

(8) construct a curve of best fit for the points so plotted;

(9) locate the index of density for the district on the base line of the density-cost graph and from the point on the curve of best fit directly above this point of index of density follow a line parallel to the base line to the point of intersection with the vertical line, which point is the formula per-pupil cost of transportation of the district;

(10) divide the formula per-pupil cost of transportation of the district by base state aid per pupil;

(11) multiply the quotient obtained under (10) by the number of pupils who are included in the enrollment of the district, are residing 2 1/2 miles or more by the usually traveled road to the school building they attend, and for whom transportation is being made available by, and at the expense of, the district. The product is the transportation weighting of the district.

(b) For the purpose of providing accurate and reliable data on pupil transportation, the state board is authorized to adopt rules and regulations prescribing procedures which districts shall follow in reporting pertinent information relative thereto, including uniform reporting of expenditures for transportation.

(c) "Index of density" means the number of pupils who are included in the enrollment of a district in the current school year, are residing 2 1/2 miles or more by the usually traveled road from the school building they attend, and for whom transportation is being made available on regular school routes by the district, divided by the number of square miles of territory in the district.

(d) "Density-cost graph" means a drawing having: (1) A horizontal or base line divided into equal intervals of density, beginning with zero on the left; and (2) a scale for per-pupil cost of transportation to be shown on a line perpendicular to the base line at the left end thereof, such scale to begin with zero dollars at the base line ascending by equal per-pupil cost intervals.

(e) "Curve of best fit" means the curve on a density-cost graph drawn so the sum of the distances squared from such line to each of the points plotted on the graph is the least possible.

(f) The provisions of this section shall take effect and be in force from and after July 1, 1992.

**HISTORY:** L. 1992, ch. 280, § 7; May 28.

### **72-6412 Low enrollment weighting.**

(a) The low enrollment weighting shall be determined by the state board as provided by this section.

(b) For districts with enrollment of 1,637 or more in school year 2006-2007, and 1,622 or more in school year 2007-2008 and each school year thereafter, the low enrollment weighting shall be 0.

(c) For districts with enrollment of less than 100, the low enrollment weighting shall be equal to the low enrollment weighting of a district with enrollment of 100.

(d) For districts with enrollment of less than 1,637 in school year 2006-2007 and less than 1,622 in school year 2007-2008 and each school year thereafter and more

than 99, the low enrollment weighting shall be determined by the state board as follows:

(1) Determine the low enrollment weighting for such districts for school year 2004-2005;

(2) multiply the low enrollment weighting of each district determined under paragraph (1) by 3,863;

(3) add 3,863 to the product obtained under paragraph (2);

(4) divide the product obtained under paragraph (3) by 4,107; and

(5) subtract 1 from the product obtained under paragraph (4). The difference shall be the low enrollment weighting of the district.

**HISTORY:** L. 1992, ch. 280, § 8; L. 1995, ch. 160, § 4; L. 1997, ch. 41, § 3; L. 1998, ch. 118, § 3; L. 1999, ch. 165, § 3; L. 2005, ch. 152, § 15; L. 2005, ch. 2, § 19 (Special Session); L. 2006, ch. 197, § 12; July 1.

### **72-6413 Program weighting; use of moneys derived from weighting.**

(a) The program weighting of each district shall be determined by the state board as follows:

(1) Compute full time equivalent enrollment in programs of bilingual education and multiply the computed enrollment by .395;

(2) compute full time equivalent enrollment in approved vocational education programs and multiply the computed enrollment by 0.5;

(3) add the products obtained under (1) and (2). The sum is the program weighting of the district.

(b) A school district may expend amounts received from the bilingual weighting to pay the cost of providing at-risk and preschool-aged at-risk education programs and services.

**HISTORY:** L. 1992, ch. 280, § 9; L. 2005, ch. 152, § 16; L. 2006, ch. 197, § 13; July 1.

### **72-6414 At-risk pupil weighting; use of moneys derived from weighting; required expenditures for mastery of basic reading skills, exemption.**

(a) The at-risk pupil weighting of each district shall be determined by the state board by multiplying the number of at-risk pupils included in enrollment of the district by .278 for school year 2006-2007, by .378 for school year 2007-2008 and by .456 for school year 2008-2009 and each school year thereafter. The product is the at-risk pupil weighting of the district.

(b) Except as provided in subsection (d), of the amount a district receives from the at-risk pupil weighting, an amount produced by a pupil weighting of .01 shall be used by the district for achieving mastery of basic reading skills by completion of the third grade in

accordance with standards and outcomes of mastery identified by the state board under K.S.A. 72-7534, and amendments thereto.

(c) A district shall include such information in its at-risk pupil assistance plan as the state board may require regarding the district's remediation strategies and the results thereof in achieving the third grade reading standards and outcomes of mastery identified by the state board. The reporting requirements shall include information documenting remediation strategies and improvement made by pupils who performed below the expected standard on the second grade diagnostic reading test prescribed by the state board.

(d) A district whose pupils substantially achieve the state board standards and outcomes of mastery of reading skills upon completion of third grade may be released, upon request, by the state board from the requirements of subsection (b).

(e) (1) A district may expend amounts received from the at-risk pupil weighting to pay for the cost of providing full-day kindergarten to any pupil enrolled in the district and attending full-day kindergarten whether or not such pupil is an at-risk pupil.

(2) Nothing in this subsection shall be construed as requiring school districts to provide full-day kindergarten nor as requiring any pupil to attend full-day kindergarten.

(3) As used in this subsection (e):

(A) "District" means any school district which offers both full-day and half-day kindergarten.

(B) "Cost" means that portion of the cost of providing full-day kindergarten which is not paid by the state.

(f) A school district may expend amounts received from the at-risk weighting to pay the cost of providing preschool-aged at-risk, bilingual and vocational education programs and services.

**HISTORY:** L. 1992, ch. 280, § 10; L. 1997, ch. 41, § 4; L. 1998, ch. 118, § 4; L. 1999, ch. 165, § 4; L. 2001, ch. 215, § 6; L. 2005, ch. 152, § 17; L. 2005, ch. 2, § 20 (Special Session); L. 2006, ch. 197, § 14; July 1.

### **72-6414a. At-risk education fund; uses of money, unencumbered balance in fund; reports to the state board.**

(a) There is hereby established in every district a fund which shall be called the at-risk education fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. The expenses of a district directly attributable to providing at-risk assistance or programs, including assistance or programs provided to nonproficient pupils, shall be paid from the at-risk education fund.

(b) Any balance remaining in the at-risk education fund at the end of the budget year shall be carried forward into the at-risk education fund for succeeding budget years. Such fund shall not be subject to the

provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the at-risk education fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

Any unencumbered balance of moneys remaining in the at-risk education fund of a school district on June 30, 2011, may be expended in school year 2011-2012 by the school district for general operating expenses of the school district as approved by the board of education.

(c) Each year the board of education of each school district shall prepare and submit to the state board a report on the at-risk program or assistance provided by the district. Such report shall include information specifying the number of at-risk pupils and nonproficient pupils who were served or provided assistance, the type of service provided, the research upon which the district relied in determining that a need for service or assistance existed, the results of providing such service or assistance and any other information required by the state board.

(d) In order to achieve uniform reporting of the number of at-risk pupils and nonproficient pupils provided service or assistance by school districts in at-risk programs, districts shall report the number of at-risk pupils and nonproficient pupils served or assisted in the manner required by the state board.

**HISTORY:** L. 2005, ch. 152, § 18; L. 2006, ch. 197, § 15; L. 2011, ch. 107, § 6; July 1.

### **72-6414b. Preschool-aged at-risk education fund; use of money, unencumbered balance in fund; reports to the state board.**

(a) There is hereby established in every district a fund which shall be called the preschool-aged at-risk education fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. The expenses of a district directly attributable to providing preschool-aged at-risk assistance or programs shall be paid from the preschool-aged at-risk education fund.

(b) A school district may expend amounts received from the preschool-aged at-risk weighting to pay the cost of providing at-risk, bilingual and vocational education programs and services.

(c) Any balance remaining in the preschool-aged at-risk education fund at the end of the budget year shall be carried forward into the preschool-aged at-risk education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the preschool-aged at-risk education fund, and the amount expended therefrom

shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

Any unencumbered balance of moneys remaining in the preschool-aged at-risk education fund of a school district on June 30, 2011, may be expended in school year 2011-2012 by the school district for general operating expenses of the school district as approved by the board of education.

(d) Each year the board of education of each school district shall prepare and submit to the state board a report on the preschool-aged at-risk program or assistance provided by the district. Such report shall include information specifying the number of pupils who were served or provided assistance, the type of service provided, the research upon which the district relied in determining that a need for service or assistance existed, the results of providing such service or assistance and any other information required by the state board.

**HISTORY:** L. 2005, ch. 194, § 10; L. 2006, ch. 197, § 16; L. 2011, ch. 107, § 7; July 1.

### **72-6415 School facilities weighting.**

(a) The school facilities weighting of each district shall be determined in each school year in which such weighting may be assigned to enrollment of the district as follows:

(1) Determine the number of pupils, included in enrollment of the district, who are attending a new school facility;

(2) multiply the number of pupils determined under (1) by .25. The product is the school facilities weighting of the district.

(b) The provisions of this section shall take effect and be in force from and after July 1, 1992.

**HISTORY:** L. 1992, ch. 280, § 11; May 28.

### **72-6415b School facilities weighting; conditions to qualify.**

School facilities weighting may be assigned to enrollment of a district only if the district has adopted a local option budget in an amount equal to at least 25% of the amount of the state financial aid determined for the district in the current school year. School facilities weighting may be assigned to enrollment of the district only in the school year in which operation of a new school facility is commenced and in the next succeeding school year.

**HISTORY:** L. 2005, ch. 194, § 11; L. 2006, ch. 197, § 17; July 1.

### **72-6416 General state aid; determination of entitlement; amount.**

(a) In each school year, the state board shall determine entitlement of each district to general state aid for the school year as provided in this section.

(b) The state board shall determine the amount of the district's local effort for the school year. If the amount of the district's local effort is greater than the amount of state financial aid determined for the district for the school year, the district shall not be entitled to general state aid. If the amount of the district's local effort is less than the amount of state financial aid determined for the district for the school year, the state board shall subtract the amount of the district's local effort from the amount of state financial aid. The remainder is the amount of general state aid the district is entitled to receive for the current school year.

(c) The provisions of this section shall take effect and be in force from and after July 1, 1992.

**HISTORY:** L. 1992, ch. 280, § 12; May 28.

### **72-6417 General state aid distribution; times; disposition.**

(a) The distribution of general state aid under this act shall be made in accordance with appropriation acts each year as provided in this section.

(b) (1) In the months of July through May of each school year, the state board shall determine the amount of general state aid which will be required by each district to maintain operations in each such month. In making such determination, the state board shall take into consideration the district's access to local effort sources and the obligations of the general fund which must be satisfied during the month. The amount determined by the state board under this provision is the amount of general state aid which will be distributed to the district in the months of July through May;

(2) in the month of June of each school year, subject to the provisions of subsection (d), payment shall be made of the full amount of the general state aid entitlement determined for the school year, less the sum of the monthly payments made in the months of July through May.

(c) The state board of education shall prescribe the dates upon which the distribution of payments of general state aid to school districts shall be due. Payments of general state aid shall be distributed to districts once each month on the dates prescribed by the state board. The state board shall certify to the director of accounts and reports the amount due as general state aid to each district in each of the months of July through June. Such certification, and the amount of general state aid payable from the state general fund, shall be approved by the director of the budget. The director of accounts and reports shall draw warrants on the state treasurer payable to the district treasurer of each district entitled to payment of general state aid, pursuant to vouchers

approved by the state board. Upon receipt of such warrant, each district treasurer shall deposit the amount of general state aid in the general fund, except that, an amount equal to the amount of federal impact aid not included in the local effort of a district may be disposed of as provided in subsection (a) of K.S.A. 72-6427, and amendments thereto.

(d) If any amount of 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 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.

**HISTORY:** L. 1992, ch. 280, § 13; L. 1997, ch. 189, § 4; L. 2003, ch. 139, § 2; May 15.

### **72-6418 Overpayments; underpayments.**

(a) In the event any district is paid more than it is entitled to receive under any distribution made under this act or under any statute repealed by this act, the state board shall notify the district of the amount of such overpayment, and such district shall remit the same to the state board. The state board shall remit any moneys so received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund. If any district fails so to remit, the state board shall deduct the excess amounts so paid from future payments becoming due to the district. In the event any district is paid less than the amount to which it is entitled under any distribution made under this act, the state board shall pay the additional amount due at any time within the school year in which the underpayment was made or within 60 days after the end of such school year.

(b) The provisions of this section shall take effect and be in force from and after July 1, 1992.

**HISTORY:** L. 1992, ch. 280, § 14; L. 2001, ch. 5, § 290; July 1.

### **72-6419 Certification of enrollment data and budget.**

(a) On or before October 10 of each school year, the clerk or superintendent of each district shall certify under oath to the state board a report showing the total enrollment of the district by grades maintained in the schools of the district and such other reports as the state board may require. Each such report shall show postsecondary education enrollment, vocational education enrollment, special education enrollment,

bilingual education enrollment, and at-risk pupil enrollment in such detail and form as is specified by the state board. Upon receipt of such reports, the state board shall examine the reports and if the state board finds any errors in any such report, the state board shall consult with the district officer furnishing the report and make such corrections in the report as are necessary. One of such district officers shall also certify to the state board, on or before August 25 of each year, a copy of the budget adopted by the district.

(b) The provisions of this section shall take effect and be in force from and after July 1, 1992.

**HISTORY:** L. 1992, ch. 280, § 15; May 28.

### **72-6420. Special education fund; use of money, unencumbered balance in fund.**

(a) There is hereby established in every district a fund which shall be called the special education fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. Notwithstanding any other provision of law, all moneys received by the district from whatever source for special education shall be credited to the special education fund established by this section, except that (1) amounts of payments received by a district under K.S.A. 72-979, and amendments thereto, and amounts of grants, if any, received by a district under K.S.A. 72-983, and amendments thereto, shall be deposited in the general fund of the district and transferred to the special education fund, and (2) moneys received by a district pursuant to lawful agreements made under K.S.A. 72-968, and amendments thereto, shall be credited to the special fund established under the agreements.

(b) The expenses of a district directly attributable to special education shall be paid from the special education fund and from special funds established under K.S.A. 72-968, and amendments thereto.

(c) Obligations of a district pursuant to lawful agreements made under K.S.A. 72-968, and amendments thereto, shall be paid from the special education fund established by this section.

(d) Except for moneys received under K.S.A. 72-978, and amendments thereto, from cooperative agreements entered into under K.S.A. 72-968, and amendments thereto, any unencumbered balance of moneys attributable to appropriations by the legislature for special education or related services remaining in the special education fund of a school district on June 30, 2011, may be expended in school year 2011-2012 by the school district for general operating expenses of the school district as approved by the board of education in an amount not to exceed 1/3 of the unencumbered balance of the school district's special education fund.

**HISTORY:** L. 1992, ch. 280, § 16; L. 2001, ch. 215, § 14; L. 2011, ch. 107, § 8; July 1

### **72-6421. Vocational education fund; use of money, unencumbered balance in fund.**

(a) There is hereby established in every district a fund which shall be called the vocational education fund. All moneys received by a district for any course or program authorized and approved under the provisions of article 44 of chapter 72 of Kansas Statutes Annotated, and amendments thereto, except for courses and programs conducted in an area vocational school, shall be credited to the vocational education fund. All moneys received by the district from tuition, fees or charges or from any other source for vocational education courses or programs, except for courses and programs conducted in an area vocational school, shall be credited to the vocational education fund. The expenses of a district directly attributable to vocational education shall be paid from the vocational education fund.

(b) Obligations of a district pursuant to lawful agreements made under K.S.A. 72-4421, and amendments thereto, shall be paid from the vocational education fund established by this section. If any such agreement expresses an obligation of a district in terms of a mill levy, such obligation shall be construed to mean an amount equal to that which would be produced by the levy.

(c) Any balance remaining in the vocational education fund at the end of the budget year shall be carried forward into the vocational education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the vocational education fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund. Any unencumbered balance of moneys attributable to appropriations by the legislature in the vocational education fund of a school district on June 30, 2011, may be expended in school year 2011-2012 by the school district for general operating expenses of the school district as approved by the board of education.

**HISTORY:** L. 1992, ch. 280, § 17; L. 2005, ch. 152, § 21; L. 2011, ch. 107, § 9; July 1.

### **72-6422 Area vocational school fund.**

(a) There is hereby established in every district operating an area vocational school a fund which shall be called the area vocational school fund, which fund shall consist of all federal and state moneys received by the district under the provisions of article 44 of chapter 72 of Kansas Statutes Annotated, except moneys received for courses and programs not conducted in the area vocational school. All moneys received by the district from tuition, fees or charges or from any other source for

vocational education courses or programs conducted in the area vocational school operated by the district shall be credited to the area vocational school fund. The expenses of a district directly attributable to operation of an area vocational school shall be paid from the area vocational school fund.

(b) The provisions of this section shall take effect and be in force from and after July 1, 1992.

**HISTORY:** L. 1992, ch. 280, § 18; May 28.

### **72-6423. Driver training fund; use of money, unencumbered balance in fund.**

(a) There is hereby established in every district a fund which shall be called the driver training fund which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by the district from distributions made from the state safety fund and the motorcycle safety fund and from tuition, fees or charges for driver training courses shall be credited to the driver training fund. The expenses of a district directly attributable to driver training shall be paid from the driver training fund.

(b) Any unencumbered balance of moneys remaining in the driver training fund of a school district on June 30, 2011, may be expended in school year 2011-2012 by the school district for general operating expenses of the school district as approved by the board of education.

**HISTORY:** L. 1992, ch. 280, § 19; L. 2011, ch. 107, § 10; July 1.

### **72-6424 Food service fund.**

(a) There is hereby established in every district a fund which shall be called the food service fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by the district for food service and from charges for food service shall be credited to the food service fund. The expenses of a district attributable to food service shall be paid from the food service fund.

(b) The provisions of this section shall take effect and be in force from and after July 1, 1992.

**HISTORY:** L. 1992, ch. 280, § 20; May 28.

### **72-6425 Transportation fund, abolished; transportation expenses paid from general fund.**

(a) All moneys received by the district for pupil transportation shall be credited to the general fund. The expenses of a district attributable to pupil transportation shall be paid from the general fund.

(b) The transportation fund of each district is hereby abolished. Any moneys in such fund shall be transferred and credited to the general fund of the school district.

**HISTORY:** L. 1992, ch. 280, § 21; L. 2003, ch. 116, § 9; July 1.

### **72-6426. Contingency reserve fund; use of money, unencumbered balance in fund, limitations.**

(a) There is hereby established in every district a fund which shall be called the contingency reserve fund. Such fund shall consist of all moneys deposited therein or transferred thereto according to law. The fund shall be maintained for payment of expenses of a district attributable to financial contingencies as determined by the board.

(b) (1) Except as otherwise provided in subsection (c), at no time in school year 2008-2009 through school year 2011-2012 shall the amount maintained in the contingency reserve fund exceed an amount equal to 10% of the general fund budget of the district for the school year.

(2) Except as otherwise provided in subsection (c), at no time in school year 2012-2013 or any school year thereafter shall the amount maintained in the contingency reserve fund exceed an amount equal to 6% of the general fund budget of the district for the school year.

(c) (1) If the amount in the contingency reserve fund of a district is in excess of the amount authorized under subsection (b), and if such excess amount is the result of a reduction in the general fund budget of the district for the school year because of a decrease in enrollment, the district may maintain the excess amount in the fund until depletion of such excess amount by expenditure from the fund for the purposes thereof.

(2) The limitation on the amount which may be maintained in the contingency reserve fund imposed under subsection (b) shall not apply to any district whose state financial aid is computed under the provisions of K.S.A. 72-6445a, and amendments thereto. Any such district may maintain the excess amount in the fund until depletion of such excess amount by expenditure from the fund for the purposes thereof.

(d) Notwithstanding the provisions of subsection (c), any unencumbered balance of moneys remaining in the contingency reserve fund of a school district on June 30, 2011, may be expended in school year 2011-2012 by the school district for general operating expenses of the school district as approved by the board of education.

**HISTORY:** L. 1992, ch. 280, § 22; L. 1993, ch. 51, § 1; L. 1995, ch. 160, § 5; L. 2002, ch. 196, § 3; L. 2005, ch. 2, § 11 (Special Session); L. 2006, ch. 197, § 18; L. 2009, ch. 106, § 2; L. 2011, ch. 107, § 11; July 1.

### **72-6427 Miscellaneous revenues; disposition.**

(a) Except as otherwise provided in this section, any revenues of a district, not required by law to be deposited in or credited to a specific fund, shall be deposited in or credited to any program weighted fund or any categorical fund of the district or to the capital outlay fund of the district.

(b) At the discretion of the board of any district, revenues earned from the investment of an activity fund of the district in accordance with the provisions of K.S.A. 12-1675, and amendments thereto, may be deposited in or credited to such activity fund.

(c) (1) At the discretion of the board of any district and subject to provision (2), any revenues specified in subsections (a) and (b) may be deposited in or credited to the general fund of the district in any school year for which the allotment system authorized under K.S.A. 75-3722, and amendments thereto, has been inaugurated and applied to appropriations made for general state aid or in any school year for which any portion of the appropriations made for general state aid are lapsed by act of the legislature.

(2) In no event may the amount of revenues deposited in or credited to the general fund of the district under authority of provision (1) exceed an amount equal to the amount of the reduction in general state aid entitlement of the district determined by the state board to be the result of application of the allotment system to the appropriations made for general state aid or of the lapse of any portion thereof by act of the legislature.

(d) At the discretion of the board of any district, revenues received by the district from the federal government as the district's share of the proceeds derived from sale by the federal government of its rights to oil, gas and other minerals located beneath the surface of lands within the district's boundaries may be deposited in the bond and interest fund of the district and used for the purposes of such fund. If at any time all indebtedness and obligations of such fund have been fully paid and canceled, the revenues authorized by this subsection to be deposited in such fund shall be disposed of as provided in subsection (a).

(e) To the extent that K.S.A. 72-1623, 72-8804 and 79-2958, and amendments to such sections, conflict with this section, this section shall control.

(f) The provisions of this section shall take effect and be in force from and after July 1, 1992.

**HISTORY:** L. 1992, ch. 280, § 23; May 28.

### **72-6428 Transfers from general fund authorized; conditions; limitations.**

(a) Any lawful transfer of moneys from the general fund of a district to any other fund shall be an operating expense in the year the transfer is made. The board of any district may transfer moneys from the general fund

to any categorical fund of the district in any school year. The board of any district may transfer moneys from the general fund to any program weighted fund of the district, subject to the following conditions:

(1) No board shall transfer moneys in any amount from the general fund to a program weighted fund prior to maturation of the obligation of the fund necessitating the transfer.

(2) The board may transfer moneys in an amount not to exceed the amount of the obligation of the program weighted fund necessitating the transfer.

(b) The board of any district may transfer moneys from the general fund to the contingency reserve fund of the district, subject to the limitations imposed upon the amount authorized to be maintained in the contingency reserve fund under K.S.A. 72-6426, and amendments thereto.

(c) The board of any district may transfer moneys from the general fund to the capital outlay fund of the district.

(d) The board of any district may transfer moneys from the general fund to the special reserve fund.

(e) The board of any district may transfer moneys from the general fund to the special liability expense fund.

(f) The board of any district may transfer moneys from the general fund to the textbook and student materials revolving fund.

**HISTORY:** L. 1992, ch. 280, § 24; L. 2003, ch. 116, § 10; July 1.

### **72-6429 Transfers to general fund authorized; limitations.**

(a) In each school year, any board may transfer to its general fund from any fund to which transfers from the general fund are authorized an amount not to exceed an amount equal to the amount transferred from the general fund to any such fund in the same school year.

(b) The provisions of this section shall take effect and be in force from and after July 1, 1992.

**HISTORY:** L. 1992, ch. 280, § 25; May 28.

### **72-6430 Expenditures for certain purposes not operating expenses.**

Expenditures of a district for the following purposes are not operating expenses:

(a) Payments to another district in an adjustment of rights as provided in K.S.A. 72-6776, and amendments thereto, or upon transfer of territory as provided in K.S.A. 72-7105, 72-7106 or 72-7107, and amendments to such sections, if paid from any fund other than the general fund.

(b) Payments to another district under K.S.A. 72-7105a, and amendments thereto.

(c) The maintenance of student activities which are reimbursed.

(d) Expenditures from any lawfully authorized fund of a district other than its general fund.

(e) The provision of educational services for pupils residing at the Flint Hills job corps center, for pupils housed at a psychiatric residential treatment facility or for pupils confined in a juvenile detention facility for which the district is reimbursed by a grant of state moneys as provided in K.S.A. 72-8187, and amendments thereto. As used in this subsection, juvenile detention facility and psychiatric residential treatment facility have the meanings ascribed thereto by K.S.A. 72-8187, and amendments thereto.

(f) Programs financed in part or in whole by federal funds which may be expended although not included in the budget of the district, excepting funds received under the provisions of title I of public law 874 (but not including in such exception amounts received for assistance in cases of major disaster and amounts received under the low-rent housing program), to the extent of the federal funds to be provided.

**HISTORY:** L. 1992, ch. 280, § 26; L. 1993, ch. 264, § 10; L. 1994, ch. 307, § 13; L. 1999, ch. 165, § 5; L. 2000, ch. 95, § 2; L. 2001, ch. 215, § 2; L. 2002, ch. 196, § 4; L. 2007, ch. 76, § 3; July 1.

### **72-6431. Ad valorem tax levy required; purposes; rate; disposition of proceeds.**

(a) The board of each district shall levy an ad valorem tax upon the taxable tangible property of the district in the school years specified in subsection (b) for the purpose of:

(1) Financing that portion of the district's general fund budget which is not financed from any other source provided by law;

(2) paying a portion of the costs of operating and maintaining public schools in partial fulfillment of the constitutional obligation of the legislature to finance the educational interests of the state; and

(3) with respect to any redevelopment district established prior to July 1, 1997, pursuant to K.S.A. 12-1771, and amendments thereto, paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district.

(b) The tax required under subsection (a) shall be levied at a rate of 20 mills in the school year 2011-2012 and school year 2012-2013.

(c) The proceeds from the tax levied by a district under authority of this section, except the proceeds of such tax levied for the purpose of paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district, shall be deposited in the general fund of the district.

(d) On June 6 of each year, the amount, if any, by which a district's local effort exceeds the amount of the

district's state financial aid, as determined by the state board, shall be 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.

(e) No district shall proceed under K.S.A. 79-1964, 79-1964a or 79-1964b, and amendments thereto.

**HISTORY:** L. 1992, ch. 280, § 27; L. 1994, ch. 7, § 1; L. 1996, ch. 265, § 2; L. 1997, ch. 41, § 6; L. 1997, ch. 187, § 6; L. 1998, ch. 130, § 25; L. 1999, ch. 165, § 6; L. 2001, ch. 215, § 7; L. 2003, ch. 139, § 6; L. 2004, ch. 180, § 10; L. 2005, ch. 152, § 22; L. 2007, ch. 152, § 5; L. 2009, ch. 97, § 1; L. 2011, ch. 110, § 2; July 1.

## 72-6432 Exceeding general fund budget; penalty.

(a) In case a district expends in any school year an amount for operating expenses which exceeds its general fund budget, the state board shall determine the excess and deduct the same from amounts of general state aid payable to the district during the next school year.

(b) The provisions of this section shall take effect and be in force from and after July 1, 1992.

**HISTORY:** L. 1992, ch. 280, § 28; May 28.

## 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. 2010 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.

## 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 an amount as authorized by K.S.A. 72-6433, and amendments thereto, whichever is greater.

(b) (1) The provisions of this subsection shall apply in any school year in which the amount appropriated for state aid for special education and related services is less

than the amount appropriated for state aid for special education and related services in school year 2008-2009.

(2) 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 an amount as authorized by 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; July 1.

### **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. 2010 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.

### **72-6434b Same; district formed by consolidation or disorganization.**

(a) Unless the context otherwise requires, as used in this section, "district" means: (1) Any school district formed by consolidation in accordance with article 87 of chapter 72 of the Kansas Statutes Annotated; or (2) any school district formed by disorganization and attachment in accordance with article 73 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto, if all the territory which comprised a disorganized district is attached to a single district.

(b) (1) For the purposes of determining the amount of supplemental general state aid, the state board shall determine the ranking of each of the former school districts of which the district is composed as required by subsection (a)(2) of K.S.A. 72-6434, and amendments thereto, for the school year prior to the effectuation of the consolidation or attachment.

(2) For the school year in which the consolidation or attachment is effectuated and the next succeeding two school years, the ranking of the district for the purposes of subsection (a)(2) of K.S.A. 72-6434, and amendments thereto, shall be the ranking of the district receiving the highest amount of supplemental general state aid determined under paragraph (1).

(c) The provisions of this section shall apply to districts which have consolidated or disorganized on and after July 1, 2004.

**HISTORY:** L. 2006, ch. 165, § 7; July 1.

### **72-6435 Same; ad valorem tax levy authorized; disposition of proceeds.**

(a) In each school year, the board of every district that has adopted a local option budget may levy an ad valorem tax on the taxable tangible property of the district for the purpose of: (1) Financing that portion of the district's local option budget which is not financed from any other source provided by law; (2) paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district; and (3) funding transfers to the capital improvement 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% of state financial aid determined for the current school year.

(b) The proceeds from the tax levied by a district under authority of this section, except the proceeds of such tax levied for the purpose of paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district, shall be deposited in the supplemental general fund of the district.

(c) No district shall proceed under K.S.A. 79-1964, 79-1964a or 79-1964b, and amendments to such sections.

**HISTORY:** L. 1992, ch. 280, § 31; L. 2006, ch. 197, § 21; July 1.

### **72-6436 New districts; boundary changes; revisions.**

(a) Whenever a new district has been established or the boundaries of a district have been changed, the state board shall make appropriate revisions concerning the affected districts as may be necessary for the purposes of this act to reflect such establishment of a district or changes in boundaries. Such revisions shall be based on the most reliable data obtainable from the superintendent of the district and the county clerk.

(b) The provisions of this section shall take effect and be in force from and after July 1, 1992.

**HISTORY:** L. 1992, ch. 280, § 32; May 28.

### **72-6437 Rules and regulations.**

(a) The state board may adopt rules and regulations for the administration of this act, including the classification of expenditures of districts to insure uniform reporting of operating expenses.

(b) The provisions of this section shall take effect and be in force from and after July 1, 1992.

**HISTORY:** L. 1992, ch. 280, § 33; May 28.

### **72-6438 State school district finance fund; sources; use.**

(a) The state school district finance fund, established by K.S.A. 1991 Supp. 72-7081 prior to its repeal by the school district finance and quality performance act, is hereby continued in existence and shall consist of (1) all moneys credited to such fund under K.S.A. 72-6418, 72-6431, 72-6441 and K.S.A. 2010 Supp. 72-6449 and 72-6451, and amendments thereto, and (2) all amounts transferred to such fund.

(b) The state school district finance fund shall be used for the purpose of school district finance and for no other governmental purpose. It is the intent of the legislature that the fund shall remain intact and inviolate for such purpose, and moneys in the fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

(c) Amounts in the state school district finance fund shall be allocated and distributed to school districts as a portion of general state aid entitlements provided for under this act.

**HISTORY:** L. 1992, ch. 280, § 34; L. 1993, ch. 264, § 13; L. 1997, ch. 41, § 7; L. 2005, ch. 194, § 18; May 19.

**72-6439 School performance accreditation system; pupil assessments; curriculum standards, establishment and review by state board; performance levels to represent academic excellence; school site councils.**

(a) In order to accomplish the mission for Kansas education, the state board of education shall design and adopt a school performance accreditation system based upon improvement in performance that reflects high academic standards and is measurable.

(b) The state board shall establish curriculum standards which reflect high academic standards for the core academic areas of mathematics, science, reading, writing and social studies. The curriculum standards shall be reviewed at least every seven years. Nothing in this subsection shall be construed in any manner so as to impinge upon any district's authority to determine its own curriculum.

(c) The state board shall provide for statewide assessments in the core academic areas of mathematics, science, reading, writing and social studies. The board shall ensure compatibility between the statewide assessments and the curriculum standards established pursuant to subsection (b). Such assessments shall be administered at three grade levels, as determined by the board. The state board shall determine performance levels on the statewide assessments, the achievement of which represents high academic standards in the academic area at the grade level to which the assessment applies. The state board should specify high academic standards both for individual performance and school performance on the assessments.

(d) Each school in every district shall establish a school site council composed of the principal and representatives of teachers and other school personnel, parents of pupils attending the school, the business community, and other community groups. School site councils shall be responsible for providing advice and counsel in evaluating state, school district, and school site performance goals and objectives and in determining the methods that should be employed at the school site to meet these goals and objectives. Site councils may make recommendations and proposals to the school board regarding budgetary items and school district matters, including but not limited to, identifying and implementing the best practices for developing efficient and effective administrative and management functions. Site councils also may help school boards analyze the unique environment of schools, enhance the efficiency and maximize limited resources, including outsourcing arrangements and cooperative opportunities as a means to address limited budgets.

**HISTORY:** L. 1992, ch. 280, § 35; L. 1995, ch. 263, § 1; L. 2004, ch. 124, § 3; L. 2006, ch. 197, § 22; July 1.

**72-6439a Failure to meet accreditation requirements; reallocation of resources.**

Whenever the state board of education determines that a school has failed either to meet the accreditation requirements established by rules and regulations or standards adopted by the state board or provide the curriculum required by state law, the state board shall so notify the school district in which the school is located. Such notice shall specify the accreditation requirements that the school has failed to meet and the curriculum that the school has failed to provide. Upon receipt of such notice, the board of education of such district are encouraged to reallocate the resources of the district to remedy all deficiencies identified by the state board. When making such reallocation, the board of education shall take into consideration the resource strategies of highly resource-efficient districts as identified in Phase III of the Kansas Education Resource Management Study conducted by Standard and Poor's (March 2006).

**HISTORY:** L. 2006, ch. 197, § 1; July 1.

**72-6441. Ad valorem tax levy for financing costs of ancillary school facilities weighting; conditions to qualify.**

(a) (1) The board of any district to which the provisions of this subsection apply may levy an ad valorem tax on the taxable tangible property of the district each year for a period of time not to exceed two years in an amount not to exceed the amount authorized by the state court of tax appeals under this subsection for the purpose of financing the costs incurred by the state that are directly attributable to assignment of ancillary school facilities weighting to enrollment of the district. The state court of tax appeals may authorize the district to make a levy which will produce an amount that is not greater than the difference between the amount of costs directly attributable to commencing operation of one or more new school facilities and the amount that is financed from any other source provided by law for such purpose, including any amount attributable to assignment of school facilities weighting to enrollment of the district for each school year in which the district is eligible for such weighting. If the district is not eligible, or will be ineligible, for school facilities weighting in any one or more years during the two-year period for which the district is authorized to levy a tax under this subsection, the state court of tax appeals may authorize the district to make a levy, in such year or years of ineligibility, which will produce an amount that is not greater than the actual amount of costs attributable to commencing operation of the facility or facilities.

(2) The state court of tax appeals shall certify to the state board of education the amount authorized to be produced by the levy of a tax under subsection (a).

(3) The state court of tax appeals may adopt rules and regulations necessary to effectuate the provisions of this subsection, including rules and regulations relating to the evidence required in support of a district's claim that the costs attributable to commencing operation of one or more new school facilities are in excess of the amount that is financed from any other source provided by law for such purpose.

(4) The provisions of this subsection apply to any district that: (A) Commenced operation of one or more new school facilities in the school year preceding the current school year or has commenced or will commence operation of one or more new school facilities in the current school year or any or all of the foregoing; (B) is authorized to adopt and has adopted a local option budget which is at least equal to that amount required to qualify for school facilities weighting under K.S.A. 2011 Supp. 72-6415b, and amendments thereto; and (C) is experiencing extraordinary enrollment growth as determined by the state board of education.

(b) The board of any district that has levied an ad valorem tax on the taxable tangible property of the district each year for a period of two years under authority of subsection (a) may continue to levy such tax under authority of this subsection each year for an additional period of time not to exceed three years in an amount not to exceed the amount computed by the state board of education as provided in this subsection if the board of the district determines that the costs attributable to commencing operation of one or more new school facilities are significantly greater than the costs attributable to the operation of other school facilities in the district. The tax authorized under this subsection may be levied at a rate which will produce an amount that is not greater than the amount computed by the state board of education as provided in this subsection. In computing such amount, the state board shall: (1) Determine the amount produced by the tax levied by the district under authority of subsection (a) in the second year for which such tax was levied and add to such amount the amount of general state aid directly attributable to school facilities weighting that was received by the district in the same year; (2) compute 75% of the amount of the sum obtained under (1), which computed amount is the amount the district may levy in the first year of the three-year period for which the district may levy a tax under authority of this subsection; (3) compute 50% of the amount of the sum obtained under (1), which computed amount is the amount the district may levy in the second year of the three-year period for which the district may levy a tax under authority of this subsection; and (4) compute 25% of the amount of the sum obtained under (1), which computed amount is the amount the district may levy in the third year of the three-year period for which the district may levy a tax under authority of this subsection.

In determining the amount produced by the tax levied by the district under authority of subsection (a), the state board shall include any moneys which have been

apportioned to the ancillary facilities fund of the district from taxes levied under the provisions of K.S.A. 79-5101 et seq. and 79-5118 et seq., and amendments thereto.

(c) The proceeds from the tax levied by a district under authority of this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

**HISTORY:** L. 1993, ch. 264, § 14; L. 1995, ch. 160, § 9; L. 1997, ch. 41, § 8; L. 2001, ch. 5, § 291; L. 2006, ch. 197, § 23; L. 2008, ch. 109, § 61; L. 2011, ch. 106, § 1; July 1.

**72-6442b High enrollment weighting.**

The high enrollment weighting of each district with 1,637 or over enrollment in school year 2006-2007, 1,622 or over enrollment in school year 2007-2008 and each school year thereafter shall be determined by the state board as follows:

(a) Determine the schedule amount for a district with 1,637 enrollment in school year 2006-2007, and 1,622 enrollment in school year 2007-2008 and each school year thereafter as derived from the linear transition under (d) of K.S.A. 72-6412, and amendments thereto, and subtract the amount determined under (c) of K.S.A. 72-6412, and amendments thereto, from the schedule amount so determined;

(b) divide the remainder obtained under (a) by the amount determined under (c) of K.S.A. 72-6412, and amendments thereto, and multiply the quotient by the enrollment of the district in the current school year. The product is the high enrollment weighting of the district.

**HISTORY:** L. 2005, ch. 2, § 21 (Special Session); L. 2006, ch. 197, § 24; July 1.

**72-6443 Ancillary school facilities weighting.**

(a) The ancillary school facilities weighting of each district shall be determined in each school year in which such weighting may be assigned to enrollment of the district as follows:

(1) Add the amount authorized under subsection (a) of K.S.A. 72-6441, and amendments thereto, to be produced by a tax levy and certified to the state board by the state court of tax appeals to the amount, if any, computed under subsection (b) of K.S.A. 72-6441, and amendments thereto, to be produced by a tax levy;

(2) divide the sum obtained under (1) by base state aid per pupil. The quotient is the ancillary school facilities weighting of the district.

(b) The provisions of this section shall take effect and be in force from and after July 1, 1997.



HISTORY: L. 1997, ch. 41, § 5; L. 2008, ch. 109, § 62; July 1.

## 72-6444 District prescribed percentage; computation for determination of local option budget amount; applicability.

(a) In each school year, commencing with the 1997-98 school year, the state board shall compute a district prescribed percentage for the purpose of determining the amount of a local option budget the board of a district to which the provisions of this section apply may adopt for the school year. The district prescribed percentage for each district to which the provisions of this section apply shall be computed by the state board as provided in this section. The state board shall:

(1) Determine the actual amount per pupil for the preceding school year of the general fund budget and the local option budget, if any, of each district;

(2) compute the average amount per pupil for the preceding school year of general fund budgets and local option budgets of districts with 75-125 enrollment in such school year;

(3) compute the average amount per pupil for the preceding school year of general fund budgets and local option budgets of districts with 200-399 enrollment in such school year;

(4) compute the average amount per pupil for the preceding school year of general fund budgets and local option budgets of districts with 1,800 or over enrollment in such school year;

(5) compute an average amount per pupil for the preceding school year of general fund budgets and local option budgets of districts with 100-299.9 enrollment in such school year by preparing a schedule based upon an accepted mathematical formula and deriving an amount for each such district from a linear transition between the average amount per pupil computed under (2) and the average amount per pupil computed under (3);

(6) compute an average amount per pupil for the preceding school year of general fund budgets and local option budgets of districts with 300-1,799.9 enrollment in such school year by preparing a schedule based upon an accepted mathematical formula and deriving an amount for each such district from a linear transition between the average amount per pupil computed under (3) and the average amount per pupil computed under (4);

(7) for districts with 0-99.9 enrollment, compare the amount determined for the district under (1) to the average amount computed under (2). If the amount determined under (1) is equal to or greater than the average amount computed under (2), the provisions of this section do not apply to the district. If the amount determined under (1) is less than the average amount computed under (2), subtract the amount determined under (1) from the amount computed under (2), multiply the remainder by enrollment of the district in the preceding school year, and divide the product by the

amount of state financial aid determined for the district in the preceding school year. The quotient is the district prescribed percentage of the district;

(8) for districts with 100-299.9 enrollment, compare the amount determined for the district under (1) to the average amount computed under (5). If the amount determined under (1) is equal to or greater than the average amount computed under (5), the provisions of this section do not apply to the district. If the amount determined under (1) is less than the average amount computed under (5), subtract the amount determined under (1) from the amount computed under (5), multiply the remainder by enrollment of the district in the preceding school year, and divide the product by the amount of state financial aid determined for the district in the preceding school year. The quotient is the district prescribed percentage of the district;

(9) for districts with 300-1,799.9 enrollment, compare the amount determined for the district under (1) to the average amount computed under (6). If the amount determined under (1) is equal to or greater than the average amount computed under (6), the provisions of this section do not apply to the district. If the amount determined under (1) is less than the average amount computed under (6), subtract the amount determined under (1) from the amount computed under (6), multiply the remainder by enrollment of the district in the preceding school year, and divide the product by the amount of state financial aid determined for the district in the preceding school year. The quotient is the district prescribed percentage of the district;

(10) for districts with 1,800 or over enrollment, compare the amount determined for the district under (1) to the average amount computed under (4). If the amount determined under (1) is equal to or greater than the average amount computed under (4), the provisions of this section do not apply to the district. If the amount determined under (1) is less than the average amount computed under (4), subtract the amount determined under (1) from the amount computed under (4), multiply the remainder by enrollment of the district in the preceding school year, and divide the product by the amount of state financial aid determined for the district in the preceding school year. The quotient is the district prescribed percentage of the district.

(b) The provisions of this section apply to any district that budgeted an amount per pupil in the preceding school year, as determined under provision (1) of subsection (a), that was less than the average amount per pupil of general fund budgets and local option budgets computed by the state board under whichever of the provisions (7) through (10) of subsection (a) is applicable to the district's enrollment group.

HISTORY: L. 1997, ch. 189, § 2; July 1.

## 72-6445a District formed by consolidation or disorganization; computation of state aid; time limitation.

(a) (1) For the purposes of the school district finance and quality performance act, state financial aid for any district formed by consolidation in accordance with the statutory provisions contained in article 87 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto, shall be computed by the state board of education as follows: (A) Determine the amount of state financial aid each of the former districts which comprise the consolidated district received in the school year preceding the date the consolidation was completed; and (B) add the amounts determined under (A). The sum is the state financial aid of the consolidated district for the school year in which the consolidation is completed.

(2) The provisions of this paragraph shall apply to any consolidation of school districts which is completed before July 1, 2011. If any of the former school districts had an enrollment of less than 150 pupils on September 20th of the school year preceding the consolidation, the state financial aid of the newly consolidated district for the two school years following the school year in which the consolidation was completed shall be the greater of: (A) The amount received in the school year in which the consolidation was completed; or (B) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section.

(3) The provisions of this paragraph shall apply to any consolidation of school districts which is completed on or after July 1, 2011. If any of the former school districts had an enrollment of less than 150 pupils on September 20th of the school year preceding the consolidation, the state financial aid of the newly consolidated district for the school year following the school year in which the consolidation was completed shall be the greater of: (A) The amount received in the school year in which the consolidation was completed; or (B) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section.

(4) If all of the former school districts had an enrollment of at least 150 pupils but any had less than 200 pupils on September 20th of the school year preceding the consolidation, the state financial aid of the newly consolidated district for the three school years following the school year in which the consolidation was completed shall be the greater of: (A) The amount received in the school year in which the consolidation was completed; or (B) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section.

(5) If all of the former school districts had an enrollment of 200 or more pupils on September 20th of the school year preceding the consolidation, the state financial aid of the newly consolidated district for the four school years following the school year in which the

consolidation was completed shall be the greater of: (A) The amount received in the school year in which the consolidation was completed; or (B) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section.

(6) If the consolidation involved the consolidation of three or more school districts, regardless of the number of pupils enrolled in the districts, the state financial aid of the newly consolidated district for the four school years following the school year in which the consolidation was completed shall be the greater of: (A) The amount received in the school year in which the consolidation was completed; or (B) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section.

(b) (1) The provisions of this subsection (b) shall apply to school districts which have been enlarged by the attachment of territory pursuant to the procedure established in article 73 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto.

(2) For the purposes of the school district finance and quality performance act, state financial aid for any school district to which this subsection applies, shall be computed by the state board of education as follows: (A) Determine the amount of state financial aid each of the former districts which comprise the enlarged district received in the school year preceding the date the attachment was completed; and (B) add the amounts determined under (A). The sum is the state financial aid of the enlarged district for the school year in which the attachment is completed.

(3) The provisions of this paragraph shall apply to any attachment of territory which is completed before July 1, 2011. If any of the former school districts had an enrollment of less than 150 pupils on September 20th of the school year preceding the attachment, the state financial aid of the enlarged district for the two school years following the school year in which the attachment was completed shall be the greater of: (A) The amount received in the school year in which the attachment was completed; or (B) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section.

(4) The provisions of this paragraph shall apply to any attachment of territory which is completed on or after July 1, 2011. If any of the former school districts had an enrollment of less than 150 pupils on September 20th of the school year preceding the attachment, the state financial aid of the enlarged district for the school year following the school year in which the attachment was completed shall be the greater of: (A) The amount received in the school year in which the attachment was completed; or (B) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section.

(5) If all of the former school districts had an enrollment of at least 150 pupils but any had less than 200 pupils on September 20th of the school year preceding the attachment, the state financial aid of the enlarged district for the three school years following the

school year in which the attachment was completed shall be the greater of: (A) The amount received in the school year in which the attachment was completed; or (B) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section.

(6) If all of the former school districts had an enrollment of 200 or more pupils on September 20th of the school year preceding the attachment, the state financial aid of the enlarged district for the four school years following the school year in which the attachment was completed shall be the greater of: (A) The amount received in the school year in which the attachment was completed; or (B) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section.

(7) If three or more school districts, regardless of the number of pupils enrolled in the districts, are disorganized and attached to a single district, the state financial aid of the enlarged district for the four school years following the school year in which the attachment was completed shall be the greater of: (A) The amount received in the school year in which the attachment was completed; or (B) the amount the district would receive under the school district finance and quality performance act prior to amendment by this section.

(8) Except as specifically provided by this paragraph for the allocation of state financial aid among districts, the provisions of paragraphs (1) through (7) shall be applicable to school districts to which this paragraph applies. If a school district is disorganized in accordance with article 73 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto, and the territory of such district is attached to more than one district, the state financial aid for each school district to which any territory from the disorganized district is attached, shall be computed by the state board of education as follows: (A) Determine the amount of state financial aid received by the former district in the school year preceding the date that the disorganization and attachment was completed; (B) determine the amount of state financial aid received by the enlarged district in the school year preceding the date that the disorganization and attachment was completed; (C) determine the assessed valuation of the former district in the school year preceding the date that the disorganization and attachment was completed; (D) determine the assessed valuation of the territory attached to each enlarged district; (E) allocate the amount of the state financial aid received by the former district in the school year preceding the date that the disorganization and attachment was completed to each of the enlarged school districts in the same proportion that the assessed valuation of the territory attached to each district bears to the assessed valuation of the former school district; and (F) add the amounts determined under (E) and (B). The sum is the state financial aid of the enlarged district for the school year in which the attachment is completed.

**HISTORY:** L. 2004, ch. 124, § 1; L. 2006, ch. 165, § 2; L. 2008, ch. 172, § 8; L. 2009, ch. 130, § 1; July 1.

## 72-6446 Special education and related services weighting.

(a) The special education and related services weighting of each district shall be determined in each school year as follows:

(1) Add the amount of payments received by the district under the provisions of K.S.A. 72-979, and amendments thereto, to the amount of a grant, if any, received by the district under the provisions of K.S.A. 72-983, and amendments thereto;

(2) divide the sum obtained under (1) by base state aid per pupil. The quotient is the special education and related services weighting of the district.

(b) The provisions of this section shall take effect and be in force from and after July 1, 2001.

**HISTORY:** L. 2001, ch. 215, § 8; May 31.

## 72-6447 Enrollment; decreases resulting from disasters.

(a) If the state board of education determines that the enrollment of a school district in the preceding school year had decreased from the enrollment in the second preceding school year and that a disaster had contributed to such decrease, the enrollment of such district in the second school year following the school year in which the enrollment of the school district was first affected by the disaster shall be the greater of:

(1) The enrollment of preschool-aged at-risk pupils, if any, plus the average of the enrollment for the current and the preceding three school years, excluding the enrollment of preschool-age at-risk pupils in each such year, or

(2) the enrollment of the district as defined by subsection (e) of K.S.A. 72-6407, and amendments thereto.

(b) As used in this section, "disaster" means the occurrence of widespread or severe damage, injury or loss of life or property resulting from flood, earthquake, tornado, wind, storm, drought, blight or infestation.

**HISTORY:** L. 2002, ch. 193, § 2; July 1.

## 72-6448 Enrollment of military pupils; determination, when.

(a) As used in this section:

(1) "Pupil" means a person who is a dependent of a full-time active duty member of the military service or a dependent of a member of any of the United States military reserve forces who has been ordered to active duty under section 12301, 12302 or 12304 of Title 10 of the United States Code, or ordered to full-time active duty for a period of more than 30 consecutive days under section 502(f) or 512 of Title 32 of the United States Code for the purposes of mobilizing for war, international peacekeeping missions, national emergency or homeland defense activities.

(2) "School year" means school year 2009-2010, 2010-2011, 2011-2012 or 2012-2013.

(b) Each school year, the state board shall:

(1) Determine the number of pupils enrolled in each district on September 20;

(2) determine the number of military pupils enrolled in each district on February 20, who were not enrolled on the preceding September 20;

(c) (1) If the number obtained under (b)(2) is 25 or more, an amount equal to the number obtained under (b)(2) shall be added to the number determined under (b)(1). The sum is the enrollment of the district.

(2) If the number obtained under (b)(2) is at least 1% of the number determined under (b)(1), an amount equal to the number obtained under (b)(2) shall be added to the number determined under (b)(1). The sum is the enrollment of the district.

(d) The state board shall recompute the adjusted enrollment of the district and the general fund budget of the school district based on the enrollment as determined under this section.

(e) Districts desiring to determine enrollment under this section shall submit any documentation or information required by the state board.

**HISTORY:** L. 2005, ch. 4, § 2; L. 2007, ch. 104, § 1; L. 2009, ch. 143, § 28; July 1.

## 72-6449. Cost of living weighting.

(a) As used in this section, "school district" or "district" means a school district authorized to make a levy under this section.

(b) The board of education of any district may levy a tax on the taxable tangible property within the district for the purpose of financing the costs incurred by the state that are attributable directly to assignment of the cost of living weighting to the enrollment of the district. There is hereby established in every school district a fund which shall be called the cost of living fund, which fund shall consist of all moneys deposited therein or transferred thereto in accordance with law. All moneys derived from a tax imposed pursuant to this section shall be credited to the cost of living fund. The proceeds from the tax levied by a district credited to the cost of living fund shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

(c) The state board of education shall determine whether a district may levy a tax under this section as follows:

(1) Determine the statewide average appraised value of single family residences for the calendar year preceding the current school year;

(2) multiply the amount determined under (1) by 1.25;

(3) determine the average appraised value of single family residences in each school district for the calendar year preceding the current school year; and

(4) (A) subtract the amount determined under (2) from the amount determined under (3). If the amount determined for the district under this paragraph is a positive number and the district is authorized to adopt and has adopted a local option budget in an amount equal to at least 31% of the state financial aid for the school district, the district qualifies for assignment of cost of living weighting and may levy a tax on the taxable tangible property of the district for the purpose of financing the costs that are attributable directly to assignment of the cost of living weighting to enrollment of the district; or

(B) as an alternative to the authority provided in paragraph (4)(A), if a district was authorized to make a levy pursuant to this section in school year 2006-2007, such district shall remain authorized to levy such tax at a rate necessary to generate revenue in the same amount generated in school year 2006-2007 if: (i) The amount determined under paragraph (4)(A) is a positive number; and (ii) the district continues to adopt a local option budget in an amount equal to the state prescribed percentage in effect in school year 2006-2007.

(d) No tax may be levied under this section unless the board of education adopts a resolution authorizing such a tax levy and publishes the resolution at least once in a newspaper having general circulation in the district. Except as provided by subsection (e), 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 levy an ad valorem tax in an amount not to exceed the amount necessary to finance the costs attributable directly to the assignment of cost of living weighting to the enrollment of the district. The ad valorem tax authorized by this resolution may be levied 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 the publication of this resolution. If a petition is filed, the county election officer shall submit the question of whether the levy of such a tax shall be authorized in accordance with the provisions of this resolution to the electors of the school district at the next general election of the school district, 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 \_\_\_\_\_, (year)\_\_\_\_\_.

\_\_\_\_\_  
Clerk of the board of education.

All of the blanks in the resolution shall be filled. If no petition as specified above is filed in accordance with the provisions of the resolution, the resolution authorizing the ad valorem tax levy shall become effective. If a petition is filed as provided in the

resolution, the board may notify the county election officer to submit the question of whether such tax levy shall be authorized. If the board fails to notify the county election officer within 30 days after a petition is filed, the resolution shall be deemed abandoned and of no force and effect and no like resolution shall be adopted by the board within the nine months following publication of the resolution. If a majority of the votes cast in an election conducted pursuant to this provision are in favor of the resolution, such resolution shall be effective on the date of such election. If a majority of the votes cast are not in favor of the resolution, the resolution shall be deemed of no effect and no like resolution shall be adopted by the board within the nine months following such election.

(c) In determining the amount produced by the tax levied by the district under the authority of this section, the state board shall include any moneys which have been apportioned to the cost of living fund of the district from taxes levied under the provisions of K.S.A. 79-5101 et seq. and 79-5118 et seq., and amendments thereto.

**HISTORY:** L. 2005, ch. 194, § 12; L. 2007, ch. 188, § 4; L. 2011, ch. 106, § 2; July 1.

## 72-6450 Same; tax levy to finance costs of weighting.

The cost of living weighting of a district shall be determined by the state board in each school year in which such weighting may be assigned to enrollment of the district as follows:

(1) Divide the amount determined under subsection (c)(4) of K.S.A. 2010 Supp. 72-6449, and amendments thereto, by the amount determined under subsection (c)(2) of K.S.A. 2010 Supp. 72-6449, and amendments thereto;

(2) multiply the dividend determined under (1) by .095;

(3) multiply the district's state financial aid, excluding the amount determined under this provision, by the lesser of the product determined under (2) or .05; and

(4) divide the product determined under (3) by the base state aid per pupil for the current school year. The quotient is the cost of living weighting of the district.

**HISTORY:** L. 2005, ch. 152, § 20; July 1.

## 72-6451. Declining enrollment weighting.

(a) As used in this section:

(1) "School district" or "district" means a school district which: (A) Has a declining enrollment; and (B) has adopted a local option budget in an amount which equals at least 31% of the state financial aid for the school district at the time the district applies to the state court of tax appeals for authority to make a levy pursuant to this section.

(2) "Declining enrollment" means an enrollment which has declined in amount from that of the preceding school year.

(b) (1) (A) A school district may levy an ad valorem tax on the taxable tangible property of the district each year for a period of time not to exceed two years in an amount not to exceed the amount authorized by the state court of tax appeals under this subsection for the purpose of financing the costs incurred by the state that are directly attributable to assignment of declining enrollment weighting to enrollment of the district. The state court of tax appeals may authorize the district to make a levy which will produce an amount that is not greater than the amount of revenues lost as a result of the declining enrollment of the district. Such amount shall not exceed 5% of the general fund budget of the district in the school year in which the district applies to the state court of tax appeals for authority to make a levy pursuant to this section.

(B) As an alternative to the authority provided in paragraph (1)(A), if a district was authorized to make a levy pursuant to this section in school year 2006-2007, such district shall remain authorized to make a levy at a rate necessary to generate revenue in the same amount that was generated in school year 2007-2008 if the district adopts a local option budget in an amount equal to the state prescribed percentage in effect in school year 2006-2007.

(2) The state court of tax appeals shall certify to the state board the amount authorized to be produced by the levy of a tax under this section.

(3) The state board shall prescribe guidelines for the data that school districts shall include in cases before the state court of tax appeals pursuant to this section.

(c) A district may levy the tax authorized pursuant to this section for a period of time not to exceed two years unless authority to make such levy is renewed by the state court of tax appeals. The state court of tax appeals may renew the authority to make such levy for periods of time not to exceed two years.

(d) The state board shall provide to the state court of tax appeals such school data and information requested by the state court of tax appeals and any other information deemed necessary by the state board.

(e) There is hereby established in every district a fund which shall be called the declining enrollment fund. Such fund shall consist of all moneys deposited therein or transferred thereto according to law. The proceeds from the tax levied by a district under authority of this section shall be credited to the declining enrollment fund of the district. The proceeds from the tax levied by a district credited to the declining enrollment fund shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

(f) In determining the amount produced by the tax levied by the district under authority of this section, the state board shall include any moneys which have been apportioned to the declining enrollment fund of the district from taxes levied under the provisions of K.S.A.

79-5101 et seq. and 79-5118 et seq., and amendments thereto.

**HISTORY:** L. 2005, ch. 2, § 4 (Special Session); L. 2007, ch. 188, § 5; L. 2008, ch. 109, § 63; L. 2011, ch. 106, § 3; July 1.

## 72-6452 Same; state aid.

(a) In each school year, each district that imposes a declining enrollment levy pursuant to K.S.A. 2010 Supp. 72-6451, and amendments thereto, is eligible for entitlement to an amount of declining enrollment state aid. Entitlement of a district to such 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 75th 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 declining enrollment state aid shall lapse. If the resulting ratio is less than 1.0, the district is entitled to receive declining enrollment state aid in an amount which shall be determined by the state board by multiplying the amount the district is obligated to pay under subsection (b) of K.S.A. 2010 Supp. 72-6451, and amendments thereto, by such ratio. The product is the amount of declining enrollment state aid the district is entitled to receive for the school year.

(b) If the amount of appropriations for declining enrollment 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 declining enrollment state aid to school districts shall be due. Payments of such 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 declining enrollment fund of the district to be used for the purposes of such fund.

(d) If any amount of declining enrollment 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 declining enrollment 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.

**HISTORY:** L. 2005, ch. 2, § 5 (Special Session); July 28.

## 72-6453 Nonseverability provision, exception.

Except as provided by this section, the provisions of this act shall not be severable. If any provision of this act, other than the provisions relating to declining enrollment and the increase in supplemental general state aid attributable to the increase in the state prescribed percentage under K.S.A. 2010 Supp. 72-6433, is held to be invalid or unconstitutional by court order, the entire act shall be null and void.

**HISTORY:** L. 2005, ch. 2, § 26 (Special Session); July 28.

## 72-6454 Nonproficient pupil weighting; determination in the event of disasters.

(a) The nonproficient pupil weighting of each district shall be determined by the state board as follows:

(1) Determine the number of pupils who were not eligible for free meals under the national school lunch act and who scored below proficiency or failed to meet the standards established by the state board on either the mathematics or reading state assessments in the preceding school year; and

(2) multiply the number determined under paragraph (1) by .0465. The product is the nonproficient pupil weighting of the district.

(b) If the state board determines that as a result of the occurrence of a disaster in the school district, pupils in the school district are unable to participate in the state assessments, the nonproficient pupil weighting of the school district shall be equal to the nonproficient pupil weighting of the district in the preceding school year.

As used in this subsection, "disaster" means the occurrence of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade cause, including but not limited to fire, flood, earthquake, tornado, wind, storm, drought, epidemics, air contamination, blight, drought, infestation or explosion.

**HISTORY:** L. 2006, ch. 197, § 3; L. 2007, ch. 185, § 2; May 24.

### 72-6455 High density at-risk pupil weighting.

(a) As used in this section, school district means any district having: (1) An enrollment of at least 50% at-risk pupils; or (2) an enrollment of at least 35.1% at-risk pupils and an enrollment density of at least 212.1 pupils per square mile.

(b) The high density at-risk pupil weighting of each school district shall be determined by the state board by multiplying the number of at-risk pupils by .10. The product is the high density at-risk pupil weighting of the district.

(c) If a school district becomes ineligible for high density at-risk pupil weighting because enrollment of at-risk pupils in the district falls below the requirements of subsection (a), the high density at-risk pupil weighting of the district shall be the greater of: (1) The high density at-risk pupil weighting in the current school year; (2) the high density at-risk pupil weighting in the prior school year; or (3) the average of the high density at-risk pupil weighting in the current school year and the preceding two school years.

The provisions of this subsection shall expire on June 30, 2011.

**HISTORY:** L. 2006, ch. 217, § 1; L. 2008, ch. 172, § 3; May 29.

### 72-6456 Districts having pupils enrolled in KAMS; pupil weightings; local option budget computation.

(a) For the purpose of determining the general fund budget of a school district, weightings shall not be assigned to a pupil enrolled in and attending KAMS.

(b) Moneys in the general fund which are attributable to a pupil enrolled in and attending KAMS shall not be included in the computation of the local option budget of the school district.

(c) The provisions of this section shall be part of and supplemental to the school district finance and quality performance act.

**HISTORY:** L. 2008, ch. 118, § 5; July 1.

### 72-6457 Adjusted enrollment for certain school districts for school year 2008-2009.

(a) As used in this section:

(1) Words and phrases used in this section shall have the meanings ascribed thereto by K.S.A. 72-6407, and amendments thereto, except as provided by this subsection.

(2) "School district" means U.S.D. No. 251, north Lyon county; U.S.D. No. 252, southern Lyon county;

U.S.D. No. 253, Emporia; and U.S.D. No. 284, Chase county.

(3) "Base school year" means the school year 2007-2008.

(b) When computing the general fund budget of the school district for school year 2008-2009, the adjusted enrollment of the school district shall be the greater of:

(1) The adjusted enrollment of the district as defined by K.S.A. 72-6407, and amendments thereto; or

(2) ninety-eight percent of the adjusted enrollment of the school district in the base school year.

**HISTORY:** L. 2008, ch. 147, § 7; July 1.

### 72-6458 Adjusted enrollment; decreases resulting from disasters in certain districts.

(a) As used in this section:

(1) Words and phrases used in this section shall have the meanings ascribed thereto by K.S.A. 72-6407, and amendments thereto, except as provided by paragraphs (2), (3) and (4).

(2) "School district" means U.S.D. No. 101, Erie, U.S.D. No. 257, Iola, U.S.D. No. 367, Osawatomic, U.S.D. No. 422, Greensburg, U.S.D. No. 445, Coffeyville, U.S.D. No. 446, Independence, U.S.D. No. 461, Neodesha and U.S.D. No. 484, Fredonia.

(3) "Disaster" means the occurrence of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade cause including, but not limited to, fire, flood, earthquake, tornado, wind, storm, drought, epidemics, air contamination, blight, infestation or explosion and as a result of such disaster.

(4) "Base school year" means school year 2006-2007.

(b) The provisions of this section shall apply to any school district in which: (1) A disaster has occurred and which is located in an area in which the governor has issued a proclamation declaring a state of disaster emergency pursuant to K.S.A. 48-924, and amendments thereto, and the president of the United States, pursuant to the federal Robert T. Stafford disaster relief and emergency assistance act and the federal disaster relief and emergency assistance amendments of 1988, has declared a major disaster to exist; and (2) as a result of the destruction or damage to housing caused by such disaster the enrollment of the district declined by at least 25 pupils or by a number equal to 2% or more of the district's enrollment.

(c) When computing the general fund budget of a school district for the second, third and fourth school years following the base school year, the adjusted enrollment of the school district shall be the greater of:

(1) The adjusted enrollment of the district as defined by subsection (c) of K.S.A. 72-6407, and amendments thereto; or

(2) the adjusted enrollment of the school district in the base school year less any enrollment attributable to the special education weighting, school facilities weighting, ancillary school facilities weighting, cost of

living weighting and preschool-aged at-risk pupils in the base school year; plus any enrollment attributable to the special education weighting, school facilities weighting, ancillary school facilities weighting, cost of living weighting and preschool-aged at-risk pupils in the current school year.

(d) Districts desiring to determine adjusted enrollment under this section shall submit any documentation or information required by the state board.

**HISTORY:** L. 2008, ch. 147, § 8; July 1.

### 72-6459 Medium density at-risk pupil weighting.

(a) As used in this section, "school district" means any district having an enrollment of at least 40% but less than 50% at-risk pupils.

(b) The medium density at-risk pupil weighting of each school district shall be determined by the state board by multiplying the number of at-risk pupils by .06. The product is the medium density at-risk pupil weighting of the district.

(c) If a school district becomes ineligible for medium density at-risk pupil weighting because enrollment of at-risk pupils in the district falls below the requirement of subsection (a), the medium density at-risk pupil weighting of the district shall be the greater of: (1) The medium density at-risk pupil weighting in the current school year; (2) the medium density at-risk pupil weighting in the prior school year; or (3) the average of the medium density at-risk pupil weighting in the current school year and the preceding two school years.

The provisions of this subsection shall expire on June 30, 2011.

**HISTORY:** L. 2008, ch. 172, § 4; May 29.

### 72-6460. Expenditure of certain unencumbered balances; unencumbered amount.

(a) For school year 2011-2012, subject to any limitations as provided in this act, any school district may expend the unencumbered balance of the moneys held in the at-risk education fund, as provided in K.S.A. 76-6414a, and amendments thereto, bilingual education fund, as provided in K.S.A. 72-9509, and amendments thereto, contingency reserve fund, as provided in K.S.A. 72-6426, and amendments thereto, driver training fund, as provided in K.S.A. 72-6423, and amendments thereto, parent education program fund, as provided in K.S.A. 72-3607, and amendments thereto, preschool-aged at-risk education fund, as provided in K.S.A. 72-6414b, and amendments thereto, professional development fund, as provided in K.S.A. 72-9609, and amendments thereto, summer program fund, as provided in K.S.A. 72-8237, and amendments thereto, textbook and student materials revolving fund, as provided in K.S.A. 72-8250, and amendments thereto, special education fund, as provided

in K.S.A. 72-965 and 72-6420, and amendments thereto, virtual school fund, as provided in K.S.A. 72-3715, and amendments thereto, and vocational education fund, as provided in K.S.A. 72-6421, and amendments thereto, to pay for general operating expenses of the district out of the general fund as approved by the board of education of such district.

The board of education of a school district shall consider the use of such funds in the following order of priority:

(1) At-risk education fund, bilingual education fund, contingency reserve fund, driver training fund, parent education program fund, preschool-aged at-risk education fund, professional development fund, summer program fund, virtual school fund and vocational education fund;

(2) textbook and student materials revolving fund; and

(3) special education fund.

The board of education of a school district shall not be limited to the order of priority as listed in this subsection if the board so chooses. The board of education of a school district shall not be required to use the total amount of the unencumbered balance of moneys in a fund before using the unencumbered balance of moneys in another fund.

(b) The amount of money expended by a school district in school year 2011-2012 from the unencumbered balance of moneys in the funds under subsection (a) of this section shall not exceed, in the aggregate, an amount determined by the state board of education. Such amount shall be determined by the state board as follows:

(1) Determine the adjusted enrollment of the district, excluding special education and related services weighting;

(2) subtract the amount of base state aid per pupil appropriated to the department of education for fiscal year 2012 from \$4,012; and

(3) multiply the difference obtained under paragraph (2) by the number determined under paragraph (1). The product is the aggregate amount of moneys that may be expended by a school district in school year 2011-2012 from the unencumbered balance of moneys in the funds under subsection (a) of this section.

(c) It is the public policy goal of the state of Kansas that at least 65% of the aggregate of all unencumbered balances authorized to be expended for general operating expenses pursuant to subsection (a) shall be expended in the classroom or for instruction, as provided in K.S.A. 2011 Supp. 72-64c01, and amendments thereto.

**HISTORY:** L. 2011, ch. 107, § 1; July 1.

CHAPTER 72. SCHOOLS  
ARTICLE 64B. SCHOOL FINANCE  
LITIGATION

**72-64b01 General fund money to finance litigation, prohibited.**

(a) No school district shall expend, use or transfer any moneys from the general fund of the district for the purpose of engaging in or supporting in any manner any litigation by the school district or any person, association, corporation or other entity against the state of Kansas, the state board of education, the state department of education, other state agency or any state officer or employee regarding the school district finance and quality performance act or any other law concerning school finance. No such moneys shall be paid, donated or otherwise provided to any person, association, corporation or other entity and used for the purpose of any such litigation.

(b) Nothing in K.S.A. 72-6433 or this section, and amendments thereto, shall be construed as prohibiting the expenditure, use or transfer of moneys from the supplemental general fund for the purposes specified in subsection (a).

HISTORY: L. 2005, ch. 2, § 3 (Special Session); July 28.

**72-64b02 Notice of claim prior to filing suit.**

(a) Before commencing an action pursuant to K.S.A. 2010 Supp. 72-64b03, and amendments thereto, a party alleging a violation of article 6 of the Kansas constitution shall file a written notice as provided in this section. The notice shall be filed with the chief clerk of the house of representatives and the secretary of the senate and shall contain the following: (1) The name and address of the party or parties and the name and address of the party's or parties' attorney, if any; (2) a concise statement of the factual basis of the alleged violation, including supporting documentation; and (3) a statement of the amount of monetary damages a specific relief that is being requested. In the filing of a notice of claim, substantial compliance with the provisions and requirements of this subsection shall constitute valid filing of a claim. The contents of such notice shall not be admissible in any subsequent action arising out of the claim. Once notice of the alleged violation is filed, no action shall be commenced until after the party has received a written response by the legislature or until after 120 days has passed following the filing of the notice of claim, whichever occurs first.

(b) Except as otherwise provided, before any alleged violation is presented to the legislature or before any alleged violation is acted upon by the legislature, the alleged violation shall be investigated by the legislative counsel.

HISTORY: L. 2005, ch. 2, § 24 (Special Session); July 28.

**72-64b03 Appointment of three-judge panel; closing of schools or distribution of moneys to schools.**

(a) If a petition is filed in a district court of this state alleging a violation of article 6 of the Kansas constitution, the chief judge of such district court shall notify the chief justice of the supreme court of such petition within three business days thereafter.

(b) Within three business days of receiving such notice, the chief justice shall notify the chief judge of the court of appeals. Within 10 business days of receiving notice by the chief justice, the chief judge shall appoint a panel of three current or retired district court judges to preside over such civil action. The chief judge shall designate one of such judges to be the presiding judge of the panel. The judicial panel shall be considered a court of competent jurisdiction to hear and decide the civil action.

(c) The judicial panel shall establish venue pursuant to K.S.A. 2010 Supp. 72-64b04, and amendments thereto.

(d) As a part of a remedy, preliminary decision or final decision in which a statute or legislative enactment of this state has been held unconstitutional as a violation of article 6 of the Kansas constitution, the judicial panel or any master or other person or persons appointed by the panel to hear or determine a cause or controversy or to make or enforce any order or remedy ordered by a court pursuant to K.S.A. 60-253, and amendments thereto, or any other provision of law, shall not have the authority to order a school district or any attendance center within a school district to be closed or enjoin the use of all statutes related to the distribution of funds for public education.

HISTORY: L. 2005, ch. 194, § 22; L. 2005, ch. 2, § 22 (Special Session); July 28.

**72-64b04 Same; venue.**

(a) In any action alleging a violation of Article 6 of the Kansas constitution, venue shall be brought in the county as designated by the three judge panel appointed pursuant to K.S.A. 2010 Supp. 72-64b03, and amendments thereto. In making such designation, the judicial panel shall consider the location of the parties and the witnesses.

HISTORY: L. 2005, ch. 194, § 23; May 19.

CHAPTER 72. SCHOOLS  
ARTICLE 64C. STATE AID TO SCHOOL  
DISTRICTS

**72-64c01 Sixty-five percent of moneys to be spent on instruction.**

(a) It is the public policy goal of the state of Kansas that at least 65% of the moneys appropriated, distributed or otherwise provided by the state to school districts shall be expended in the classroom or for instruction.

(b) All moneys attributable to the increase in the amount of base state aid per pupil under the provisions of this act shall be expended in the classroom or for instruction.

(c) The amount of moneys expended per pupil in the classroom or for instruction in school year 2005-2006, shall not be less than the amount of moneys expended per pupil for such purposes in school year 2004-2005, plus \$ 35 per pupil.

(d) As used in this section, "instruction" means the activities dealing directly with the interaction between teachers and students and may be provided in a school classroom, in another location such as a home or hospital, and in other learning situations such as those involving cocurricular activities. Instruction also may be provided through the internet, television, radio, computer, multimedia telephone, correspondence that is delivered inside or outside the classroom and other teacher-student settings or through other approved media. Instruction also includes the activities of aides or classroom assistants of any type including, but not limited to, clerks, graders and teaching machines which assist in the instructional process.

HISTORY: L. 2005, ch. 2, § 1 (Special Session); July 28.

**72-64c02. [Repealed]  
State aid, amount and distribution; legislature to determine.**

[(a)] Except as specifically provided by this section, whenever any provision of law provides that the state board of education shall determine the amount of and distribute state aid for school districts, such provision shall be construed to require the legislature to determine the amount of and distribute any such state aid as otherwise provided in such provision. The legislative coordinating council shall certify to the director of accounts and reports the amount due as state aid to each district in the amount determined by the legislature. Such certification, and the amount of state aid payable from the state general fund, shall be approved by the director of the budget. The director of accounts and reports shall draw warrants on the state treasurer payable to the district treasurer of each district entitled to payment of

state aid, pursuant to vouchers approved by the legislative coordinating council. Upon receipt of such warrant, each district treasurer shall deposit the amount of state aid as otherwise provided by law.

(b) The provisions of this section shall expire on June 30, 2007.

HISTORY: L. 2005, ch. 2, § 2 (Special Session); Expired, June 30, 2007.

**72-64c03 Appropriations for general and supplemental general state aid; priority in legislative budgeting process.**

The appropriation of moneys necessary to pay general state aid and supplemental general state aid under the school district finance and quality performance act and state aid for the provision of special education and related services under the special education for exceptional children act shall be given first priority in the legislative budgeting process and shall be paid first from existing state revenues.

HISTORY: L. 2005, ch. 194, § 15; May 19.

**72-64c04. [Repealed]  
State aid; increases based upon CPI-U.**

(a) For school year 2007-2008, and for each school year thereafter, the total amount of state aid, except for state aid for special education and related services, shall be increased by not less than a percentage equal to the percentage increase in the CPI (urban) during the preceding fiscal year as certified to the commissioner of education by the director of the budget and the director of the legislative research department on August 15 of each year. Such state aid shall be distributed and adjusted for weighted enrollment changes in the manner provided by law. If there is a percentage decrease or no change in the CPI (urban) during the preceding fiscal year, the amount of state aid, excluding state aid for special education and related services, shall be no less than the amount of such aid in the preceding fiscal year.

(b) The increases in the amount of state aid attributable to the new weightings created by this act, the increases in the existing weightings and the increases in the amount of base state aid per pupil shall be deemed to satisfy the requirements of subsection (a) for school years 2007-2008 and 2008-2009.

(c) The provisions of this section shall expire on June 30, 2010.

HISTORY: L. 2005, ch. 152, § 30; L. 2006, ch. 197, § 25; Expired, June 30, 2010.

**CHAPTER 72. SCHOOLS**  
**ARTICLE 75. - STATE BOARD OF**  
**EDUCATION**

**72-7513 General powers of state board.**

In general, but not by way of limitation, consonant with other applicable statutory provisions, the state board of education shall:

- (a) Adopt and maintain standards, criteria, guidelines or rules and regulations for the following:
- (1) School libraries and other educational materials with the exception of textbooks;
  - (2) courses of study and curriculum;
  - (3) accreditation of schools including elementary and secondary, public and nonpublic;
  - (4) certification of administrators, teachers, counselors, school nurses and supervisors of school districts and of the state department of education and of teachers and administrators of nonpublic schools; and
- (b) administer the laws of this state concerning the matters named in this section and all other matters relating to general supervision of the public schools and institutions under supervision of the state board of education.

**HISTORY:** L. 1968, ch. 327, § 1; L. 1974, ch. 315, § 1; L. 1975, ch. 380, § 3; L. 2001, ch. 65, § 1; July 1.

**72-7514. Rules and regulations; authorization to adopt.**

The state board is hereby authorized to adopt rules and regulations not in conflict with law on any and all matters within its jurisdiction, except as is otherwise specifically provided by law.

**HISTORY:** L. 1968, ch. 269, § 28; April 30.

**72-7535 Personal financial literacy programs; development and implementation.**

- (a) In order to equip students with the knowledge and skills needed to become self-supporting and to enable students to make critical decisions regarding personal finances, the state board of education shall authorize and assist in the implementation of programs on teaching personal financial literacy.
- (b) The state board of education shall develop a curriculum, materials and guidelines that local boards of education and governing authorities of accredited nonpublic schools may use in implementing the program of instruction on personal financial literacy. The state board of education shall adopt a glossary of personal financial literacy terms which shall be used by school districts when implementing the program on personal financial literacy.

(c) The state board of education shall develop state curriculum standards for personal financial literacy, for all grade levels, within the existing mathematics curriculum or another appropriate subject-matter curriculum.

(d) The state board of education shall encourage school districts when selecting textbooks for mathematics, economics, family and consumer science, accounting or other appropriate courses, to select those textbooks which contain substantive provisions on personal finance, including personal budgeting, credit, debt management and other topics concerning personal financial literacy.

(e) The state board of education shall include questions relating to personal financial literacy in the statewide assessments for mathematics or social studies required under K.S.A. 72-6439, and amendments thereto. When the statewide assessments for mathematics or social studies are reviewed or rewritten, the state board of education shall examine the questions relating to personal financial literacy and rewrite such questions in order to determine if programs on personal financial literacy are equipping students with the knowledge and skills needed to become self-supporting and enabling students to make critical decisions regarding personal finances.

**HISTORY:** L. 2003, ch. 39, § 1; L. 2009, ch. 130, § 2; July 1.

**CHAPTER 72. SCHOOLS**  
**ARTICLE 82. ORGANIZATION,**  
**POWERS AND FINANCES OF BOARDS**  
**OF EDUCATION**

**72-8205 Boards of education; meeting times; quorum; abstention from voting; general powers; legal counsel for officers and employees.**

(a) The board shall meet at least once each month. During the month of July of each year, the board shall adopt a resolution specifying a regular meeting time of the board and the regular hour of commencement of the meeting, as well as the day of the week and the week of the month. Such resolution also shall specify the alternative date and time of any meeting if the regular meeting date occurs on a Sunday or on a legal holiday or on a holiday specified by the board. Such resolution also shall specify the regular meeting place of the board and may specify that any regular meeting may be adjourned to another time and place. If the board cancels a regularly-scheduled meeting because of an emergency, within 24 hours of such cancellation, the board shall establish and give notice of the new meeting date and time. Special meetings may be called at any time by the president of the board or by joint action of any three members of the board. Unless waived, written notice, stating the time and place of any special meeting and the purpose for which called shall be given each member of the board at least two days in advance of the special meeting and no business other than that stated in the notice shall be transacted at such meeting. A majority of the full membership of the board shall constitute a quorum for the purpose of conducting any business of the school district, and the vote of a majority of the full membership of the board shall be required for the passage of any motion or resolution. Any member who abstains from voting shall be counted as having voted against the motion or resolution. If a member announces a conflict of interest with regard to the issue, the member may leave the meeting until the voting on the issue is concluded and the member who abstains from voting thereby shall not be counted as having voted.

(b) Except as otherwise provided by law, the board shall have and may exercise the same powers and authorities as were immediately prior to this act conferred uniformly upon boards of education in cities of the first class, and, in addition thereto, the powers and authority expressly conferred by law.

(c) The board shall have authority to prescribe courses of study for each year of the school program and to adopt rules and regulations for teaching in the school district and general government thereof, and to approve and adopt suitable textbooks and study material for use therein subject to the plans, methods, rules and regulations of the state board of education.

(d) The board may provide legal counsel at district expense to any members of the board of education, or school district officers or employees who are sued in situations relating to and arising out of the performance of their office or employment. No teacher or other employment contract shall make reference to or incorporate the provisions of this subsection, nor shall the provisions of this subsection be construed as any part of the consideration of employment of any teacher, officer or other employee of the board.

(e) (1) The board may transact all school district business and adopt policies that the board deems appropriate to perform its constitutional duty to maintain, develop and operate local public schools.

(2) The power granted by this subsection shall not be construed to relieve a board from compliance with state law.

The power granted by this subsection shall not be construed to relieve any other unit of government of its duties and responsibilities which are prescribed by law, nor to create any responsibility on the part of a school district to assume the duties or responsibilities which are required of another unit of government.

(3) The board shall exercise the power granted by this subsection by resolution of the board of education.

**HISTORY:** L. 1963, ch. 393, § 21; L. 1965, ch. 410, § 15; L. 1968, ch. 209, § 1; L. 1981, ch. 293, § 1; L. 2003, ch. 40, § 1; L. 2003, ch. 158, § 8; July 1.

**72-8212. Kindergarten, grade and unit of instruction requirements; alternative provision; general powers of boards; attendance subdistricts; disposition of unneeded property; acquisition of property.**

(a) (1) Subject to provision (2) of this subsection, every unified school district shall maintain, offer and teach kindergarten and grades one through 12 and shall offer and teach at least 30 units of instruction for pupils enrolled in grades nine through 12 in each high school operated by the board of education. The units of instruction, to qualify for the purpose of this section, shall have the prior approval of the state board of education.

(2) Any unified school district which has discontinued kindergarten, any grade or unit of instruction under authority of K.S.A. 72-8233, and amendments thereto, and has entered into an agreement with another unified school district for the provision of kindergarten or any such grade or unit of instruction has complied with the kindergarten, grade and unit of instruction requirements of this section.

(b) The board of education shall adopt all necessary rules and regulations for the government and

conduct of its schools, consistent with the laws of the state.

(c) The board of education may divide the district into subdistricts for purposes of attendance by pupils.

(d) The board of education shall have the title to and the care and keeping of all school buildings and other school property belonging to the district. The board may open any or all school buildings for community purposes and may adopt rules and regulations governing use of school buildings for those purposes. School buildings and other school properties no longer needed by the school district may be disposed of by the board upon the affirmative recorded vote of not less than a majority of the members of the board at a regular meeting. The board may dispose of the property in such manner and upon such terms and conditions as the board deems to be in the best interest of the school district. Conveyances of school buildings and other school properties shall be executed by the president of the board and attested by the clerk.

(e) The board shall have the power to acquire personal and real property by purchase, gift or the exercise of the power of eminent domain in accordance with K.S.A. 72-8212a, and amendments thereto.

**HISTORY:** L. 1963, ch. 393, § 22; L. 1965, ch. 410, § 16; L. 1969, ch. 310, §54; L. 1982, ch. 301, § 2; L. 1983, ch. 242, § 1; L. 1984, ch. 261, § 14; L. 1984, ch. 262, § 4; L. 1989, ch. 220, § 1; L. 1991, ch. 220, § 4; July 1.

### **72-8251. Payments required to be paid by districts; insufficient revenues.**

Whenever a school district is required by law to make any payment during the month of June and there is insufficient revenue to make such payment as a result of the payment of state aid after the date prescribed by the state board of education pursuant to K.S.A. 72-6417 or 72-6434, and amendments thereto, the school district shall make such payment as soon as moneys are available.

**HISTORY:** L. 2003, ch. 139, § 4; May 15.

## **CHAPTER 72. SCHOOLS ARTICLE 88. CAPITAL OUTLAY LEVY, FUND AND BOND**

### **72-8801. Capital outlay levy, use of proceeds; procedure; protest; petition and election; definitions.**

(a) The board of education of any school district may make an annual tax levy at a mill rate not to exceed the statutorily prescribed mill rate for a period of not to exceed five years upon the taxable tangible property in the school district for the purposes specified in this act and for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district. No levy shall be made under this act until a resolution is adopted by the board of education in the following form:

Unified School District No. \_\_\_\_\_,  
\_\_\_\_\_ County, Kansas.

#### **RESOLUTION**

Be It Resolved that:

The above-named school board shall be authorized to make an annual tax levy for a period not to exceed \_\_\_\_\_ years in an amount not to exceed \_\_\_\_\_ mills upon the taxable tangible property in the school district for the purpose of acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing and equipping of buildings necessary for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board, architectural expenses incidental thereto, the acquisition of building sites, the undertaking and maintenance of asbestos control projects, the acquisition of school buses and the acquisition of other equipment and for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district. The tax levy authorized by this resolution may be made, unless a petition in opposition to the same, signed by not less than 10% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 40 days after the last publication of this resolution. In the event a petition is filed the county election officer shall submit the question of whether the tax levy shall be authorized to the electors in 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 above 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 above resolution shall be appropriately filled. The blank preceding the word "years" shall be filled with a specific number, and the blank preceding the word "mills" shall be filled with a specific number, and no word shall be inserted in either of the blanks. The resolution shall be published once a week for two consecutive weeks in a newspaper having general circulation in the school district. If no petition as specified above is filed in accordance with the provisions of the resolution, the board of education may make the tax levy specified in the resolution. If a petition is filed as provided in the resolution, the board of education may notify the county election officer of the date of an election to be held to submit the question of whether the tax levy shall be authorized. If the board of education fails to notify the county election officer within 60 days after a petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board of education within the nine months following the first publication of the resolution.

(b) As used in this act:

(1) "Unconditionally authorized to make a capital outlay tax levy" means that the school district has adopted a resolution under this section, has published the same, and either that the resolution was not protested or that it was protested and an election has been held by which the tax levy specified in the resolution was approved;

(2) "statutorily prescribed mill rate" means: (A) Eight mills; (B) the mill levy rate in excess of eight mills if the resolution fixing such rate was approved at an election prior to the effective date of this act; or (C) the mill levy rate in excess of eight mills if no petition or no sufficient petition was filed in protest to a resolution fixing such rate in excess of eight mills and the protest period for filing such petition has expired;

(3) "asbestos control project" means any activity which is necessary or incidental to the control of asbestos-containing material in buildings of school districts and includes, but not by way of limitation, any activity undertaken for the removal or encapsulation of asbestos-containing material, for any remodeling, renovation, replacement, rehabilitation or other restoration necessitated by such removal or encapsulation, for conducting inspections, reinspections and periodic surveillance of buildings, performing response actions, and developing, implementing and updating operations and maintenance programs and management plans;

(4) "asbestos" means the asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cunningtonitegrunerite), anthophyllite, tremolite, and actinolite; and

(5) "asbestos-containing material" means any material or product which contains more than 1% asbestos.

**HISTORY:** L. 1969, ch. 353, § 1; L. 1974, ch. 320, § 1; L. 1975, ch. 386, § 1; L. 1979, ch. 52, § 184; L. 1981, ch. 286, § 2; L. 1988, ch. 285, § 1; L. 1991, ch. 229, § 6; L. 2005, ch. 152, § 25; July 1.

### **72-8803. Capital outlay fund; establishment; sources.**

There is hereby established in every school district of the state a fund which shall be called the capital outlay fund. The capital outlay fund shall consist of all moneys deposited therein or transferred thereto in accordance with law. The proceeds of any tax levied under article 88 of chapter 72 of Kansas Statutes Annotated, except for an amount to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district, shall be deposited in the capital outlay fund of the school district making such levy.

**HISTORY:** L. 1969, ch. 353, § 3; L. 1979, ch. 52, § 185; L. 1991, ch. 229, § 7; July 1.

### **72-8804. Use of moneys in capital outlay fund; investments authorized.**

Any moneys in the capital outlay fund of any school district and any moneys received from issuance of bonds under K.S.A. 72-8805 or 72-8810, and amendments thereto, may be used for the purpose of the acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing and equipping of buildings necessary for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board of education, architectural expenses incidental thereto, the acquisition of building sites, the undertaking and maintenance of asbestos control projects, the acquisition of school buses and the acquisition of other equipment. The board of education of any school district is hereby authorized to invest any portion of the capital outlay fund of the school district which is not currently needed in investments authorized by K.S.A. 12-1675, and amendments thereto, in the manner prescribed therein or may invest the same in direct obligations of the United States government maturing or redeemable at par and accrued interest within three years from date of purchase, the principal and interest whereof is guaranteed by the government of the United States. All interest received on any such investment shall upon receipt thereof be credited to the capital outlay fund.

**HISTORY:** L. 1969, ch. 353, § 4; L. 1974, ch. 320, § 2; L. 1977, ch. 54, § 38; L. 1981, ch. 286, § 3; L. 1988, ch. 285, § 2; April 7.

### **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. 2011 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, 2012, or June 30, 2013. 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; July 1.



**CHAPTER 75. STATE DEPARTMENTS;  
PUBLIC OFFICERS AND EMPLOYEES  
ARTICLE 23. SCHOOL-BUILDING  
BONDS**

**75-2319. School district capital  
improvements; state aid  
entitlement; determination;  
amount; payments;  
applicability.**

(a) There is hereby established in the state treasury the school district capital improvements fund. The fund shall consist of all amounts transferred thereto under the provisions of subsection (c).

(b) Subject to the provisions of subsection (f), in each school year, each school district which is obligated to make payments from its capital improvements fund shall be entitled to receive payment from the school district capital improvements 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. 2011 Supp. 75-2319c, 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. The state aid percentage factor of a school district shall not exceed 100%. The state aid computation percentage is 5% for contractual bond obligations incurred by a

school district prior to the effective date of this act, and 25% for contractual bond obligations incurred by a school district on or after the effective date of this act;

(5) determine the amount of payments in the aggregate that a school district is obligated to make from its bond and interest fund and, of such amount, compute the amount attributable to contractual bond obligations incurred by the school district prior to the effective date of this act and the amount attributable to contractual bond obligations incurred by the school district on or after the effective date of this act;

(6) multiply each of the amounts computed under (5) by the applicable state aid percentage factor; and

(7) add the products obtained under (6). The amount of the sum is the amount of payment the school district is entitled to receive from the school district capital improvements fund in the school year.

(c) The state board of education 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 improvements fund for distribution to school districts. All transfers made in accordance with the provisions of this subsection shall be considered to be demand transfers from the state general fund, except that all such transfers during the fiscal years ending June 30, 2012, and June 30, 2013, shall be considered to be revenue transfers from the state general fund.

(d) Payments from the school district capital improvements fund shall be distributed to school districts at times determined by the state board of education to be necessary to assist school districts in making scheduled payments pursuant to contractual bond obligations. 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 bond and interest fund of the school district to be used for the purposes of such fund.

(e) The provisions of this section apply only to contractual obligations incurred by school districts pursuant to general obligation bonds issued upon approval of a majority of the qualified electors of the school district voting at an election upon the question of the issuance of such bonds.

(f) Amounts transferred to the capital improvements 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. 1992, ch. 284, § 1; L. 1993, ch. 55, § 1; L. 2002, ch. 204, § 160; L. 2003, ch. 138, § 124; L. 2004, ch. 123, § 170; L. 2005, ch. 174, § 179; L. 2006, ch. 197, § 29; L. 2007, ch. 195, § 41; L. 2010, ch. 165, § 145; L. 2011, ch. 118, § 180; July 1.

**CHAPTER 75. STATE DEPARTMENTS;  
PUBLIC OFFICERS AND EMPLOYEES  
ARTICLE 37. DEPARTMENT OF  
ADMINISTRATION  
DIVISION OF THE BUDGET**

**75-3722 Application of allotment  
system; notice; appeal to finance  
council.**

An allotment system will be applicable to the expenditure of the resources of any state agency, under rules and regulations established as provided in K.S.A. 75-3706, only if in the opinion of the secretary of administration on the advice of the director of the budget, the use of an allotment plan is necessary or beneficial to the state. In making this determination the secretary of administration shall take into consideration all pertinent factors including (1) available resources, (2) current spending rates, (3) work loads, (4) new activities, especially any proposed activities not covered in the agency's request to the governor and the legislature for appropriations, (5) the minimum current needs of each agency, (6) requests for deficiency appropriations in prior fiscal years, (7) unexpended and unencumbered balances, and (8) revenue collection rates and prospects.

Whenever for any fiscal year it appears that the resources of the general fund or any special revenue fund are likely to be insufficient to cover the appropriations made against such general fund or special revenue fund, the secretary of administration, on the advice of the director of the budget, shall, in such manner as he or she may determine, inaugurate the allotment system so as to assure that expenditures for any particular fiscal year will not exceed the available resources of the general fund or any special revenue fund for that fiscal year. The allotment system shall not apply to the legislature or to the courts or their officers and employees. Agencies affected by decisions of the secretary of administration under this section shall be notified in writing at least thirty (30) days before such decisions may become effective and any affected agency may, by written request addressed to the governor within ten (10) days after such notice, ask for a review of the decision by the finance council. The finance council shall hear appeals and render a decision within twenty (20) days after the governor receives requests for such hearings.

**HISTORY:** L. 1953, ch. 375, § 22; July 1.

**CHAPTER 75. STATE DEPARTMENTS;  
PUBLIC OFFICERS AND EMPLOYEES  
ARTICLE 67. STATE GENERAL FUND  
APPROPRIATIONS, DEMAND  
TRANSFERS AND EXPENDITURES**

**75-6701 Joint estimates of  
revenue to state general fund.**

(a) On or before each December 4 and on or before each April 20, the director of the budget and the director of the legislative research department shall prepare a joint estimate of revenue to the state general fund for the current fiscal year and the ensuing fiscal year.

(b) If prior to final adjournment of any regular session of the legislature any law is enacted providing for additional or less revenues to be deposited in the state treasury to the credit of the state general fund, the director of the budget and the director of the legislative research department shall prepare a joint estimate of such revenues.

(c) In the event of a disagreement or failure to agree upon a joint estimate of revenue pursuant to subsection (a) or (b), the legislature shall utilize the estimates of the director of the legislative research department and the governor shall utilize the estimates of the director of the budget.

**HISTORY:** L. 1990, ch. 350, § 1; L. 2003, ch. 19, § 1; L. 2004, ch. 5, § 1; Mar. 25.

**75-6702. Omnibus reconciliation  
spending limit bill; effective date  
of appropriation bills; limit on  
total state general fund  
appropriations and demand  
transfers.**

(a) The last appropriation bill passed in any regular session of the legislature shall be the omnibus reconciliation spending limit bill. Each bill which is passed during a regular session of the legislature and which appropriates or transfers money from the state general fund for the ensuing fiscal year shall contain a provision that such bill shall take effect and be in force from and after the effective date of the omnibus reconciliation spending limit bill for that regular session of the legislature or from and after such effective date and a subsequent date or an event occurring after such effective date.

(b) Except as provided in subsection (c), the maximum amount of expenditures and demand transfers from the state general fund that may be authorized by act of the legislature during the 2004 regular session of the legislature and each regular session of the legislature thereafter, is hereby fixed so that there will be an ending balance in the state general

fund for the ensuing fiscal year that is equal to 7.5% or more of the total amount authorized to be expended or transferred by demand transfer from the state general fund in such fiscal year.

(c) The provisions of subsection (b) are hereby suspended for the fiscal year ending June 30, 2012, and shall not prescribe a maximum amount of expenditures and demand transfers from the state general fund that may be authorized by act of the legislature during the 2011 regular session of the legislature.

**HISTORY:** L. 1990, ch. 350, § 2; L. 1994, ch. 13, § 3; L. 2003, ch. 160, § 88; L. 2004, ch. 123, § 178; L. 2005, ch. 174, § 180; L. 2006, ch. 216, § 75; L. 2007, ch. 201, § 67; L. 2008, ch. 131, § 167; L. 2009, ch. 124, § 138; L. 2010, ch. 165, § 146; L. 2011, ch. 118, § 181; July 1.

**75-6704 Percentage reduction in  
expenditures and demand  
transfers from state general  
fund, executive order of  
governor; guidelines, exceptions  
and effect; state finance council  
approval.**

(a) The director of the budget shall continuously monitor the status of the state general fund with regard to estimated and actual revenues and approved and actual expenditures and demand transfers. Periodically, the director of the budget shall estimate the amount of the unencumbered ending balance of moneys in the state general fund for the current fiscal year and the total amount of anticipated expenditures, demand transfers and encumbrances of moneys in the state general fund for the current fiscal year. If the amount of such unencumbered ending balance in the state general fund is less than \$ 100,000,000, the director of the budget shall certify to the governor the difference between \$ 100,000,000 and the amount of such unencumbered ending balance in the state general fund, after adjusting the estimates of the amounts of such demand transfers with regard to new estimates of revenues to the state general fund, where appropriate.

(b) Upon receipt of any such certification and subject to approval of the state finance council acting on this matter which is hereby declared to be a matter of legislative delegation and subject to the guidelines prescribed by subsection (c) of K.S.A. 75-3711c and amendments thereto, the governor may issue an executive order reducing, by applying a percentage reduction determined by the governor in accordance with this section, (1) the amount authorized to be expended from each appropriation from the state general fund for the current fiscal year, other than any item of appropriation for debt service for payments pursuant to contractual bond obligations or any item of appropriation for employer contributions for the

employers who are eligible employers as specified in subsections (1), (2) and (3) of K.S.A. 74-4931 and amendments thereto under the Kansas public employees retirement system pursuant to K.S.A. 74-4939 and amendments thereto, and (2) the amount of each demand transfer from the state general fund for the current fiscal year, other than any demand transfer to the school district capital improvements fund for distribution to school districts pursuant to K.S.A. 75-2319 and amendments thereto.

(c) The reduction imposed by an executive order issued under this section shall be determined by the governor and may be equal to or less than the amount certified under subsection (a). Except as otherwise specifically provided by this section, the percentage reduction applied under subsection (b) shall be the same for each item of appropriation and each demand transfer and shall be imposed equally on all such items of appropriation and demand transfers without exception. No such percentage reduction and no provisions of any such executive order under this section shall apply or be construed to reduce any item of appropriation for debt service for payments pursuant to contractual bond obligations or any item of appropriation for employer contributions for the employers who are eligible employers as specified in subsections (1), (2) and (3) of K.S.A. 74-4931 and amendments thereto under the Kansas public employees retirement system pursuant to K.S.A. 74-4939 and amendments thereto or any demand transfer to the school district capital improvements fund for distribution to school districts pursuant to K.S.A. 75-2319 and amendments thereto. The provisions of such executive order shall be effective for all state agencies of the executive, legislative and judicial branches of state government.

(d) If the governor issues an executive order under this section, the director of accounts and reports shall not issue any warrant for the payment of moneys in the state general fund or make any demand transfer of moneys in the state general fund for any state agency unless such warrant or demand transfer is in accordance with such executive order and such warrant or demand transfer does not exceed the amount of money permitted to be expended or transferred from the state general fund.

(e) Nothing in this section shall be construed to (1) require the governor to issue an executive order under this section upon receipt of any such certification by the director of the budget; or (2) restrict the number of times that the director of the budget may make a certification under this section or that the governor may issue an executive order under this section.

**HISTORY:** L. 1990, ch. 350, § 5; L. 1992, ch. 284, § 2; L. 1994, ch. 13, § 4; March 17.

CHAPTER 124  
SENATE Substitute for HOUSE BILL No. 2354  
(Amends Chapter 2)  
(Amended by Chapter 144)

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Aging, department of	82	Kansas state university extension systems and agriculture research programs	74, 115
Agriculture, Kansas department of	82	Kansas state university-veterinary medical center	75, 115
Animal health department, Kansas	83	Labor, department of	58, 107
Arts commission, Kansas	85	Legislative coordinating council	31
Attorney general—Kansas bureau of investigation	88, 124	Legislature	32
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Barbering, Kansas board of	11	Lieutenant governor	25
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Blind, Kansas state school for the	60, 109	Mortuary acts, state board of	17
Citizen's utility taxpayer board	47	Nursing, board of	19
Commerce, department of	54, 104	Optometry, board of examiners in	20
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Corporation commission, state	49	Peace officers' standards and training Kansas commission on	81
Cosmetology, Kansas state board of	14	Pharmacy, state board of	81
Credit unions, state department of	15	Pittsburg state university	71, 117
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Dental board, Kansas	18	Public employee retirement system, Kansas	44
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Emergency medical services board	89	Real estate appraisal board	22
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Fair board, state	84, 127	Regents, state board of	81, 101
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Guardianship program, Kansas	85	Sentencing commission, Kansas	90
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Health and environment, department of— division of environment	61	State fair board	84, 127
Health and environment, department of— division of health	80	State treasurer	38
Health care substitution fund board of governors	40	Tax appeals, state court of	50
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Hearing instruments, Kansas board of examiners in	18	Technology enterprise corporation, Kansas	56
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Housing resources corporation, Kansas	57	Veterans affairs, Kansas commission on	52, 108
Human rights commission, Kansas	45	Veterinary examiners, state board of	28
Indigent defense services, state board of	42	Water office, Kansas	96
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		Wildlife and parks, department of	97, 123

AN ACT making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013, and June 30, 2014, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending section 95 of 2009 House Substitute for Substitute for Senate Bill No. 23 and K.S.A. 2008 Supp. 2-223, 12-5256, 33-183, as amended by section 87 of 2009 House Substitute for Substitute for Senate Bill No. 23, 75-6702, 76-7107, 79-2859, 79-2864, 79-2978, as amended by section 86 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-2579, as amended by section 89 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-3425, as amended by section 90 of 2009 House Substitute for Substitute for Senate Bill No. 23, 79-4801, as amended by section 92 of 2009 House Substitute for Substitute for Senate Bill No. 23, and 82a-853a, as amended by section 93 of 2009 House Substitute for Substitute for Senate Bill No. 23, and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 13 (a) For the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013, and June 30, 2014, appropriations are hereby made, restrictions and limitations are hereby imposed, and transfers, capital improvement projects, fees, receipts, disbursements and acts incidental to the foregoing are hereby directed or authorized as provided in this act.

(b) The agencies named in this act are hereby authorized to initiate and complete the capital improvement projects specified and authorized by this act or for which appropriations are made by this act, subject to the restrictions and limitations imposed by this act.

(c) This act shall not be subject to the provisions of subsection (a) of K.S.A. 75-6702, and amendments thereto.

(d) The appropriations made by this act shall not be subject to the provisions of K.S.A. 46-155, and amendments thereto.

Sec. 66:

DEPARTMENT OF EDUCATION

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2010, the following:

Operating expenditures (including official hospitality)..... \$11,077,070

*Provided*, That any unencumbered balance in the operating expenditures (including official hospitality) account in excess of \$100 as of June 30, 2009, is hereby reappropriated for fiscal year 2010.

Governor's teaching excellence scholarships and awards... \$50,800

*Provided*, That any unencumbered balance in the governor's teaching excellence scholarships and awards account in excess of \$100 as of June 30, 2009, is hereby reappropriated for fiscal year 2010. *Provided further*, That all expenditures from the governor's teaching excellence scholarships and awards account for teaching excellence scholarships shall be made in accordance with K.S.A. 72-1398, and amendments thereto: *And provided further*, That each such grant shall be required to be matched on a \$1 for \$1 basis from nonstate sources: *And provided further*, That award of each such grant shall be conditioned upon the recipient entering into an agreement requiring the grant to be repaid if the recipient fails to complete the course of training under the national board for professional teaching standards certification program: *And provided further*, That all moneys received by the department of education for repayment of grants for governor's teaching excellence scholarships shall be deposited in the state treasury and credited to the governor's teaching excellence scholarships program repayment fund.

Mentor teacher program grants..... \$1,450,000

Special education services aid..... \$369,788,630

*Provided*, That any unencumbered balance in the special education services aid account in excess of \$100 as of June 30, 2009, is hereby reappropriated for fiscal year 2010: *Provided further*, That expenditures shall not be made from the special education services aid account for the provision of instruction for any homebound or hospitalized child unless the categorization of such child as exceptional is conjoined with the categorization of the child within one or more of the other categories of exceptionality: *Provided further*, That expenditures shall be made from this account for grants to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-983, and amendments thereto: *And provided further*, That expenditures shall be made from the amount remaining in this account, after deduction of the expenditures specified in the foregoing proviso, for payments to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-978, and amendments thereto.

General state aid.....\$2,001,654,934

*Provided*, That an unencumbered balance in the general state aid account in excess of \$100 as of June 30, 2009, is hereby reappropriated for fiscal year 2010.

Supplemental general state aid..... \$339,212,000

*Provided*, That any unencumbered balance in the supplemental general state aid account in excess of \$100 as of June 30, 2009, is hereby reappropriated for fiscal year 2010.

Kansas foundation for agriculture project grant..... \$35,000

*Provided*, That expenditures from the Kansas foundation for agriculture project grant account shall be used for agriculture in the classroom programs to supplement existing elementary and secondary curricula with agricultural information: *Provided further*, That expenditures from this account shall be made only if private funding sources are available to match such state grants on a 60% state and 40% private basis.

Discretionary grants..... \$820,000

*Provided*, That the above agency shall make expenditures from the discretionary grants account during the fiscal year 2010, in an amount not less than \$400,000 for after school programs for middle school students in the sixth, seventh and eighth grades: *Provided further*, That the after school programs may also include fifth and ninth grade students, if they attend a junior high school: *And provided further*, That such discretionary

grants shall be awarded to after school programs that operate for a minimum of two hours a day, every day that school is in session, and a minimum of six hours a day for a minimum of five weeks during the summer: *And provided further*, That the discretionary grants awarded to after school programs shall require a dollar-for-dollar local match: *And provided further*, That the aggregate amount of discretionary grants awarded to any one after school program for fiscal year 2010 shall not exceed \$25,000.

School food assistance..... \$2,510,486

School safety hotline..... \$10,000

KPERS — employer contributions..... \$260,751,192

*Provided*, That any unencumbered balance in the KPERS — employer contributions account in excess of \$100 as of June 30, 2009, is hereby reappropriated for fiscal year 2010: *Provided further*, That all expenditures from the KPERS — employer contributions account shall be for payment of participating employers' contributions to the Kansas public employees retirement system as provided in K.S.A. 74-4939, and amendments thereto: *And provided further*, That expenditures from this account for the payment of participating employers' contributions to the Kansas public employees retirement system may be made regardless of when the liability was incurred.

Educable deaf-blind and severely handicapped children's

programs aid..... \$110,000

School district juvenile detention facilities and Flint Hills

job corps center grants..... \$7,706,161

*Provided*, That any unencumbered balance in the school district juvenile detention facilities and Flint Hills job corps center grants account in excess of \$100 as of June 30, 2009, is hereby reappropriated for fiscal year 2010: *Provided further*, That expenditures shall be made from the school district juvenile detention facilities and Flint Hills job corps center grants account for grants to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-8187, and amendments thereto.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2010, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law and transfers to other state agencies shall not exceed the following:

State school district finance fund..... No limit

School district capital improvements fund..... No limit

*Provided*, That expenditures from the school district capital improvements fund shall be made only for the payment of general obligation bonds approved by voters under the authority of K.S.A. 72-6761, and amendments thereto.

School district capital outlay state aid fund..... No limit

Conversion of materials and equipment fund..... No limit

State safety fund..... No limit

School bus safety fund..... No limit

Motorcycle safety fund..... No limit

Federal indirect cost reimbursement fund..... No limit

Certificate fee fund..... No limit

Food assistance — federal fund..... No limit

Food assistance — school breakfast program — federal

fund..... No limit

Food assistance — national school lunch program — federal

fund..... No limit

Food assistance — child and adult care food program —

federal fund..... No limit

Elementary and secondary school aid — federal fund..... No limit

Elementary and secondary school aid — educationally deprived

children — federal fund..... No limit

Educationally deprived children — state operations — federal

fund..... No limit

Elementary and secondary school — educationally deprived

children — LEA's fund..... No limit

ESEA chapter II — state operations — federal fund..... No limit

Education of handicapped children fund — federal.....	No limit
Education of handicapped children fund — state operations — federal.....	No limit
Education of handicapped children fund — preschool — federal fund.....	No limit
Education of handicapped children fund — preschool state operations — federal.....	No limit
Elementary and secondary school aid — federal fund — migrant education fund.....	No limit
Elementary and secondary school aid — federal fund — migrant education — state operations.....	No limit
Vocational education amendments of 1968 — federal fund.....	No limit
Vocational education title II — federal fund.....	No limit
Vocational education title II — federal fund — state operations.....	No limit
Educational research grants and projects fund.....	No limit
Drug abuse fund — department of education — federal.....	No limit
Drug abuse funds — federal — state operations fund.....	No limit
Federal K-12 repair and modernization fund.....	No limit
Federal statewide data system fund.....	No limit
Federal K-12 fiscal stabilization fund.....	No limit
Inservice education workshop fee fund.....	No limit

*Provided*, That expenditures may be made from the inservice education workshop fee fund for operating expenditures, including official hospitality, incurred for inservice workshops and conferences: *Provided further*, That the state board of education is hereby authorized to fix, charge and collect fees for inservice workshops and conferences: *And provided further*, That such fees shall be fixed in order to recover all or part of such operating expenditures incurred for inservice workshops and conferences: *And provided further*, That all fees received for inservice workshops and conferences shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the inservice education workshop fee fund.

Private donations, gifts, grants and bequests fund.....	No limit
Interactive video fee fund.....	No limit

*Provided*, That expenditures may be made from the interactive video fee fund for operating expenditures incurred in conjunction with the operation and use of the interactive video conference facility of the department of education: *Provided further*, That the state board of education is hereby authorized to fix, charge and collect fees for the operation and use of such interactive video conference facility: *And provided further*, That all fees received for the operation and use of such interactive video conference facility shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the interactive video fee fund.

Reimbursement for services fund.....	No limit
Communities in schools program fund.....	No limit
Governor's teaching excellence scholarships program repayment fund.....	No limit

*Provided*, That all expenditures from the governor's teaching excellence scholarships program repayment fund shall be made in accordance with K.S.A. 72-1398, and amendments thereto: *Provided further*, That each such grant shall be required to be matched on a \$1 for \$1 basis from nonstate sources: *And provided further*, That award of each such grant shall be conditioned upon the recipient entering into an agreement requiring the grant to be repaid if the recipient fails to complete the course of training under the national board for professional teaching standards certification program: *And provided further*, That all moneys received by the department of education for repayment of grants made under the governor's teaching excellence scholarships program shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the governor's teaching excellence scholarships program repayment fund.

Elementary and secondary school aid — federal fund — reading first.....	No limit
Elementary and secondary school aid — federal fund — reading first — state operations.....	No limit
State grants for improving teacher quality — federal fund.....	No limit
State grants for improving teacher quality — federal fund — state operations.....	No limit
21st century community learning centers — federal fund.....	No limit
State assessments — federal fund.....	No limit
Rural and low-income schools program — federal fund.....	No limit
Language assistance state grants — federal fund.....	No limit
Service clearing fund.....	No limit
Helping schools license plate program fund.....	No limit

(c) There is appropriated for the above agency from the children's initiatives fund for the fiscal year ending June 30, 2010, the following:

Pre-K Pilot.....	\$5,000,000
Parent education program.....	\$7,539,500

*Provided*, That expenditures from the parent education program account for each such grant shall be matched by the school district in an amount which is equal to not less than 65% of the grant.

(d) On July 1, 2009, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$50,000 from the family and children trust account of the family and children investment fund of the department of social and rehabilitation services to the communities in schools program fund of the department of education.

(e) On July 1, 2009, and quarterly thereafter, the director of accounts and reports shall transfer \$67,816 from the state highway fund of the department of transportation to the school bus safety fund of the department of education.

(f) On the effective date of this act, of the amount reappropriated for the above agency for the fiscal year ending June 30, 2009, by section 6(a) of chapter 184 of the 2008 Session Laws of Kansas from the state general fund in the Kansas career pipeline grant account, the sum of \$8,305 is hereby lapsed.

Sec. 130. (a) Notwithstanding the provisions of K.S.A. 2008 Supp. 75-2319, and amendments thereto, or any other statute, all transfers made from the state general fund to the school district capital improvements fund in accordance with the provisions of K.S.A. 2008 Supp. 75-2319, and amendments thereto, during the fiscal years ending June 30, 2010, and June 30, 2011, shall be considered to be revenue transfers from the state general fund.

(b) Notwithstanding the provisions of K.S.A. 2008 Supp. 72-8814, and amendments thereto, or any other statute, all transfers made from the state general fund to the school district capital outlay state aid fund in accordance with the provisions of K.S.A. 2008 Supp. 72-8814, and amendments thereto, during the fiscal years ending June 30, 2010, and June 30, 2011, shall be considered to be revenue transfers from the state general fund.

(c) Notwithstanding the provisions of K.S.A. 2008 Supp. 76-775, and amendments thereto, or any other statute, all transfers made from the state general fund to either: (1) The endowed professorship account of the faculty of distinction matching fund of an eligible educational institution, in the case of a certification of a qualifying gift to an eligible educational institution that is a state educational institution, or (2) the faculty of distinction program fund of the state board of regents, in the case of a certification of a qualifying gift to an eligible institution that is not a state educational institution, in accordance with the provisions of subsection (a) of K.S.A. 2008 Supp. 76-775, and amendments thereto, during the fiscal years ending June 30, 2010, and June 30, 2011, shall be considered to be revenue transfers from the state general fund.

(d) Notwithstanding the provisions of K.S.A. 2008 Supp. 76-783, and amendments thereto, or any other statute, all transfers made from the state general fund to the regents research corporation fund of the state board of regents, in accordance with the provisions of subsection (a) of K.S.A. 2008 Supp. 76-783, and amendments thereto, during the fiscal years ending June 30, 2010, and June 30, 2011, shall be considered to be revenue transfers from the state general fund.

CHAPTER 165  
HOUSE Substitute for SENATE BILL No. 572  
(Amends Chapters 6 and 44)

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Administration, department of	61, 114	Kansas, Inc.	68
Administrative hearings, office of	62	Kansas state university	54, 85, 125
Aging, department on	36, 73	Kansas state university extension systems and	
Agriculture, Kansas department of	105	agriculture research program	87, 126
Animal health department, Kansas	106	Kansas state university veterinary medical center	88
Arts commission, Kansas	81	Labor, department of	71, 118
Attorney general	17, 49	Legislative coordinating council	44
Attorney general—Kansas bureau of investigation	101	Legislature	45
Bail commission, state	37	Library, state	99
Behavioral sciences regulatory board	42	Lieutenant governor	46
Blind, Kansas state school for the	62, 120	Lottery, Kansas	48
Children's utility ratepayer board	60	Mortuary arts, state board of	18
Commerce, department of	2, 67, 115	Nursing, board of	13
Construction commission, state	108	Optometry, board of examiners in	41
Corporation commission, state	5, 59	Parole board, Kansas	26, 50
Corrections, department of	23, 65, 138	Pewee officers' standards and training,	
Crimesology, Kansas state board of	34	Kansas commission on	104
Credit unions, state department of	38	Pfeiffer state university	92, 127
Deaf, Kansas state school for the	63, 121	Post audit, division of	48
Dental board, Kansas	40	Public employees retirement system, Kansas	57
Education, department of	22, 79	Racing and gaming commission, Kansas	4, 68
Emergency medical services board	102	Regents, state board of	23, 94, 124
Emporia state university	65, 123	Revenue, department of	4
Fair board, state	31, 107, 126	Secretary of state	50
Fire marshal, state	28, 98	Security commissioner of Kansas, office of the	14
Ford Hays state university	65, 124	Seismicity commission, Kansas	103
Governmental ethics commission	10	Social and rehabilitation services,	
Governor's department	35, 47	department of	18, 77, 117
Grantmaking program, Kansas	78	State fair board	31, 107, 126
Health care, state board of	59	State library	80
Health and environment, department of—		Tax appeal, state court of	7, 63
division of environment	74	Technical professions, state board of	15
Health and environment, department of—		Technology enterprise corporation, Kansas	89
division of health	70	Transportation, department of	33, 111
Health care stabilization fund board of governors	53	Treasury, state	51
Health policy authority, Kansas	20, 76	University of Kansas	61, 128
Highway patrol, Kansas	22, 100, 134	University of Kansas medical center	92, 129
Historical society, state	64, 122	Veterans office, Kansas commission on	52, 72, 119
Home inspectors registration board, Kansas	11	Veterinary examiners, state board of	16
Housing resources corporation, Kansas	70	Water office, Kansas	109
Human rights commission, Kansas	58	Wichita state university	63, 120
Indigent's defense services, state board of	43, 55	Wildlife and parks, department of	38, 116, 127
Insurance department	28, 116		

AN ACT making and concerning appropriations for the fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013, June 30, 2014, June 30, 2015, and June 30, 2016, for state agencies, authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2009 Supp. 9-223, 13-5256, 33-193, 72-8814, 75-2319, 75-6702, 76-775, 76-783, as amended by section 33 of 2010 House Bill No. 2557, 76-7107, 79-2959, 79-2964, 79-2978, 79-2979, 79-3425, 79-34156, 79-34171, 79-4801 and 82a-823a and section 14 of 2010 Senate Substitute for House Bill No. 2222 and section 53 of chapter 124 of the 2009 Session Laws of Kansas and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) For the fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013, June 30, 2014, June 30, 2015, and June 30, 2016, appropriations are hereby made, restrictions and limitations are hereby imposed, and transfers, capital improvement projects, fees, receipts, disbursements and acts incidental to the foregoing are hereby directed or authorized as provided in this act.

(b) The agencies named in this act are hereby authorized to initiate and complete the capital improvement projects specified and authorized by this act or for which appropriations are made by this act, subject to the restrictions and limitations imposed by this act.

(c) This act shall be known and may be cited as the omnibus appropriation act of 2010 and shall constitute the omnibus reconciliation spending limit bill for the 2010 regular session of the legislature for purposes of subsection (a) of K.S.A. 75-6702, and amendments thereto.

(d) The appropriations made by this act shall not be subject to the provisions of K.S.A. 46-155, and amendments thereto.

Sec. 79.

DEPARTMENT OF EDUCATION

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2011, the following:

Operating expenditures (including official hospitality)..... \$10,717,436  
*Provided*, That any unencumbered balance in the operating expenditures (including official hospitality) account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011.

Governor's teaching excellence scholarships and awards... \$55,525

*Provided*, That any unencumbered balance in the governor's teaching excellence scholarships and awards account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011: *Provided further*, That all expenditures from the governor's teaching excellence scholarships and awards account for teaching excellence scholarships shall be made in accordance with K.S.A. 72-1398, and amendments thereto: *And provided further*, That each such grant shall be required to be matched on a \$1 for \$1 basis from nonstate sources: *And provided further*, That award of each such grant shall be conditioned upon the recipient entering into an agreement requiring the grant to be repaid if the recipient fails to complete the course of training under the national board for professional teaching standards certification program: *And provided further*, That all moneys received by the department of education for repayment of grants for governor's teaching excellence scholarships shall be deposited in the state treasury and credited to the governor's teaching excellence scholarships program repayment fund.

Mentor teacher program grants..... \$1,450,000  
 Special education services aid..... \$367,540,630

*Provided*, That any unencumbered balance in the special education services aid account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011: *Provided further*, That expenditures shall not be made from the special education services aid account for the provision of instruction for any homebound or hospitalized child unless the categorization of such child as exceptional is conjoined with the categorization of the child within one or more of the other categories of exceptionality: *Provided further*, That expenditures shall be made from this account for grants to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-983, and amendments thereto: *And provided further*, That expenditures shall be made from the amount remaining in this account, after deduction of the expenditures specified in the foregoing proviso, for payments to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-978, and amendments thereto.

General state aid..... \$1,961,339,680

*Provided*, That an unencumbered balance in the general state aid account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011.

Supplemental general state aid..... \$339,212,000

*Provided*, That any unencumbered balance in the supplemental general state aid account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011.

Kansas foundation for agriculture project grant ..... \$35,000

*Provided*, That expenditures from the Kansas foundation for agriculture project grant account shall be used for agriculture in the classroom programs to supplement existing elementary and secondary curricula with agricultural information: *Provided further*, That expenditures from this account shall be made only if private funding sources are available to match such state grants on a 60% state and 40% private basis.

Discretionary grants..... \$670,000

*Provided*, That the above agency shall make expenditures from the discretionary grants account during the fiscal year 2011, in an amount not less than \$250,000 for after school programs for middle school students in the sixth, seventh and eighth grades: *Provided further*, That the after school programs may also include fifth and ninth grade students, if they attend a junior high school: *And provided further*, That such discretionary grants shall be awarded to after school programs that operate for a minimum of two hours a day, every day that school is in session, and a minimum of six hours a day for a minimum of five weeks during the summer: *And provided further*, That the discretionary grants awarded to after school programs shall require a dollar-for-dollar local match: *And provided further*, That the aggregate amount of discretionary grants awarded to any one after school program for fiscal year 2011 shall not exceed \$25,000.

School food assistance..... \$2,435,171  
 School safety hotline..... \$10,000  
 KPERS — employer contributions..... \$291,602,545

*Provided*, That any unencumbered balance in the KPERS — employer contributions account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011: *Provided further*, That all expenditures from the KPERS — employer contributions account shall be for payment of participating employers' contributions to the Kansas public employees retirement system as provided in K.S.A. 74-4939, and amendments thereto: *And provided further*, That expenditures from this account for the payment of participating employers' contributions to the Kansas public employees retirement system may be made regardless of when the liability was incurred.

Educable deaf-blind and severely handicapped children's programs aid..... \$110,000

School district juvenile detention facilities and Flint Hills job corps center grants..... \$6,012,355

*Provided*, That any unencumbered balance in the school district juvenile detention facilities and Flint Hills job corps center grants account in excess of \$100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011: *Provided further*, That expenditures shall be made from the school district juvenile detention facilities and Flint Hills job corps center grants account for grants to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-8187, and amendments thereto.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2011, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law and transfers to other state agencies shall not exceed the following:

State school district finance fund..... No limit  
 School district capital improvements fund..... No limit

*Provided*, That expenditures from the school district capital improvements fund shall be made only for the payment of general obligation bonds approved by voters under the authority of K.S.A. 72-6761, and amendments thereto.

School district capital outlay state aid fund..... No limit  
 Conversion of materials and equipment fund..... No limit  
 State safety fund..... No limit  
 School bus safety fund..... No limit  
 Motorcycle safety fund..... No limit  
 Federal indirect cost reimbursement fund..... No limit  
 Certificate fee fund..... No limit  
 Food assistance — federal fund..... No limit  
 Food assistance — school breakfast program — federal fund..... No limit  
 Food assistance — national school lunch program — federal fund..... No limit  
 Food assistance — child and adult care food program — federal fund..... No limit  
 Elementary and secondary school aid — federal fund..... No limit  
 Elementary and secondary school aid — educationally deprived children — federal fund..... No limit

Educationally deprived children — state operations — federal fund .....	No limit
Elementary and secondary school — educationally deprived children — LEA's fund .....	No limit
ESEA chapter II — state operations — federal fund .....	No limit
Education of handicapped children fund — federal .....	No limit
Education of handicapped children fund — state operations — federal .....	No limit
Education of handicapped children fund — preschool — federal fund .....	No limit
Education of handicapped children fund — preschool state operations — federal .....	No limit
Elementary and secondary school aid — federal fund — migrant education fund .....	No limit
Elementary and secondary school aid — federal fund — migrant education — state operations .....	No limit
Vocational education amendments of 1968 — federal fund .....	No limit
Vocational education title II — federal fund .....	No limit
Vocational education title II — federal fund — state operations .....	No limit
Educational research grants and projects fund .....	No limit
Drug abuse fund — department of education — federal .....	No limit
Drug abuse funds — federal — state operations fund .....	No limit
Federal K-12 fiscal stabilization fund .....	No limit
Inservice education workshop fee fund .....	No limit
<i>Provided</i> , That expenditures may be made from the inservice education workshop fee fund for operating expenditures, including official hospitality, incurred for inservice workshops and conferences: <i>Provided further</i> , That the state board of education is hereby authorized to fix, charge and collect fees for inservice workshops and conferences: <i>And provided further</i> , That such fees shall be fixed in order to recover all or part of such operating expenditures incurred for inservice workshops and conferences: <i>And provided further</i> , That all fees received for inservice workshops and conferences shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the inservice education workshop fee fund.	
Private donations, gifts, grants and bequests fund .....	No limit
Interactive video fee fund .....	No limit
<i>Provided</i> , That expenditures may be made from the interactive video fee fund for operating expenditures incurred in conjunction with the operation and use of the interactive video conference facility of the department of education: <i>Provided further</i> , That the state board of education is hereby authorized to fix, charge and collect fees for the operation and use of such interactive video conference facility: <i>And provided further</i> , That all fees received for the operation and use of such interactive video conference facility shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the interactive video fee fund.	
Reimbursement for services fund .....	No limit
Communities in schools program fund .....	No limit
Governor's teaching excellence scholarships program repayment fund .....	No limit
<i>Provided</i> , That all expenditures from the governor's teaching excellence scholarships program repayment fund shall be made in accordance with K.S.A. 72-1398, and amendments thereto: <i>Provided further</i> , That each such grant shall be required to be matched on a \$1 for \$1 basis from nonstate sources: <i>And provided further</i> , That award of each such grant shall be conditioned upon the recipient entering into an agreement requiring the grant to be repaid if the recipient fails to complete the course of training under the national board for professional teaching standards certification program: <i>And provided further</i> , That all moneys received by the department of education for repayment of grants made under the governor's teaching excellence scholarships program shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the governor's teaching	

excellence scholarships program repayment fund.	
Elementary and secondary school aid — federal fund — reading first .....	No limit
Elementary and secondary school aid — federal fund — reading first — state operations .....	No limit
State grants for improving teacher quality — federal fund .....	No limit
State grants for improving teacher quality — federal fund — state operations .....	No limit
21st century community learning centers — federal fund .....	No limit
State assessments — federal fund .....	No limit
Rural and low-income schools program — federal fund .....	No limit
Language assistance state grants — federal fund .....	No limit
Service clearing fund .....	No limit
Helping schools license plate program fund .....	No limit

(c) There is appropriated for the above agency from the children's initiatives fund for the fiscal year ending June 30, 2011, the following:

Pre-K program .....	\$5,000,000
Parent education program .....	\$7,539,500

*Provided*, That expenditures from the parent education program account for each such grant shall be matched by the school district in an amount which is equal to not less than 65% of the grant.

(d) On July 1, 2010, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$50,000 from the family and children trust account of the family and children investment fund of the department of social and rehabilitation services to the communities in schools program fund of the department of education.

(e) On July 1, 2010, and quarterly thereafter, the director of accounts and reports shall transfer \$12,074 from the school bus safety fund to the state general fund: *Provided*, That the transfer of each such amount shall be in addition to any other transfer from the school bus safety fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the school bus safety fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the department of education by other state agencies which receive appropriations from the state general fund to provide such services.

(f) On September 30, 2010, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$600,000 from the state safety fund to the state general fund: *Provided* That the transfer of such amount shall be in addition to any other transfer from the state safety fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the state safety fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the department of education by other state agencies which receive appropriations from the state general fund to provide such services.

(g) On December 31, 2010, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$700,000 from the state safety fund to the state general fund: *Provided* That the transfer of such amount shall be in addition to any other transfer from the state safety fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the state safety fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the department of education by other state agencies which receive appropriations from the state general fund to provide such services.

(h) On March 30, 2011, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$750,000 from the state safety fund to the state general fund: *Provided* That the transfer of such amount shall be in addition to any other transfer from the state safety



fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the state safety fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the department of education by other state agencies which receive appropriations from the state general fund to provide such services.

(i) On June 30, 2011, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$1,100,000 from the state safety fund to the state general fund: *Provided* That the transfer of such amount shall be in addition to any other transfer from the state safety fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the state safety fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the department of education by other state agencies which receive appropriations from the state general fund to provide such services.

(j) On July 1, 2010, and quarterly thereafter, the director of accounts and reports shall transfer \$70,722 from the state highway fund of the department of transportation to the school bus safety fund of the department of education.

(k) On July 1, 2010, the director of accounts and reports shall transfer an amount certified by the commissioner of education from the motorcycle safety fund of the department of education to the motorcycle safety fund of the state board of regents: *Provided*, That the amount to be transferred shall be determined by the commissioner of education based on the amounts required to be paid pursuant to subsection (b)(2) of K.S.A. 8-272, and amendments thereto.

~~Sec. 72-8814~~ On July 1, 2010, K.S.A. 2009 Supp. 72-8814 is hereby amended to read as follows: 72-8814. (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. 2009 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, 2011, or June 30, 2012*. 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.

CHAPTER 118
SENATE SUBSTITUTE for HOUSE BILL No. 2014

Table listing various departments and commissions such as Aberrations' board of corrections, Agriculture, Kansas department of, Arts commission, Kansas, Attorney general, etc., with corresponding page numbers.

AN ACT making and concerning appropriations for fiscal years ending June 30, 2011, June 30, 2012, June 30, 2013, June 30, 2014, June 30, 2015, and June 30, 2016, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, reducing compensation for state officers, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 2010 Supp. 2-223, 12-5256, 49-514, 55-193, 72-8814, 74-99B-34, 75-2319, 75-6702, 76-775, 76-783, 76-7107, 79-2959, 79-2964, 79-34251, 79-34156, 79-34171 and 82a-933a and repealing the existing sections; also repealing section 138 of chapter 165 of the 2010 Session Laws of Kansas.

Be it enacted by the Legislature of the State of Kansas:
SECTION 1. (a) For the fiscal years ending June 30, 2011, June 30, 2012, June 30, 2013, June 30, 2014, June 30, 2015, and June 30, 2016, appropriations are hereby made, restrictions and limitations are hereby imposed, and transfers, capital improvement projects, fees, receipts, disbursements and acts incidental to the foregoing are hereby directed or authorized as provided in this act.
(b) The agencies named in this act are hereby authorized to initiate and complete the capital improvement projects specified and authorized by this act or for which appropriations are made by this act, subject to the restrictions and limitations imposed by this act.
(c) This act shall be known and may be cited as the omnibus appropriation act of 2011 and shall constitute the omnibus reconciliation spending limit bill for the 2011 regular session of the legislature for purposes of subsection (a) of K.S.A. 75-6702, and amendments thereto.
(d) The appropriations made by this act shall not be subject to the provisions of K.S.A. 46-155, and amendments thereto.

Sec. 113:

DEPARTMENT OF EDUCATION

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2012, the following:

Operating expenditures (including official hospitality) .....	\$10,411,517
<i>Provided</i> , That any unencumbered balance in the operating expenditures (including official hospitality) account in excess of \$100 as of June 30, 2011, is hereby reappropriated for fiscal year 2012.	
Special education services aid .....	\$427,717,630
<i>Provided</i> , That any unencumbered balance in the special education services aid account in excess of \$100 as of June 30, 2011, is hereby reappropriated for fiscal year 2012: <i>Provided further</i> , That expenditures shall not be made from the special education services aid account for the provision of instruction for any homebound or hospitalized child unless the categorization of such child as exceptional is conjoined with the categorization of the child within one or more of the other categories of exceptionality: <i>And provided further</i> , That expenditures shall be made from this account for grants to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-983, and amendments thereto: <i>And provided further</i> , That expenditures shall be made from the amount remaining in this account, after deduction of the expenditures specified in the foregoing proviso, for payments to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-978, and amendments thereto.	
General state aid .....	\$1,902,775,680
<i>Provided</i> , That an unencumbered balance in the general state aid account in excess of \$100 as of June 30, 2011, is hereby reappropriated for fiscal year 2012: <i>Provided further</i> , That, if the aggregate amount of moneys appropriated or reappropriated in the general state aid account by this section for fiscal year 2012 is less than the amount equal to 50% of the joint estimate of revenue to the state general fund for fiscal year 2012 conducted on or before April 20, 2012 pursuant to K.S.A. 2010 Supp. 75-6702, and amendments thereto, then an additional amount equal to the difference between such aggregate amount and 50% of such joint estimate amount is appropriated from the state general fund for general state aid for the above agency for the fiscal year ending June 30, 2012.	
Supplemental general state aid .....	\$339,212,000
<i>Provided</i> , That any unencumbered balance in the supplemental general state aid account in excess of \$100 as of June 30, 2011, is hereby reappropriated for fiscal year 2012.	
Discretionary grants .....	\$322,500
<i>Provided</i> , That the above agency shall make expenditures from the discretionary grants account during the fiscal year 2012, in the amount not less than \$125,000 for after school programs for middle school students in the sixth, seventh and eighth grade: <i>Provided further</i> , That the after school programs may also include fifth and ninth grade students, if they attend a junior high: <i>And provided further</i> , That such discretionary grants shall be awarded to after school programs that operate for a minimum of two hours a day, every day that school is in session, and a minimum of six hours a day for a minimum of five weeks during the summer: <i>And provided further</i> , That the discretionary grants awarded to after school programs shall require a \$1 for \$1 local match: <i>And provided further</i> , That the aggregate amount of discretionary grants awarded to any one after school program shall not exceed \$25,000.	
School food assistance .....	\$2,487,458
School safety hotline .....	\$10,000
KPERS—employer contributions .....	\$389,062,720
<i>Provided</i> , That any unencumbered balance in the KPERS—employer contributions account in excess of \$100 as of June 30, 2011, is hereby reappropriated for fiscal year 2012: <i>Provided further</i> , That all expenditures from the KPERS—employer contributions account shall be for payment of participating employers' contributions to the Kansas public employees retirement system as provided in K.S.A. 74-4939, and amendments thereto: <i>And provided further</i> , That expenditures from this account for the payment of participating employers' contributions to the Kansas public employees retirement system may be made regardless of when the liability was incurred.	
Educable deaf-blind and severely handicapped children's programs aid .....	\$110,000

School district juvenile detention facilities and Flint Hills job corps center grants .....	\$6,012,355
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*Provided*, That any unencumbered balance in the school district juvenile detention facilities and Flint Hills job corps center grants account in excess of \$100 as of June 30, 2011, is hereby reappropriated for fiscal year 2012: *Provided further*, That expenditures shall be made from the school district juvenile detention facilities and Flint Hills job corps center grants account for grants to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-8187, and amendments thereto.

Any unencumbered balance in the governor's teaching excellence scholarships and awards account in excess of \$100 as of June 30, 2011, is hereby reappropriated for fiscal year 2012: *Provided further*, That all expenditures from the governor's teaching excellence scholarships and awards account for teaching excellence scholarships shall be made in accordance with K.S.A. 72-1398, and amendments thereto: *And provided further*, That each such grant shall be required to be matched on a \$1 for \$1 basis from nonstate sources: *And provided further*, That award of each such grant shall be conditioned upon the recipient entering into an agreement requiring the grant to be repaid if the recipient fails to complete the course of training under the national board for professional teaching standards certification program: *And provided further*, That all moneys received by the department of education for repayment of grants for governor's teaching excellence scholarships shall be deposited in the state treasury and credited to the governor's teaching excellence scholarships program repayment fund.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2012, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law and transfers to other state agencies shall not exceed the following:

State school district finance fund .....	No limit
School district capital improvements fund .....	No limit
<i>Provided</i> , That expenditures from the school district capital improvements fund shall be made only for the payment of general obligation bonds approved by voters under the authority of K.S.A. 72-6761, and amendments thereto.	
School district capital outlay state aid fund .....	\$0
Conversion of materials and equipment fund .....	No limit
State safety fund .....	No limit
School bus safety fund .....	No limit
Motorcycle safety fund .....	No limit
Federal indirect cost reimbursement fund .....	No limit
Teacher and administrator fee fund .....	No limit
Food assistance—federal fund .....	No limit
Education jobs fund—federal .....	No limit
Food assistance—school breakfast program—federal fund .....	No limit
Food assistance—national school lunch program—federal fund .....	No limit
Food assistance—child and adult care food program—federal fund .....	No limit
Elementary and secondary school aid—federal fund .....	No limit
Elementary and secondary school aid—educationally deprived children—federal fund .....	No limit
Educationally deprived children—state operations—federal fund .....	No limit
Elementary and secondary school—educationally deprived children—LEA's fund .....	No limit
ESEA chapter II—state operations—federal fund .....	No limit
Education of handicapped children fund—federal .....	No limit
Education of handicapped children fund—state operations—federal fund .....	No limit
Education of handicapped children fund—preschool—federal fund .....	No limit
Education of handicapped children fund—preschool state operations—federal .....	No limit

Elementary and secondary school aid—federal fund—migrant education fund.....	No limit
Elementary and secondary school aid—federal fund—migrant education—state operations.....	No limit
Vocational education amendments of 1968—federal fund ..	No limit
Vocational education title II—federal fund .....	No limit
Vocational education title II—federal fund—state operations.....	No limit
Educational research grants and projects fund .....	No limit
Drug abuse fund—department of education—federal.....	No limit
Drug abuse funds—federal—state operations fund.....	No limit
Federal K-12 fiscal stabilization fund .....	No limit
Inservice education workshop fee fund .....	No limit

*Provided*, That expenditures may be made from the inservice education workshop fee fund for operating expenditures, including official hospitality, incurred for inservice workshops and conferences: *Provided further*, That the state board of education is hereby authorized to fix, charge and collect fees for inservice workshops and conferences: *And provided further*, That such fees shall be fixed in order to recover all or part of such operating expenditures incurred for inservice workshops and conferences: *And provided further*, That all fees received for inservice workshops and conferences shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the inservice education workshop fee fund.

Private donations, gifts, grants and bequests fund .....	No limit
Interactive video fee fund .....	No limit

*Provided*, That expenditures may be made from the interactive video fee fund for operating expenditures incurred in conjunction with the operation and use of the interactive video conference facility of the department of education: *Provided further*, That the state board of education is hereby authorized to fix, charge and collect fees for the operation and use of such interactive video conference facility: *And provided further*, That all fees received for the operation and use of such interactive video conference facility shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the interactive video fee fund.

Reimbursement for services fund .....	No limit
Communities in schools program fund .....	No limit
Governor's teaching excellence scholarships program repayment fund .....	No limit

*Provided*, That all expenditures from the governor's teaching excellence scholarships program repayment fund shall be made in accordance with K.S.A. 72-1398, and amendments thereto: *Provided further*, That each such grant shall be required to be matched on a \$1 for \$1 basis from nonstate sources: *And provided further*, That award of each such grant shall be conditioned upon the recipient entering into an agreement requiring the grant to be repaid if the recipient fails to complete the course of training under the national board for professional teaching standards certification program: *And provided further*, That all moneys received by the department of education for repayment of grants made under the governor's teaching excellence scholarships program shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the governor's teaching excellence scholarships program repayment fund.

Elementary and secondary school aid—federal fund—reading first.....	No limit
Elementary and secondary school aid—federal fund—reading first—state operations.....	No limit
State grants for improving teacher quality—federal fund....	No limit
State grants for improving teacher quality—federal fund—state operations.....	No limit
21st century community learning centers—federal fund .....	No limit
State assessments—federal fund .....	No limit
Rural and low-income schools program—federal fund.....	No limit
Language assistance state grants—federal fund.....	No limit
Service clearing fund .....	No limit
Helping schools license plate program fund .....	No limit

(c) There is appropriated for the above agency from the children's initiatives fund for the fiscal year ending June 30, 2012, the following:

Pre-K program .....	\$4,799,812
Parent education program .....	\$7,237,635

*Provided*, That expenditures from the parent education program account for each such grant shall be matched by the school district in an amount which is equal to not less than 65% of the grant.

(d) On July 1, 2011, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 8-1,148 or 38-1808, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$50,000 from the family and children trust account of the family and children investment fund of the department of social and rehabilitation services to the communities in schools program fund of the department of education.

(e) On March 30, 2012, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 8-267 or 8-272, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$900,000 from the state safety fund to the state general fund: *Provided* That the transfer of such amount shall be in addition to any other transfer from the state safety fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the state safety fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the department of education by other state agencies which receive appropriations from the state general fund to provide such services.

(f) On June 30, 2012, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 8-267 or 8-272, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$900,000 from the state safety fund to the state general fund: *Provided* That the transfer of such amount shall be in addition to any other transfer from the state safety fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the state safety fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the department of education by other state agencies which receive appropriations from the state general fund to provide such services.

(g) On July 1, 2011, and quarterly thereafter, the director of accounts and reports shall transfer \$61,789 from the state highway fund of the department of transportation to the school bus safety fund of the department of education.

(h) On July 1, 2011, the director of accounts and reports shall transfer an amount certified by the commissioner of education from the motorcycle safety fund of the department of education to the motorcycle safety fund of the state board of regents: *Provided*, That the amount to be transferred shall be determined by the commissioner of education based on the amounts required to be paid pursuant to subsection (b)(2) of K.S.A. 8-272, and amendments thereto.

**Section 179.** On July 1, 2011, K.S.A. 2010 Supp. 72-8814 is hereby amended to read as follows: 72-8814. (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. 2010 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, 2011~~ or June 30, 2012, or June 30, 2013. 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.

MICHELE CALDWELL, et al, Plaintiffs, vs. THE STATE OF KANSAS, et al., Defendants

No. 50616

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS

August 30, 1972, Decision Filed

MEMORANDUM DECISION

This memorandum decision speaks to count 1 of the Petition and to the cross claim of defendant, Unified School District #232. The issues of fact are considerably narrowed by responsive pleadings, answers to interrogatories, admissions, stipulations, and items subject to judicial notice by mutual agreement. The trial evidence was produced in part by live witness and mostly by deposition.

The court finds that the plaintiffs, Michele Caldwell and Michael Caldwell, minors by and through James Caldwell, their father and next friend as representatives of a class composed of all public school pupils in Kansas as more specifically described in paragraph three of Count 1 of plaintiffs' petition, and defendant cross-claimant Unified School District No. 232 have a meritorious claim in that the current method of financing elementary and secondary education in Kansas deprives the plaintiffs as a class of equal protection of the laws under the Fourteenth Amendment to the United States Constitution and violates the Kansas Constitution.

To complete the factual basis for this decision the court adopts the findings of fact and conclusions of law jointly offered and submitted by the prevailing parties.

FINDINGS OF FACT

1. That the 311 school districts in Kansas have different operating expenditures per pupil ranging from a low of \$516.23 per pupil to a high of \$1,753.67 per pupil for the school year, 1970-1971.

2. That there exists in Kansas a difference in the assessed valuation of local property per pupil among the 311 individual school districts from a low of \$4,604.00 per pupil to a high of \$115,615.00 per pupil for the year 1970.

3. The ad valorem tax levy is set in each individual district by the school board therein and certified to the county clerk of that county for collection by the county treasurer of that county.

4. That there exists in the 311 school districts in Kansas a difference in the adjusted ad valorem tax levy by the individual districts ranging from a low of 5.074 mills to a high of 54.978 mills in 1970.

5. That the present school financing system is

established by certain provisions of Articles 1, 11, 16, 17, 24, 66, 67, 70, 75, 81, 82, 83, 84 and 88 of Chapter 72, and Article 44 of Chapter 79 of the Kansas Statutes Annotated and is adequately described in "Report and Recommendations of the Joint Committee on School Finance to the 1971 Legislature" prepared by the Joint Committee on School Finance of the Kansas State Legislature, January, 1971.

6. In an effort to provide for the equalization of educational opportunity for all children attending public elementary and secondary schools in the state of Kansas, the School Foundation Act, as set forth in K.S.A. 1971 Supp. 72-7001 et seq., was enacted which provides for the distribution of certain state collected revenues to the various unified school districts of the state on the basis of a formula therein set forth, whereby the state shared guarantee is determined for each unified school district and then certain deductions are made and the resultant product is the district's state aid.

7. The state shared guarantee of each school district is determined under the provisions of K.S.A. 1971 Supp. 72-7008 giving weight to the number of certificated employees and to their college training and experience, and by multiplying \$760.00 by the sum of such training and experience credits. No provisions exist in the state shared guarantee to consider either the number of pupils being educated by a district or the ability of that district to provide for the education of pupils based upon its taxable wealth.

8. The state shared guarantee may be reduced by the imposition of a penalty for a low pupil-teacher ratio computed under the provisions of K.S.A. 1971 Supp. 72-7001 and Subsection (c) of K.S.A. 1971 Supp. 72-7008. The pupil-teacher ratio penalty computed and applied, as aforesaid, reduces on the basis of the number of children in each unified school district, thus allowing many small school districts in the state to operate their systems with lower pupil-teacher ratios at greater cost without penalty in state aid, than other school districts of the state with larger enrollments, such as this defendant district. The imposition of the pupil-teacher ratio penalty does not take into consideration the taxable wealth of the district.

9. Under and pursuant to the provisions of K.S.A. 1971 Supp. 72-7010, certain deductions are made from the state shared guarantee determined as aforesaid. The

principal deduction is the school district's portion of "county ability" based upon an economic index of 50% of a unified school district's home county's percentage of the state total adjusted valuation of tangible property, and 50% of a unified school district's home county's percentage of the state total of taxable income reported on state individual income tax returns. The economic index so obtained is multiplied times the amount resulting from a theoretical 10 mill levy on the state total adjusted valuation of tangible property and the resultant product, known as "county ability" is then divided by the total number of certificated employees in the county to arrive at a "county ability per employee." The "county ability per employee" is then multiplied by the number of certificated employees of each district in the county to determine the district's portion of the county ability and the product of this calculation is then deducted from the state shared guarantee, determined as aforesaid.

10. In the computation of the county economic index and the resultant district ability deduction, all unified school districts may be penalized and, in fact, this Unified School District 232 is penalized by the inclusion, in a determination of its ability to finance its educational program, of income of individual taxpayers residing in the county, although such income may not be taxed by the district.

11. The inclusion of individual taxable income in the computation of the county economic index, hereinbefore described, without the corresponding right to tax that income, incorrectly calculates the ability of the district to finance its educational program.

12. The economic index is computed on county-wide basis rather than a district basis so that districts which would have a low district economic index (if a district index were used) but being located in counties with a high county economic index, are penalized in the distribution of equalizing state aid, not by virtue of their taxable wealth or ability to finance the educational system of the district, but by virtue of their geographical location, and in the case of Unified School District 232, which is situated in a county having a relatively high economic index, the penalty for the school year 1970-1971 was \$126,418.00 in state aid or approximately \$70.33 per pupil.

13. The School Foundation Finance Act, aforesaid, does not directly take into consideration the taxable wealth of a unified school district nor equalize the educational opportunities of pupils in unified school districts in the state and, in fact, not only limits those educational opportunities to the wealth of the district but in certain districts, such as Unified School District 232, places heavier burdens upon the districts than the district's taxable wealth would warrant.

14. Under the provisions of K.S.A. 1971 Supp. 72-

7025, et seq., a supplemental state aid program is provided by the State of Kansas whereby \$26,000,000 is mandated for distribution and whereby a guarantee is established for each school district at the rate of \$71.70 for each pupil and \$1,240.00 for each certificated employee. The district's supplemental aid is determined by the multiplication of its guarantee by an index set forth in K.S.A. 1971 Supp. 72-7027, which is based upon the adjusted valuation per pupil of the district so that low valuation per pupil districts are assigned a higher index and receive more supplemental state aid than districts with high per pupil valuation. While the supplemental state aid act is designed in part to equalize educational opportunities, the index is so computed that all districts with adjusted valuations per pupil in excess of \$18,000 have the same index, to-wit: .20, thus necessitating higher levies on local tangible property in districts having low valuations per pupil and assisting low levies of taxes in districts having high valuations per pupil. If the index did not in fact stop at .20, more funds would be available for districts with low valuations per pupil.

15. Under the provisions of K.S.A. 1971 Supp. 72-7007, the County School Foundation Fund is established which authorizes a levy in each county of an amount which would be produced by a 10 mill levy on the adjusted valuation of the county for the preceding year and which provides for a formula for the distribution of the funds obtained by such a levy among school districts, all or a part of which are located within the county generally in proportion to their number of certificated employees. Generally, while the County School Foundation Fund is designed to aid school districts with low adjusted valuations per pupil located within counties having other school districts with high adjusted valuations per pupil, no equalization is made among counties.

16. K.S.A. 1971 Supp. 72-7009 provides for the distribution of certain aid to assist unified school districts to provide for transportation of pupils to and from school and includes a formula for the distribution of aid which is 70% of a per pupil cost formula as determined by cost-density factors or 70% of actual cost, whichever is lower. The minimum allowance is \$32.00 per pupil or actual transportation costs, whichever is less, and the amount distributed is limited to \$6,000,000.00 with a provision for proration, should the total entitlement be greater than that amount. The distribution of funds under the transportation allowance is made without regard to the local ability of the school district to finance transportation costs by the taxation of taxable tangible property.

17. Although additional funds are made available from fines and forfeitures and the intangibles tax, both of which are deductions from general state aid under the School Foundation Act, and from the State of Kansas for special programs including driver education, vocational education and special education, these funds do not

constitute the major source of revenue of the school district and the latter are given for specific programs and purposes.

18. Under the provisions of K.S.A. 1971 Supp. 79-4420, unified school districts are limited as to the amount which they may budget, to 105% of the amount legally budgeted for operating expenses in the preceding school year or, in the 1969-70 school year, whichever is greater, subject to certain exceptions not here applicable so that even if a school district was given the right to tax and raise additional revenue, or if the school district were given additional equalizing state aid, such sums without a successful vote of the people of the district, could not be expended to enrich the educational program of the district in excess of the 105% budget limitation.

19. The above and foregoing cited statutes of the State of Kansas, when taken in aggregate, constitute the system for financing of public schools at the elementary and secondary level in this state. As a result of the application of this system, in aggregate, greater amounts may be expended in operating expenses per pupil in districts having a higher adjusted valuation per pupil than in districts with low adjusted valuations per pupil, and so that less local effort may be required in the form of local taxation to support much higher expenditures in districts with higher adjusted valuations per pupil than in districts with low adjusted valuations per pupil. For the school year 1970-71, under and pursuant to the present system for financing education at the elementary and secondary level in the State of Kansas, certain school districts of the state with low adjusted valuations per pupil were indirectly mandated to make high levies in and effort to finance low expenditures per pupil for the operation of their school system which is indicated by the following analysis:

School Dist.	Enroll 9-15-70	1970 AVPP	Amount Per Pupil					Total
			Adj. Gen. Tax Rate (Mills)	Dist. Gen. Fund Tax	Gen. & State Aid	Other Dist. Gen. Fund Revenue		
Galena	971	\$4,627	34.46	\$159	\$250	\$106	\$515	
Turner	5,305	4,852	53.22	258	228	105	591	
Elwood	305	5,348	42.16	225	345	137	707	
Mulvane	1,551	5,705	34.35	196	235	163	594	
Rose Hill	677	5,856	27.58	161	231	164	556	
Leavenworth	5,419	5,924	31.22	185	262	118	565	
Maize	912	6,119	39.44	241	229	115	585	
DeSoto	1,797.5	7,746	41.23	320	187	156	663	

The District General Fund and the General and Supplemental State Aid is based upon the school year 1970-71. The amounts of Other District General Revenue include the County Foundation Fund, Public Law 874, if

any, Special Purpose State Aid Funds, intangible taxes, fines and forfeitures and miscellaneous revenue and is based upon the 1971-72 budget.

20. Under and pursuant to the system of financing of public elementary and secondary education in the State of Kansas, those districts having high adjusted valuations per pupil are capable of financing substantial budget expenditures per pupil at low operating levies as shown by the following Schedule:

School Dist.	Enroll 9-15-70	1970 AVPP	Amount Per Pupil					Total
			Adj. Gen. Tax Rate (Mills)	Dist. Gen. Fund Tax	Gen. & State Aid	Other Dist. Gen. Fund Revenue		
Setanta	518	\$52,752	7.45	\$393	\$138	\$499	\$1,030	
Lakin	607	53,094	7.04	374	145	522	1,041	
Lorain	663	53,882	15.13	815	170	396	1,381	
Hugoton	925	53,394	5.66	314	72	575	961	
Macksville	387	56,294	12.8	721	157	512	1,390	
Edson	77	56,626	17.46	989	23	560	1,572	
Kendall	93	79,672	13.38	1,066	19	737	1,822	
Rolla	201	93,701	7.83	734	41	697	1,472	
Mullinville	151	95,982	14.36	1,378	55	796	2,229	
Moscow	140	115,615	6.59	762	50	1,146	1,958	

21. Under and pursuant to the present system for the financing of elementary and secondary education in public schools in the State of Kansas this Unified School District 232 for the school year 1970-71 had an enrollment of 1,797.5, an adjusted valuation per pupil of \$7,746.00, a general fund budget per pupil without transportation of \$575.28 and with transportation of \$600.00, and a 1970 adjusted general tax rate of 41.23 mills while, at the same time, and for the same year, Unified School District 214 of Ulysses, Kansas, had an enrollment of 1,696, an adjusted valuation per pupil of \$44,203.00, a per pupil operating expenditure, without transportation of \$986.42, and with transportation of \$1,047.00, and a 1970 adjusted general tax rate of 5.07 mills, and Unified School District 331 of Kingman, Kansas, had an enrollment of 1,541, an adjusted valuation of \$23,031.00, a general fund expenditure per pupil without transportation of \$741.56 and with transportation, of \$809.00, and a 1970 adjusted general tax rate of 11.12 mills.

22. Under and pursuant to the system for financing public education of elementary and secondary schools of the State of Kansas, school districts like Ulysses Unified School District and Kingman Unified School District, because of their high valuation per pupil and because of the lack of equalization in the state formula for state aid, could expend higher sums for the education of pupils

residing in their district with lower tax effort than in the case of Unified School District 232.

23. For the school year 1970-71, total operating expenses per pupil, without the inclusion of transportation, varied from a low of \$516.23 in Unified School District 421 of Lyndon, Kansas, to a high of \$1,753.67 in Unified School District 424 of Mullinville, Kansas.

24. For the year 1970 the adjusted valuation per pupil, as between school district, varied, with the exception of Unified School District 207 of Fort Leavenworth, Kansas, from a low of \$4,604.00 per pupil in Unified School District 437 of Washburn, Kansas, to a high of \$115,615.00 in Unified School District 209 of Moscow, Kansas. The 1970 adjusted general tax rate for the 311 unified school districts of the State of Kansas for the operation of elementary and secondary education in the State of Kansas varied from a low of 5.074 mills in School District 214 of Ulysses, Kansas, to high of 54.978 mills in Unified School District 265 of Goddard, Kansas.

25. The State of Kansas, in its system of financing public elementary and secondary education, relies heavily upon the property tax on assessed tangible property in each of the unified school districts and, as stated above, this valuation varies substantially, on a per pupil basis, between the various unified school districts of the state so that certain unified school districts of the state are required to tax assessed tangible property at substantially higher rates to raise lower sums of money per pupil for the operation of the school system of their district.

26. Under the financing system authorized by statute in the State of Kansas, there is a direct correlation between the taxable wealth per pupil of a school district and the amount which that school district spends on its operating expenses per pupil.

27. Under the system of financing authorized by statute in the State of Kansas, the educational system available to a pupil is materially dependent upon the wealth of the school district in which the pupil resides.

27(a) The disorganization procedures provided for in K.S.A. 72-7301 et seq. (Supp. 1971) do not provide a viable method for poorer school districts to overcome the handicaps of their small tax bases.

28. There is a direct and material correlation between school operating expenditures per pupil and the educational program and the educational opportunities available to that pupil.

29. There is a direct and material correlation between the quality of educational opportunities available to a student and the achievement level of that student.

30. There is a direct and material correlation between the quality of educational opportunities available to a

student and that student's social, economic, political and emotional development.

31. That the "School Foundation Finance Act," the "Supplemental State Aid Program," and the "County School Foundation Fund Act" do not provide funds sufficient to equalize the amount of funds available in the 311 school districts so as to offset the difference in money raised by local levy on local property.

32. State aid to school districts, because of the formula by which this aid is computed, fails to provide equalization aid sufficient to offset the disparity in either tax effort or per pupil operating expenditures, thereby making the educational system of the child essentially the function of, and dependent on the wealth of the district in which the child resides.

#### CONCLUSIONS OF LAW

The Court, having made findings of fact, concludes as a matter of law that:

1) A strict scrutiny equal protection test must be applied under the Kansas and the United States Constitutions whenever a suspect legislative classification interferes with a fundamental interest.

2) Under the strict scrutiny equal protection test a legislative classification must be necessary to a compelling state interest.

3) Wealth is a suspect classification under the equal protection guarantees of both the Kansas Constitution and the Fourteenth Amendment to the United States Constitution.

4) Education is a fundamental interest under the equal protection guarantees of both the Kansas Constitution and the Fourteenth Amendment to the United States Constitution.

5) The Kansas school financing system must be analyzed under the strict scrutiny equal protection test.

6) A legislature classification does not satisfy the strict scrutiny equal protection test if the legitimate interests of the state can be promoted by a "less restrictive alternative" which does not impinge upon individual rights.

7) The present Kansas school financing system is not secondary to a compelling state interest; therefore, that system is unconstitutional under the strict scrutiny equal protection test required by the Kansas and United States Constitutions.

8) Even if a strict scrutiny test is not required, the Kansas and United States Constitutions require that a legislative classification be rationally related to a legitimate state interest.

9) The Kansas school financing system is not

rationally related to any legitimate state interest; therefore, that system is unconstitutional under the rational state equal protection test.

10) The summary affirmances by the United States Supreme Court in Melinnis v. Shapiro and Burruss v. Wilkerson are not controlling in the present case.

11) A school financing scheme that is fiscally neutral or that does not make the quality of public education a function of wealth, other than the wealth of the state as a whole would meet the equal protection requirements of the Kansas and United States Constitutions.

#### DISCUSSION

The briefs of parties and the several recent law review articles touching the subject of this litigation are stimulating and provocative. The Court is mindful that several similar cases are on their common way to United States Supreme court determination. It does appear, however, that the facts, statutes of Kansas, and Kansas Constitution cause the instant litigation to be unique although it does fall within the spectrum of the philosophical and constitutional questions raised in the totality of the present wave of school tax cases.

Within the present school financing system of Kansas (parts of Articles 1, 11, 16, 17, 24, 66, 67, 70, 75, 81, 82, 83, 84 and 88 of Chapter 72 as well as Article 44 of Chapter 79, all in Kansas Statutes Annotated) lies the defect which has been successfully challenged. This system presumes that enough funds will be available in each unified school district to provide substantially equal educational opportunities through expenditures of comparable monies in the various districts. This system causes education in Kansas to be adequate or inadequate by the caprice of the wealth or local tax base within a district. Poor districts must tax more in order to keep pace and then they are forbidden to tax more by the so called "tax lid".

In Brown v. Bd. of Education, 347 U.S. 483, it was said, "Today, education is perhaps the most important function of state and local government. 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, is a right which must be made available to all in equal terms."

One must recognize that "equality" as an absolute standard in every facet, sub-part, and discernable category is not susceptible of determination and is not a judicially manageable concept. An article in March, 1972 FORTUNE magazine, authored by Max Ways is titled "EQUALITY: A STEP AND ENDLESS STAIR", and has as its thesis the proposition that current drives for equality in everything will be harder to satisfy than the old American pursuit of "more". The right to equal protection of law is not tantamount to a regimented homogeneity. Equality does not exclude variety. The equality conflicts concerning schools now extend beyond racial issues while presenting moral as well as practical problems. Although courts may not act to appease the envy of those in a state of want, nor to frustrate the greed of those enjoying power and control, the courts must think in terms of reduction of unequal treatment by government. The quest for equality will strain our society with legal problems fraught with economic and political difficulties. However, it is a relatively simple duty to develop a financing scheme that is fiscally neutral and does not make public education a function of wealth other than the wealth of the state as a whole.

The property tax is under heavy attack at the present. Real estate taxes are a prime political issue today. Whether it is equitable to provide the bulk of the funds for elementary and high school education from the ad valorem tax source is not a question for the courts. Property tax is the most visible tax and the main wellspring of money for those levels of government most vulnerable to voter wrath. It feeds budgets more nearly understandable than the all consuming and overwhelming federal budget. It grows within the confines of cash basis funding rather than deficit spending. Some would contend that if one values independent local government, this tax is indispensable. Further, the states and federal government have preempted most other tax forms. When the property tax becomes substantial, the inherent difficulties of equitable administration of it become magnified.

The property tax is and has been escalating in Kansas although it is a much less significant burden to property owners in Kansas than to similarly situated citizens of many other states. The Legislature must determine whether high or low property taxes in relation to other tax forms is the proper course and this burden can not be thrust on the courts. It is for the Legislature to balance the interests between citizens and to please or displease the land speculator, retired home owners, farmer or rancher, landlord, merchant, manufacturer, investor and just plain folks who are interested in such matters. The courts may appropriately decree in the proper situation that the rich may not hide away in enclaves that shield them from the costs of maintaining the larger community.

The Honorable James B. Pearson, senior United

States Senator from Kansas, in a recent report, aptly described the situation in saying, "The taxpayers' revolt has been triggered by attempts to finance 20th Century education with an inequitable, inadequate, outmoded 19th Century tax system."

Public education is a primary concern of the state. Children are the great natural resource of the nation. In earlier times distances and time of travel, local geography and the nature of an agricultural society conspired together to provide local control and local funding that was suitable to community educational needs. Most wealth was in the land, children were an economic asset and equal educational opportunity tended to be provided inadvertently. In due time Brown vs. Bd. of Education came along as did urbanization, industrialization, transportation and the consolidation of school districts. Unification and ever increasing state control have changed the character of schools.

Educators want local authority with decisions made at the lowest level capable of making an efficient decision and at the same time they want funds to flow from the state and from funds based upon the ability to pay with apportionment of them based upon children's needs rather than the wealth of a school district. It is no doubt naive to expect the total tax wealth of the state to be the basis of collection and distribution of school monies unless the source of revenue be the source of control. The same might be said of federal aid to education or in furtherance of property tax reduction.

Within this tenth judicial district, i.e., Johnson County, every school patron is taxed as though he were wealthy while the school district at DeSoto gets less state aid as a consequence of the high incomes in the Shawnee Mission district. The "school foundation" distribution, funded with less and less since its inception is a principal factor in the disparity resulting in the Court's decision that the Fourteenth Amendment as well as the Kansas Constitution is violated by our system of financing education. The so called "tax lid" further frustrates the ability to provide for the educational needs of Kansas children. What has been here written should not be construed as an indictment of real estate ad valorem tax for educational purposes nor a prohibition of maximum ad valorem levy devices. The State may adopt any financial scheme it desires so long as the variations in wealth among the governmentally chosen districts do not affect spending for the education of any child. The Legislature must reallocate funds available and restructure the financial system so as to not violate constitutional guarantees.

No reasonable basis is shown for the present financial system. No compelling state interest is evidenced for the continuation of classifications based on wealth. The present scheme is not a pre-requisite of local control. There is no compelling justification for making a taxpayer

in one district pay a tax at a higher rate than a taxpayer in another district so long as the revenue serves the common state educational purpose.

#### ORDER

It is the duty of this Court to provide for an orderly transition to a constitutional system of school finance. Accordingly, this decision shall not prevent the continued operation of the school system and existing tax laws until July 1, 1973, which gives ample time for the Legislature to take corrective action. This Court maintains jurisdiction to take such further steps as may be necessary to implement both the purpose and the spirit of this order.

IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED AND DECREED that:

1. The defendants, their agents and employees and all other persons in active participation with them are restrained and enjoined from the operation of the present Kansas school financing scheme and from giving any force and effect to such mode of financing education. Defendants are ordered to reallocate the funds available for financial support of the school system, including, without limitation, funds derived from ad valorem property tax by school districts and to otherwise restructure the financial system in such a manner as not to violate the required equal protection of law.

2. The mandate in this cause is stayed until July 1, 1973 and this Court retains jurisdiction in order to afford the defendants and the Kansas Legislature an opportunity to take all steps reasonably feasible to make the school system comply with the applicable law.

3. Nothing herein shall be construed as requiring the Legislature to adopt a specific system of financing or taxation.

4. The finding of unconstitutionality shall operate prospectively only and not prevent continued operation of schools or the existing tax laws prior to July 1, 1971. This declaration shall not invalidate past or future obligations incurred under existing school or tax laws.

5. Counsel for Plaintiffs is directed to prepare the journal entry of this decision and may incorporate such material by reference as counsel deem appropriate.

6. The entry of the decree shall be upon the filing of such journal entry rather than this date.

7. The costs of this action are taxed to the defendant, State of Kansas.

Dated August 30, 1972.

HERBERT KNOWLES, et al., Appellants, v. STATE BOARD OF EDUCATION, et al., Appellees

No. 48,033

SUPREME COURT OF KANSAS

219 Kan. 271; 547 P.2d 699; 1976 Kan. LEXIS 360

March 6, 1976, Opinion Filed

**PRIOR HISTORY:** [\*\*\*] Appeal from Chautauqua District Court; Page W. Benson, Judge.

**DISPOSITION:** Reversed and remanded with directions.

#### SYLLABUS

##### SYLLABUS BY THE COURT

1. Moot Case — *Moot Issue — May Be Considered on Appeal*. The fact that an issue has become moot does not necessarily mean that an appellate court is without jurisdiction to consider the issue on appeal.

2. Moot Case — *Appellate Review*. The rule as to moot questions is one of court policy, founded upon the proposition that, except when under some statutory duty to do so, courts do not sit for the purpose of giving opinions upon abstract propositions not involving actual controversy presented for determination.

3. Pleadings — *Amending Pleadings*. A party may amend his pleading by leave of court or by written consent of the adverse party and leave should be freely given when justice so requires. (K. S. A. 1975 Supp. 60-215.)

4. Schools and School Districts — *Kansas School District Equalization Act — Repealing and Amending Portions of Act — Remanded for Reconsideration*. In an action for a declaratory judgment that the Kansas School District Equalization Act of 1973 violates the Bill of Rights and the Constitution [\*\*\*] of the State of Kansas as well as the 14th Amendment to the Constitution of the United States, which action was tried in the district court but later dismissed as moot after the Legislature passed L. 1975, Ch. 378 repealing and amending various sections of the former Act, the record on appeal from the order of dismissal is examined and it is held: (1) A decision on the constitutionality of the 1973 Act would be unavailing; (2) The constitutional issues bearing upon plaintiffs' rights remain unresolved; (3) The amendments passed in 1975 did not change the design of the School District Equalization Act; (4) The district court should have permitted the parties to amend the pleadings and introduce

further evidence relevant to the constitutional issues as they pertain to the Act as amended; and (5) The order of dismissal is vacated and the case is remanded for reconsideration in light of any intervening changes in the Kansas School District Equalization Act.

**COUNSEL:** T. Richard Liebert, of Liebert & Liebert, of Coffeyville, argued the cause, and Frank W. Liebert, of the same firm, was with him on the brief for appellants.

Donald R. Hoffman, assistant attorney general, argued [\*\*\*] the cause, and Curt T. Schneider, attorney general, and Clarence J. Malone, assistant attorney general, were with him on the brief for appellees.

Erle W. Francis, of Topeka, argued the cause and was on the brief for the State Board of Education, its members and the Commissioner of Education, appellees.

**JUDGES:** The opinion of the court was delivered by Fromme, J.

**OPINION BY:** FROMME

#### OPINION

[\*272] [\*\*700] This is an action for a declaratory judgment that the Kansas School District Equalization Act of 1973 (K. S. A. 1974 Supp. 72-7030 *et seq.*) violates the Bill of Rights and the Constitution of the State of Kansas as well as the equal protection clause contained in the 14th Amendment to the Constitution of the United States.

This Act provides for a complicated formula by which the State Board of Education is authorized to distribute money from the state school district equalization fund to the various local school districts in the state to supplement the funds which local school districts may raise by ad valorem tax levies upon the property within their respective districts.

The action was filed on behalf of Herbert Knowles, Bill Pudden and Jean M. Barber as residents [\*\*\*4] and taxpayers. Jodi Coulter, Russell Pudden and Gayla Gasper, by their respective fathers and next friends, joined



in the action as plaintiffs. They are students enrolled in certain of the local school districts affected by the Act. In addition, 41 unified school districts joined as plaintiffs to lend whatever support they could. The plaintiffs sought a declaratory judgment and an order to enjoin the defendants from making further distributions under the Act.

The Attorney General, Board of Education, Director of Accounts and Reports, Treasurer, and the Commissioner of Education of the State of Kansas were joined as defendants. The attorney general consented to venue on behalf of all defendants and waived any right to trial on the issue of venue.

The issues were joined on pleadings as limited in a pre-trial order. The case was tried to the court. The record on appeal sets forth 48 stipulated exhibits together with 31 separate stipulations of fact. The case was tried in January, 1975. The parties submitted proposed findings of fact and conclusions of law. The court adopted the 50 findings of fact and seven conclusions of law proposed by the plaintiffs and declared the 1973 [\*\*\*5] School District Equalization Act unconstitutional. As might be expected the judgment created statewide concern among various school boards who were relying on these state funds to meet their budget requirements.

In general it may be said the 1973 Act was struck down because the court found [\*\*701] the distribution of state funds under the formula provided in the Act resulted in unequal benefits to certain school [\*273] districts and an unequal burden of ad valorem school taxes on taxpayers in various districts with no rational classification or basis. It was further held that this provision for state finance of schools was not sufficient to enable the plaintiffs to provide a fundamental education for the students within these respective districts on a rationally equal basis with students of other school districts within the state as required in the state constitution.

The constitutional basis for plaintiffs' attack appears in the Constitution of the State of Kansas as follows:

"The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities [\*\*\*6] which may be organized and changed in such manner as may be provided by law." (Article 6, § 1.)

"Local public schools under the general supervision of the state board of education shall be maintained, developed and operated by locally elected boards. When authorized by law, such boards may make and carry out agreements for cooperative operation and administration of educational programs under the general supervision of the state board of education, but such agreements shall be

subject to limitation, change or termination by the legislature." (Article 6, § 5.)

"The legislature shall make suitable provision for finance of the educational interests of the state. . . ." (Article 6, § 6 [b].)

"The legislature shall provide for a uniform and equal rate of assessment and taxation. . . ." (Article 11, § 1.)

In addition the plaintiffs alleged and the court found that the 1973 School District Equalization Act denies equal protection under the law to the individual plaintiffs as guaranteed by the 14th Amendment to the Constitution of the United States and Section 1 of the Kansas Bill of Rights.

However, the district judge took judicial notice that the Kansas Legislature was in [\*\*\*7] session when his judgment was entered in February, 1975, and he set July 1, 1975, as the effective date for the injunction in order to give the Legislature time to correct the inequalities.

Thereafter the defendants filed a motion to open the judgment on the ground that an act was before the legislature which would materially change the operation and effect of the 1973 Act. They asked that the judgment be opened to permit the introduction of further evidence which might be relevant should the Act be materially changed.

After an extensive hearing on the defendants' motion the court held as follows:

[\*274] "1. That the judgment of this Court heretofore entered February 25, 1975, be and the same is reopened for the purposes heretofore stated in the findings of this order; and

"2. That this Court does retain jurisdiction of the parties and subject matter until a final judgment is hereafter entered pursuant to the above findings and this order; and

"3. That the defendants shall have a reasonable time after the adjournment of the current 1975 Session of the Kansas Legislature to present to this Court their application for review with evidence and testimony in support thereof; [\*\*\*8] and

"4. That after consideration by this Court of said application for review, this Court shall reconsider his decision in the light of any action taken in the current 1975 Session, and then enter its final judgment therein."

Thereafter the Kansas Legislature repealed and amended various sections of the 1973 School District Equalization Act effective July 1, 1975. When the 1975 law was approved by the governor the defendants filed a motion in the district court [\*\*702] asking that they be permitted to introduce testimony and evidence as to the changes wrought by the 1975 amendments. A copy of the

new bill (House Substitute for Senate Bill No. 480) was attached to the motion. Arguments were had on the motion on June 10, 1975. Although the judge took judicial notice of the 1975 amendments, he refused to hear further testimony and evidence and dismissed the case as moot. The journal entry of dismissal in pertinent part reads:

"Thereupon, the Court announced its decision that by reason of the action taken by the 1975 Kansas Legislature, the law as it existed on February 25, 1975, no longer existed; that any determination concerning the constitutionality of the old law is moot; [\*\*\*9] that the constitutionality of the 1975 amendments is an entirely new matter and must be litigated in a new action; that the injunction heretofore entered in the above case should be dissolved and that the above entitled case be dismissed. Costs to defendants."

The plaintiffs appeal from this order which dissolved the injunction and dismissed the case as moot.

As might be expected the defendants did not see fit to file a cross-appeal even though their motion to open the judgment had previously been granted in order to permit them to introduce evidence and testimony in support of an application for review after the adjournment of the 1975 session of the legislature. The order dismissing the action terminated the case entirely in their favor.

The thrust of plaintiffs' appeal is twofold. They argue that no material changes were made in the provisions of the 1975 law and that we should examine the new law and enter final judgment on the record before us as justice requires. (See *Manzanares v. Bell*, 214 Kan. 589, 522 P. 2d 1291; and *Ash v. Gibson*, 146 Kan. 756, [275] 74 P. 2d 136.) In the alternative they contend that the district court erred in holding the issues moot [\*\*\*10] without an evidentiary hearing and that the order of dismissal should be reversed and the case remanded for further consideration of the constitutional questions presented in light of the new provisions of the 1975 law.

By way of background it should be noted that the support of local schools in the state of Kansas has traditionally been provided for by the legislature from two levels of government. Basic support has come from local ad valorem tax assessments levied upon the real estate and personal property within each local school district. Supplementary support of local schools has been supplied to the local school districts from sources under the authority and control of the state government.

In order to determine the first argument presented by plaintiffs-appellants it is necessary for us to consider in a general way the provisions of the 1973 School District Equalization Act in light of some of the changes effected when the 1975 amendments were passed by the legislature.

The School District Equalization Act of 1973 was an effort to provide state support for common schools on the basis of local need. Entitlement to state funds under the Act was to be determined by the State [\*\*\*11] Board of Education under a statutory formula which took into consideration district wealth and the amount of the local budget per pupil as compared to the statewide median budget per pupil. Various adjustments were to be made, including one based on an adjusted valuation of the real estate in each county where the sales ratio studies had disclosed the statutory 30% of fair market value was not being used in such county.

The intricacies built into the statutory formula upon which each local district's entitlement to the fund is based are disclosed by reading the following stipulation of the parties:

"10. The method under the act by which the Plaintiff school districts' operating [\*\*703] budgets are financed is from local *ad valorem* taxes levied by the school district and state general revenues distributed through the school district equalization fund. The local school districts adopts a budget within limitations of the School District Equalization Act, and then divides that budget by the enrollment to arrive at the budget per pupil; this district budget per pupil is divided by the 'norm budget per pupil' (a median) for the category of the particular school district in the [\*\*\*12] statutory classification according to enrollment and then the result is multiplied by 1.5% to arrive at a 'local effort rate'; from the total budget there is deducted the 'local effort' of the school district; this local effort is determined by the aggregate of: (a) multiplying the 'local effort rate' by the 'district wealth' (as defined in the statute and including the application of the sales [\*276] ratio); plus (b) the district's share of intangible taxes; plus (c) the district share of the computed County Foundation Tax Receipts; and plus (d) the actual receipts from Public Law 874; after subtracting the total deductions constituting the 'local effort' the balance remaining, if any, to finance the budget constitutes the entitlement for receipt of funds from the State School District Equalization Fund. The amount computed in (a) must be raised by the local school district in an *ad valorem* tax levy."

We have reviewed the exhibits and facts stipulated by the parties on which the original judgment of the trial court was based. It is apparent that many of these findings relate to facts and figures pertaining to how the formula operated under the 1973 [\*\*\*13] Act. Extensive charts were stipulated which illustrated for the benefit of the trial court the wide variance of amounts the plaintiff districts would receive under the 1973 Act.

For instance the parties stipulated that in the 1973-74 school year the 309 school districts in Kansas had different operating expenditures per pupil ranging from a

low in Galena (U. S. D. No. 499) of \$ 609.23 per pupil with an enrollment of 975 pupils to a high in Kendall (U. S. D. No. 478) of \$ 2,210.68 per pupil with an enrollment of only 85 pupils. The stipulated charts indicated that local school district levies necessary to maintain the schools after considering state equalization monies for 1973, would vary from a low of 13.69 mill in the Moscow district (U. S. D. No. 209) to a high of 43.87 mill in the Beloit district (U. S. D. No. 273). In addition it was stipulated that distribution of Equalization funds in the 1973-74 school year under the formula in the 1973 Act would vary from zero in several of the districts to a high of 77% of the total operating budget of Elwood (U. S. D. No. 486).

In comparing the provisions of the 1973 Act with those of the 1975 Act ( K. S. A. 1975 Supp. 72-7030 *et seq.* [\*\*\*14] ) we find substantial changes were effected which will necessarily change the distribution of state funds and increase the ability of the local school districts to meet the financial needs of their respective districts.

We note at least six changes:

1. The limitation on increase of school district budgets was raised from 105% to 110% and in some instances to 115%. This change would result in permitting more school districts to increase their "local effort" and thereby increase their entitlement to state funds.

2. "District Wealth" was redefined to take into consideration an average of the preceding three years. This change should soften any sharp increase or decrease in either the adjusted valuation or the taxable income within a district.

[\*277] 3. The inclusion of intangibles tax within the computation of "local effort rate" was eliminated. The finding of the trial court that the inclusion of the intangibles tax within the computation of "local effort" was improper is no longer a legitimate finding under the 1975 amendment.

4. The formula with regard to the "local effort rate" was changed to increase [\*\*704] the normal factor of 1.5% to 1.7%. This change should have [\*\*\*15] the effect of increasing the local effort factor and increasing the local district's entitlement to state funds.

5. The income tax rebate to the local districts was increased from 10% to 15% of the amount of income tax paid by individual residents of a particular school district. This change will increase the income tax funds available to each district by one-half.

6. The 1973 Act had resulted in a general decrease in state funds payable to certain school districts as compared to the prior year. The 1975 amendments provided for an alternative entitlement which would permit a district to

receive general state-aid based on either the 1972-73 entitlement under prior law or the 1975-76 entitlement under the 1975 Act, whichever was greater. There were certain limiting factors to be met however. The overall effect should be to decrease the number of school districts which will receive no general state-aid.

The constitutional challenges launched by plaintiffs against the 1973 School District Equalization Act depended in large part upon the ultimate effect of the law on the distribution of state funds to the respective districts affected by the Act. The same constitutional challenges [\*\*\*16] when considered in light of the 1975 law depend in like measure upon the ultimate distributions resulting from the operation of the 1975 law.

In *San Antonio School District v. Rodriguez*, 411 U.S. 1, 36 L. Ed. 2d 16, 93 S. Ct. 1278, reh. den. 411 U.S. 959, 36 L. Ed. 2d 418, 93 S. Ct. 1919, 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 [\*278] the members of a legislature necessarily enjoy a familiarity with local conditions which this Court cannot have, the presumption of constitutionality [\*\*\*17] 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 [84 L. Ed. 590, 60 S. Ct. 406, 125 A. L. R. 1383] (1940).'" (411 U.S. pp. 40-41.)

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 [\*\*\*18] how the particular law would result in inequalities and oppressive discrimination. Here it is the operation [\*\*705] and effect of the law on particular persons and classes which is challenged rather than the basic theory of the law itself.

We turn now to the alternative contention of the plaintiffs that the district court erred in holding the issues raised under the 1973 Act moot and in dismissing the case.

In order to place this contention in proper perspective we first note that there are no funds presently distributable under the formula in the 1973 Act. The injunction sought by plaintiffs never became effective. The pleadings filed in the district court raised constitutional issues concerning the alleged irrational and unequal distribution of funds by the state under the 1973 Act which has since been repealed. Under the 1975 amendments all funds on hand after July 1, 1975, are to be distributed under the new law.

We return to the question. The fact that an issue has become moot does not necessarily mean that an appellate court is without jurisdiction to consider the issue on appeal. The rule as to moot questions is one of court policy, founded upon the proposition [\*\*\*19] that except when under some statutory duty to do so courts do not sit for the purpose of giving opinions upon abstract propositions not involving actual controversy presented for determination. (*Moore* [\*279] *v. Smith*, 160 Kan. 167, 170, 160 P. 2d 675.) Further discussion of the rule as to mootness may be found in the more recent case of *Thompson v. Kansas City Power & Light Co.*, 208 Kan. 869, 494 P. 2d 1092, cert. den. 409 U.S. 944, 34 L. Ed. 2d 215, 93 S. Ct. 270. The rule has been applied in actions brought to obtain a declaratory judgment. (*See Bumm v. Colvin*, 181 Kan. 630, 312 P. 2d 827, and *Dick v. Drainage District No. 2*, 175 Kan. 869, 267 P. 2d 494.)

It is true that the 1973 Act which was the target of plaintiffs' action has been amended. To the extent of funds to be distributed under the 1973 Act any decision by a court on this prior law would be unavailing. However the amendments in 1975 did not change the design of the Act. The distribution of state funds to local school districts will still depend upon a complicated formula which seeks to arrive at local need. The ultimate effect of the formula depends upon the use of similar factors contained [\*\*\*20] in the prior law such as district wealth, local effort, budget per pupil and sales ratio to

local assessed valuations. We should not be understood to imply that these are not proper factors to be used. All we say is that the constitutional issues bearing upon plaintiffs' rights still remain unresolved. The right of persons to challenge the constitutional effect of a law upon their persons or property should not be aborted everytime the law is amended by the legislature. In some instances amendments occur almost annually with minimal impact upon the overall effect of the law. It is entirely possible that the 1976 legislature will again amend this Act.

We cannot determine in this appeal the constitutional issues raised in light of the 1975 amendments. The record contains exhibits and evidence relating only to the operation and effect of the 1973 Act. However, we do feel the plaintiffs should not be prevented from pursuing the constitutional issues raised in this action. It serves no purpose to require them to institute a new action and obtain new service of process when the parties are presently before the court.

K. S. A. 1975 Supp. 60-215 provides that a party may amend his [\*\*\*21] pleading by leave of court or by written consent of the adverse party and *leave shall be freely given when justice so requires*. On request the parties should be permitted to reframe the issues in this case in light of later amendments.

The nature of this controversy is such that the rights of the parties continue to be affected by the law. It is an ongoing controversy which can be adjudicated in the present action as well, if [\*280] not better, than in a new action filed. We see no prejudice to the defendants in permitting amendments to the petition and permitting the introduction [\*\*706] of evidence bearing upon the operation and effect of this new law.

In similar cases raising constitutional questions the federal courts have reversed orders of dismissal for mootness and remanded the cases for amendment of pleadings and further hearing. (*See Diffenderfer v. Central Baptist Church*, 404 U.S. 412, 30 L. Ed. 2d 567, 92 S. Ct. 574, and *Fusari v. Steinberg*, 419 U.S. 379, 42 L. Ed. 2d 521, 95 S. Ct. 533, reh. den. 420 U.S. 955, 43 L. Ed. 2d 433, 95 S. Ct. 1340.)

The order dismissing the case as moot is vacated and the case is remanded for consideration in light of [\*\*\*22] any intervening changes in the Kansas School District Equalization Act.

MOCK v. STATE OF KANSAS

No. 91-CV-1009

SHAWNEE COUNTY DISTRICT COURT

TERRY L. BULLOCK, District Judge

31 Washburn L.J. 489

October 14, 1991, Opinion Filed

OPINION OF THE COURT ON QUESTIONS OF  
LAW PRESENTED IN ADVANCE OF TRIAL

Introduction

The various plaintiffs in these consolidated cases, in the aggregate, challenge the constitutionality of the entire scheme of financing the public schools (grades kindergarten through twelve) of Kansas. They raise various arguments in support of their claims of unconstitutionality, including three key claims:

- 1) The financing scheme violates the requirements of the education article of the Kansas constitution.
- 2) The financing scheme violates the equal protection clauses of the Kansas and United States constitutions.
- 3) The system of taxation used to finance public schools violates the "uniform laws" clause of the Kansas constitution.

Additional sub-arguments include a claim that the cap on "hold harmless" funds, a part of the School District Equalization Finance Act, violates the equal protection clause of the Kansas and United States constitutions and a claim that the school district plaintiffs lack standing to raise the issues presented.

Because of the magnitude of the challenges made in these cases, and because of the impact which a decision of these issues may have on the financial and other affairs of the State and its schools, the Court has elected to identify and decide the essential questions of law in advance of trial. In this endeavor, the Court had the unanimous consent and cooperation of all parties and their counsel, for which the Court is profoundly grateful. All parties have now briefed the various issues and the Court is now prepared. to decide the issues thus submitted.

Scope of Review

Preliminarily, it is important to observe that legislative enactments are presumed to be constitutionally sound. Before the Court can declare any statute unconstitutional, the legislative act must clearly violate some provision of the constitution. It is, however, the duty of the Court to declare legislation unconstitutional when it does fail to meet the requirements of the constitution. *Barker v. State*, 249 Kan. 186, 191-92 (1991).

The Education Article of the Kansas Constitution

Because the penultimate issue presented in the cases at bar is the constitutional validity of the entire financing scheme for Kansas public schools, it seems appropriate to begin our deliberations with a careful consideration of the history and textual development of the education article of the Kansas constitution.

Early School History

The history of education in Kansas predates statehood. Pioneer schools existed even prior to the time the territory was organized. In fact, schools were often organized and built well before taxes were collected for their operation. *Heritage of Kansas*, (Emporia, Kansas, State Teachers College, 1963). Provisions in the organic Act and the Act for the Admission of Kansas into the Union included provisions related to public schools. The Organic Act, Section 34, provided that certain sections of land should be reserved for educational purposes.

The Act for Admission of Kansas into the Union, in paragraph three, repeated this reservation of land for educational purposes. During territorial days, the territorial legislature created the office of Territorial Superintendent of common Schools. This officer subsequently was authorized to certify teachers and to organize local school districts. Education has always been a very high priority for Kansans. In fact, shortly after statehood there existed over nine thousand schools and over twenty-seven thousand school board members. Every child had a school within walking distance of his or her home. (U.S.D. No. 259. Plaintiff's brief, page 27, footnote 3).

Constitutional History

There were four constitutional conventions, the first three of which were unsuccessful. It is important to note, however, that all three constitutions issuing from these ill-fated conventions contained mandatory provisions for education.

In 1859, the Wyandotte Constitutional convention met to draft a constitution to submit to a vote of the residents of the Kansas territory. The constitution used as a model the Ohio constitution, which itself was modeled after the New York constitution. *Kansas Constitutional*

*Convention: A Reprint of the Proceedings and Debates of the Convention Which Framed Constitution of Kansas at Wyandotte in July, 1859.* (Kansas State Printing Plant, Topeka, Ks. 1920) at page 697.

The Ohio constitution, however, contained only two short sections on education. *Id.* at 687. Our founders desired more and thus premised their proposed, education article on a combination of provisions from Iowa, Oregon, Michigan, Wisconsin and California. *Id.* In explaining the scope and effect intended for the proposed constitution, one framer stated, "It has been the aim of the majority of this body to make this Constitution the draft, the outline of great civil truths and rights." (Emphasis added). Solon O. Thatcher quoted in *Kansas Constitutional Convention* at 569.

#### Constitutional Provisions Adopted in 1859

In the Ordinance to the Constitution (the official legislative act which adopted the constitution), three of eight sections, including the first section, dealt directly with elementary public education. The new constitution contained an entire article, Article 6, solely concerned with education. Section 2 stated "The legislature shall encourage the promotion of intellectual, moral, scientific and agricultural improvement, by establishing a uniform system of common schools." The bulk of the remainder of the article dealt with the financing of schools.

Some of the original constitutional provisions on education have since been amended. The relevance of the earlier text to this case is that it clearly demonstrates the treatment of public school education as a paramount duty of the legislature which has been continuous from the beginning of statehood and before.

Amendments to the Educational Article in 1966: The Current Text

The present text of Article 6, the education article, dates from amendments made in 1966. House Concurrent Resolution No. 537 stated the intent of the legislature in seeking amendment of the education article: [t]hat the Kansas legislative council is hereby directed to make a study of the scope, function, and organization of the state in supervising education to comply with the constitutional requirement of a uniform system of public schools, *The Education Amendment to the Kansas Constitution*, Publication No. 256, Dec. 1965 Kansas Legislative Council, page v.

The committee assigned to review and recommend changes to the education article stated that by including an article on education in the original Kansas Constitution "the people secure[d] to themselves what is of first importance by placing binding responsibilities on the legislative, executive, and judiciary departments." *Education Amendment* at page 2. The committee further

noted, "[t]he constitution of 1861 placed a responsibility on the legislature to establish a uniform system of schools," and that "equality of educational opportunity is a goal which has been generally accepted." (Emphasis added). *Id.* at 3.

After several floor amendments, the current Education Article was finally adopted, submitted to a popular vote, and ratified by the people, all in 1966. A careful examination of the current text of the article reveals four essential, clear, and unambiguous mandates from the people (the source of all power in our democratic form of government):

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

Section 2. State board of education and state board of regents. (a) The legislature shall provide for a state board of education which shall have general supervision of public schools ... and all the educational interests of the state, except educational functions delegated by law to the state board of regents. (Emphasis added).

Section 5. Local public schools. Local public schools under the general supervision of the state board of education shall be maintained, developed and operated by locally elected boards. When authorized by law, such boards may make and carry out agreements for cooperative operation and administration of educational programs under the general supervision of the state board of education, but such agreements shall be subject to limitation, change or termination by the legislature. (Emphasis added).

Section 6. Finance. (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. (Emphasis added).

#### Kansas Case Law

No controlling authority exists in Kansas interpreting the meaning of these constitutional provisions. Diligent research, however, discloses the following general statements of principles from our high court which help light the path to understanding.

In the context of a challenge to unequal educational opportunities based on race, Justice Valentine, in 1881 (more than seventy years before *Brown v. Board of*

*Education*, 347 U.S. 483 (1954)), rhetorically asked,

And what good reason can exist for separating two children, living in the same house, equally intelligent, and equally advanced in their studies, and sending one, because he or she is black, to a school house in a remote part of the city, past several school houses nearer his or her home, while the other child is permitted, because he or she is white, to go to a school within the distance of a block? *Board of Education v. Tinnon*, 26 Kan. 1, 21 (1881).

More recently, the Kansas Supreme Court stated "(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, 643 (1982). In a similar vein, the Kansas Supreme court has also held "(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." (Emphasis added). *State v. Smith*, 155 Kan. 588, 595 (1942).

Although the constitutions of the other states of the union vary in content and wording, and in fact none contain the same precise text as that set out in the present Kansas Education Article, it is, nonetheless, instructive for us, to examine, preliminarily, relevant authorities from other states, applicable at least by analogy. (For a complete catalog of the various comparative constitutional provisions, see generally *Pauley v. Kelley*, 255 S.B.2d 859 (W. Va. 1979) (at page 884).

#### The Cases From Our Sister States

Forty-nine of our fifty states include education provisions in their constitutions. *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1, 112 (1973) (Justice Marshall, in dissent). The lone state currently without such a provision, South Carolina repealed its education article in response to the decision of the United States Supreme Court in *Brown v. Board of Education*, 347 U.S. 483 (1954). Of these forty-nine states, at least ten with school financing systems somewhat similar to that existing in Kansas have ruled those systems unconstitutional for varying reasons. See *DuEree v. Alma School Dist. No. 30*, 279 Ark. 340, 651 S.W.2d 90 (1983); *Serrano v. Priest*, 5 Cal. 3d 584, 96 Cal. Rptr. 601, 487 P.2d 1241 (1971); *Horton v. Meskill*, 172 Conn. 615, 376 A.2d 359 (1977); *Rose v. Council for Better Educ.*, 790 S.W.2d 186 (Ky. 1989); *Helena Elementary School Dist. No.1 v. State*, 769 P.2d 684 (Mont. 1989); *Robinson v. Cahill*, 62 N.J. 473, 303 A.2d 273, cert. denied, 414 U.S. 976, 94 S. Ct. 292, 38 L.Ed.2d 219 (1973); *Seattle School District No.1 v. State*, 90 Wash.2d 476, 585 P.2d 71 (1978); *Pauley v. Kelley*, 162 W. Va. 672, 255 S.E.2d 859 (1979); *Washakie County School Dist. No.1 v. Herschler*, 606 P.2d 310 (Wyo.), cert. denied, 449 U.S. 824, 101 S. Ct. 86, 66 L.Ed.2d 28 (1980); and *Edgewood Independent School District v. Kirby*, 777 S.W.2d 391 (Tex. 1989).

Other state courts have reached different results. See *Shofstall v. Hollins*, 110 Ariz. 88, 515 P.2d 590 (1973); *Lujan v. Colo. State Bd. of Educ.*, 649 P.2d 1005 (Colo. 1982); *McDaniel v. Thom*, 248 Ga. 632, 285 S.E.2d 156 (1981); *Thompson v. Engelking*, 96 Idaho 793, 537 P.2d 635 (1975); *Hornbeck v. Somerset County Bd. of Educ.*, 295 Md. 2d 597, 458 A.2d 758 (1983); *Board of Educ., Levittown v. Nyquist*, 57 N.Y.2d 27, 453 N.Y.S.2d 643, 439 N.B.2d 359 (1982); *appeal dismissed*, 459 U.S. 1138, 103 S. Ct. 775, 74 L.Ed.2d 986 (1983); *Board of Educ. v. Walter*, 58 Ohio St.2d 368, 390 N.B. 2d 813 (1979), cert. denied, 444 U.S. 1015, 100 S. Ct. 665, 62 L.Ed.2d 644 (1980); *Fair School Finance Council of Oklahoma, Inc. v. Oklahoma*, 746 P.2d 1135 (Okla. 1987); *Olsen v. State*, 276 Or. 9, 554 P.2d 139 (1976); *Danson v. Casey*, 484 Pa. 415, 399 A.2d 360 (1979); *Richland County v. Campbell*, 294 S.C. 346, 364 S.B.2d 470 (1988).

A review of all the cases reveals a checked history for equal protection challenges, while attacks grounded squarely on specific state constitution education articles have generally fared better for the challengers. In these latter cases, the precise wording of each constitutional provision has been highly important. Several cases, which this Court finds most persuasive, deserve more detailed attention.

In *Rose v. Council for Better Education*, 790 S.W.2d 186 (1990), the Kentucky Supreme Court, in interpreting the education article of their constitution held the entire public school system was unconstitutional as it was then organized and financed by the legislature. Their constitution simply stated "The General Assembly shall, by appropriate legislation, provide for an efficient system of common schools throughout the state." *Rose* at 200.

The rationale of the Kentucky decision was that the school system in Kentucky as operated was not "efficient" and therefore not constitutional. *Rose* at 203. An efficient system, in the eyes of the Kentucky court includes: sole responsibility in the General Assembly; free common schools to all children; schools available to all children; all schools substantially uniform; equal educational opportunities for all children, regardless of place of residence or economic circumstances; ongoing monitoring by the general assembly to prevent waste, duplication, mismanagement, or political influence; all children having a constitutional right to an adequate education; and the provision by the general assembly of sufficient funding to assure adequate education.

In *Edgewood School District v. Kirby*, 777 S.W.2d 391 (Tex. 1989), the Texas court examined their Education Article which provided:

A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of

public free schools. *Edgewood* at 393.

In interpreting that provision the court observed:

If our state's population had grown at the same rate in each district and if the taxable wealth in each district had also grown at the same rate, efficiency could have probably been maintained within the structure of the present system. That did not happen. Wealth, in its many forms, has not appeared with geographic symmetry. The economic development of the state has not been uniform. Some cities have grown dramatically, while their sister cities have remained static or have shrunk. Formulas that once fit have been knocked askew. Although local conditions vary, the constitutionally imposed state responsibility for an efficient education system is the same for all citizens regardless of where they live. *Edgewood* at 396.

We conclude that, in mandating "efficiency," the constitutional framers and ratifiers did not intend a system with such vast disparities as now exist. Instead, they stated clearly that the purpose of an efficient system was to provide for a "general diffusion of knowledge." (Emphasis added). The present system, by contrast, provides not for a diffusion that is general, but for one that is unbalanced. The resultant inequalities are thus directly contrary to the constitutional vision of efficiency. *Id.*

Following which, the Court held:

Efficiency does not require a per capita distribution, but it also does not allow concentrations of resources in property-rich school districts that are taxing low when property-poor districts that are taxing high cannot generate sufficient revenues to meet even minimum standards. *Id.* at 397.

*Children who live in poor districts and children who live in rich districts must be afforded a substantially equal opportunity to have access to educational funds. Certainly, this much is required if the state is to educate its populace efficiently and provide for a general diffusion of knowledge statewide. Id.*

Under article VII, section 1, the obligation is the legislature's to provide for an efficient system. In setting appropriations, the legislature must establish priorities according to constitutional mandate; equalizing educational opportunity cannot be relegated to an "if funds are left over" basis. We recognize that there are and always will be strong public interests competing for available state funds. However, the legislature's responsibility to support public education is different because it is constitutionally imposed. *Id.* at 397.

This does not mean that the state may not recognize differences in area costs or in costs associated with providing an equalized educational opportunity to atypical students or disadvantaged students. (Emphasis added). *Id.* at 398.

Finally, with respect to the contentions raised, concerning the importance of "local control" of Texas schools, the Court noted:

Some have argued that reform in school finance will eliminate local control, but this argument has no merit. An efficient system does not preclude the ability of communities to exercise local control over the education of their children. It requires only that the funds available for education be distributed equitably and evenly. An efficient system will actually allow for more local control, not less. It will provide property-poor districts with economic alternatives that are not now available to them. Only if alternatives are indeed available can a community exercise the control of making choices. *Id.* at 398.

In *Seattle Sch., Dist. No. 1 of King City, v. State*, 585 P.2d 71 (Wash. 1978), the Washington Supreme Court reviewed constitutional provisions which provided:

It is the paramount duty of the state to make ample provision for the education of all children residing within its borders . . . (Emphasis added in the original). *Seattle* at 83.

In commenting upon the "duty" imposed by their constitution, the Washington court held:

By imposing upon the State a paramount duty to make ample provision for the education of all children residing within the State's borders, the constitution has created a "duty" that is supreme, preeminent or dominant. Flowing from this constitutionally imposed "duty" is its jural correlative, a corresponding "right" permitting control of another's conduct. Therefore, all children residing within the borders of the State possess a "right," arising from the constitutionally imposed "duty" of the State, to have the State make ample provision for their education. Further, since the "duty" is characterized as paramount the correlative "right" has equal stature. (footnotes omitted). *Seattle* at 91.

"Providing free education for all is a state function. It must be accorded to all on equal terms." (See also *Robinson v. Cahill*, 287 A.2d 187, 213 (N.J. 1972) citing *Brown v. Board of Education*, 347 U.S. 483, 493 (1954).

Relying, in part, on the state's equal protection clause the Court then concluded:

Thus we hold, compliance with Const. art. 9, Sections 1 and 2 can be achieved only if sufficient funds are derived, through dependable and regular tax sources, to permit school districts to provide "basic education" through a basic program of education in a "general and uniform system of public schools." (Emphasis added in the original). *Seattle* at 97.

Finally, we note in passing the Washington court made its decision prospective only in effect. (See *Seattle* at pages 105-6).

In *Helena Elementary School Dist. No. 1 v. State*, 769 P.2d 684 (Mont. 1989), the Montana Supreme Court examined constitutional provisions that read:

(1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.

(3) The legislature shall provide a basic system of free quality public elementary and secondary schools. . . . It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system. *Helena* at 689.

The Court then held:

Art. X, Sec. 1(3), Mont. Const., requires that the Legislature shall provide a basic system of free quality education, that it may provide various types of educational institutions and programs, and that the state's share of the cost of the basic system shall be distributed in an equitable manner. There is nothing in the plain wording of subsection (3) to suggest that the clear statement of the obligations on the part of the Legislature in some manner was intended to be a limitation on the guarantee of equal educational opportunity contained in subsection (1). The guarantee provision of subsection (1) is not limited to anyone branch of government. Clearly the guarantee of equal educational opportunity is binding upon all three branches of government, the legislative as well as the executive and judicial branches. We specifically conclude that the guarantee of equality of educational opportunity applies to each person of the State of Montana, and is binding upon all branches of government whether at the state, local, or school district level. *Helena* at 689-90.

With respect to "local control," the Montana Supreme Court noted and held:

The State also argued that the Constitutional directive of local control of school districts, Art. X, Sec. 8, Mont. Const., requires that spending disparities among the districts be allowed to exist. That section

provides:

*School district trustees.* The supervision and control of schools in each school district shall be vested in a board of trustees to be elected as provided by law.

While Section 8 does establish that the supervision and control of schools shall be vested in the board of trustees, there is no specific reference to the concept of spending disparities. Further, as made especially apparent after the passage of Initiative 105, the spending disparities among Montana's school districts cannot be described as the result of local control. In fact, as the District Court correctly found, the present system of funding may be said to deny to poorer school districts a significant level of local control, because they have fewer options due to fewer resources. We conclude that Art. X, Sec. 8, Mont. Const. does not allow the type of spending disparities outlined in the abovequoted findings of fact. *Helena* at 690.

Finally, in *Robinson v. Cahill*, 287 A.2d 187 (N.J. 1972) the New Jersey Supreme Court was presented with a constitutional provision which recited:

The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen years. *Robinson* at 209.

The Court held:

The Education Clause was intended to do what is says, that is, to make it a state legislative obligation to provide a thorough education for all pupils wherever located. (*Robinson* at 210).

The word "thorough" in the Education clause connotes in common meaning the concept of completeness and attention to detail. It means more than simply 'adequate or minimal'. (*Robinson* at 211).

In reviewing the "local" versus "state" tax question, the court observed:

Although districts can be created and classified for appropriate legislative purposes . . . the state school tax remain[s] a state tax even though assessed and levied locally upon local property, with revenues returned by the State to local districts. (citations omitted). *Robinson* at 210.

New Jersey, like Kansas, had a "hold harmless" component in their school financing system. In commenting thereon, Justice Botter, for the Court, wrote:

The Bateman Committee (a New Jersey

committee which had reviewed school finance and had recommended a whole new "needs based" finance scheme) sought to justify minimum aid on the ground that it would provide even wealthy districts with the incentive to improve educational programs, and to maintain them at high levels. The justification offered at trial was that the State "should do something for every district." However, as long as some districts are receiving inadequate education, below that constitutionally required, the reasons offered cannot constitute a valid legislative purpose. As long as some school districts are underfinanced I can see no legitimate legislative purpose in giving rich districts "state aid." I am satisfied by the evidence that a strong reason for minimum aid and save-harmless aid is political, that is, a "give-up" to pass the legislation. *Robinson* at 211.

The New Jersey Court also recognized fundamental constitutional problems with the use of the property tax to support schools:

Even if districts were better equalized by guaranteed valuations, the guarantees do not take into consideration "municipal and county overload." ... Poor districts have other competing needs for local revenue. The evidence shows that poorer districts spend a smaller proportion of their total revenues for school purposes. The demand for municipal services tends to diminish further the school revenue-raising power of poor districts. Another general disadvantage of poor districts is the fact that property taxes are regressive; they impose burdens in inverse proportion to ability to pay. This is because poor people spend a larger proportion of their income for housing. (citations omitted). *Robinson* at 213.

Finally, with the respect to the need to spend "equal dollars" on each pupil in order to achieve "equal educational opportunity", the Court observed:

This is not to suggest that the same amount of money must be spent on each pupil in the State. The differing needs of pupils would suggest the contrary. In fact, the evidence indicates that pupils of low socioeconomic status need compensatory education to offset the natural disadvantages of their environment. *Robinson* at 213.

#### The Analysis of Our Constitution

Thus informed by our history and tradition, the cited general principles of Kansas law, and the experiences of our sister states, the Court now turns to an examination and interpretation of the text of the Kansas constitution. To sharply focus our attention, the exact language of the four critical provisions of the Education Article must be restated:

The legislature shall provide for intellectual, educational, vocational, and scientific improvement,

by establishing and maintaining public schools (emphasis added).

The legislature shall provide for a state board of education which shall have general supervision of Public schools ... and all the educational interests of the state, except educational functions delegated by law to the state board of regents. (Emphasis added).

Local public schools under the general supervision of the state board of education shall be maintained, developed and operated by locally elected boards. When authorized by law, such boards may make and carry out agreements for cooperative operation and administration of educational programs under the general supervision of the state board of education, but such agreements shall be subject to limitation, change or termination by the legislature. (Emphasis added).

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. (Emphasis added).

#### Analytical Queries

A series of questions will be posed and answered to aid in understanding and interpreting the language of the text:

1) Upon what entity of government is the sole and absolute duty to establish, maintain, and finance public schools imposed by the plain language of our constitution?

On this point nothing more need be said but that the clear answer appears from the text alone: that answer is the legislature.

2) To whom is this absolute duty to establish, maintain, and finance public schools owed?

In the court's view, the answer is self-evident when the question is stated another way. For whose primary benefit are public schools created and maintained? The answer can only be the school children of Kansas.

Without doubt, much collateral benefit from education inures to the benefit of others in our society, from business, industry, the professions, and the government, to the public at large, but the essential and primary beneficiaries of an education are the students who are educated. Thus, it is clear to the Court that the duty created by the constitutional mandate is owed to the school children of Kansas.

3) If the duty to establish, maintain, and finance public schools is constitutionally owed by the legislature to the school children of Kansas, in what proportion is that duty owed to each individual child?

Once again, the answer is logically inescapable. If the duty is owed to every child, each child has a claim to receive that educational opportunity which is neither greater nor less than that of any other child.

Thus, the fundamental answer is plain: the duty owed by the Legislature to each child to furnish him or her with an educational opportunity is equal to that owed every other child.

4) What can the legislature charge each child required to attend our public schools?

The text of the constitution alone answers this question: except for "such fees or supplemental charges as may be authorized by law," the answer is nothing.

Accordingly, the overall constitutional scheme becomes more plain: the legislature must establish and maintain free public schools, which the legislature must finance from public funds and not from tuition paid by students required to attend those schools.

5) If, then, the legislature must establish, maintain, and finance free public schools for the benefit of all Kansas school children, how must it divide its resources among districts, schools, and students?

The answer lies in the educational opportunity which the legislature owes under the constitution equally to each child. This legislative duty is not to districts, not to schools, not to towns or cities, not to voters, not to counties, not to personal constituents - but to each school child of Kansas, equally.

6) Must, then, exactly equal (per pupil) dollar amounts be furnished to each school?

Again we must review the text of the education article. Great discretion is granted the legislature to devise, change, and reform education in Kansas. Obviously, educational needs, and concomitant costs, will vary from child to child and from place to place. The mandate is to furnish each child an educational opportunity equal to that made available to every other child. To do so will unquestionably require different expenditures at different times and places.

For example, if a child lives a great way from school, the transportation cost for that child will be greater than for another child nearer to school - just to provide him or her the same educational opportunity. Similarly, if a child cannot speak English, it may cost more to teach that child English as a second language before the child can learn math and other subjects. Again, a disproportionate expenditure may be required to afford this child an equal educational opportunity. Other examples could be given but these suffice to demonstrate that the constitutional mandate is to provide to each child an equal educational opportunity, not necessarily exactly equal dollars.

Because the legislative duty to each child is the same, however, in the court's view, a disproportionate

distribution of financial resources alone gives rise to a duty on the part of the legislature, if challenged, to articulate a rational educational explanation for the differential. Any rational basis for the unequal expenditures necessitated by circumstances encountered in furnishing equal educational opportunities to each child, however, would conclude the constitutional judicial inquiry.

Not only is this what the constitution says and seems to mean, but isn't this precisely how one would logically expect the people of Kansas to want their constitution interpreted? The Court invites the following experiment: ask any citizen this question: "If our constitution requires the legislature to establish, maintain, and finance free public schools from public funds for all the school children of Kansas what kind of educational opportunity would you expect the legislature to be constitutionally required by our courts to provide each individual child? This Court believes the answer you would get is: EQUAL!

7) Does this mean loot "state financing" is required for public schools?

The clear and simple answer is "yes." The reasons are two: (a) that is what the constitution says; and (b) that is what we have always had - for so-called local school districts are legally only political subdivisions of the state, exercising such of the state's taxing authority as the legislature delegates to them in partial fulfillment of the legislature's obligation to finance the educational interests of the state. Thus money raised by school districts through "local" taxation is still state money. It just hasn't been thought-of that way.

8) What financial costs of educating students are included in the constitutional mandate placed by the Educational Article upon the legislature?

Let us return to the text of Article 6 again. The key words from section 1 are "establishing and maintaining" and from section 6(b) "suitable provision for finance." Once again, the answer is clear: all costs, including capital expenditures are included. If only operating and maintenance costs were intended, the constitution would not say "establishing and maintaining." Furthermore, as previously demonstrated, in all events there is only the state, inasmuch as school districts are merely political subdivisions of the state. If the "state" (as thus understood to include its subdivisions) were not responsible for building needed schools - who or what would be? And how can a school be "established" unless some edifice to house the school be built, bought, rented, or otherwise acquired?

9) Is the legislature's only duty to divide its educational resources in such a way as to provide equal opportunities for every child?

Section 6(b) of Article 6 requires the legislature to

provide "suitable financing." Clearly, then, the answer is no. In addition to equality of educational opportunity, there is another constitutional requirement and that relates to the duty of the legislature to furnish enough total dollars so that the educational opportunities afforded every child are also suitable.

In other words, should total legislative funding fall to a level which the Court, in enforcing the Constitution, finds to be inadequate for a "suitable" (or "basic" as some state's decisions prefer) or minimally adequate education, a violation of the "suitable" provision would occur. In the case at bar, the question of what that "minimum" or "basic" level is will not be reached as all parties to these cases have agreed that if present funding levels are equitably divided, so as to provide every child equal educational opportunities as herein defined, no question of minimal adequacy (suitability) exists to be presented at this time. The Court notes, however, for general edification, that such a day has come in other states, most recently Kentucky. *See e.g. Rose v. Council for Better Educ.*, 790 S.W.2d 186 (Ky. 1990). In that state, after reviewing expert testimony, the court there held a minimally adequate education is one that has the following goals:

- 1) sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization;
  - 2) sufficient knowledge of economic, social, and political systems to enable the student to make informed choices;
  - 3) sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state and nation;
  - 4) sufficient self-knowledge and knowledge of his or her mental and physical wellness;
  - 5) sufficient grounding in the arts to enable each student to appreciate his or her cultural historical heritage;
  - 6) sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and
  - 7) sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in and surrounding states, in academics or in the job market. (*Rose* at 212-213).
- 10) Can the legislature be sued for "restitution" arising from past disproportionate funding?

The answer is no. The Education Article of the Kansas constitution creates no express right of action for damages. The remedy for a violation, therefore, is to strike existing laws which do not comply with constitutional provisions.

Furthermore, as an added precaution, in light of the length of time the present system has existed and the

reliance placed upon it until now, should violations be found when the facts are heard, the Court has determined to make its decision in this case operate prospectively only.

#### Conclusion

From the foregoing, it is apparent that the interpretation given by this Court to the plain text of Article 6 of the Kansas Constitution is entirely in accord with the constitutional history and traditions of the state, the general principles of law laid down over time by our supreme court, the clear weight of reason, logic, and the modern trend of authorities in our sister states. Indeed our own Legislature, in its most recent session correctly anticipated the basic decision reached here.

In reviewing the school financing system here in Kansas, an interim committee in its report to the 1991 Legislature specifically noted,

It [the hold harmless component of the SDEA] is, therefore, unsuited for the task of equalizing wealth base differences among school districts. *If applied over multiple years, this approach could not be expected to withstand legal challenge.* (Emphasis added). Report on Kansas Legislative Interim Studies to the 1991 Legislature, School Finance Proposal No. 35, at page 314.

Further, the title of the School District Equalization Act and the legislative statement of purpose in the School Consolidation Act of 1963 reflect an understanding of the duty imposed by our Constitution. The latter provides

The legislature hereby declares that this act is passed for the general improvement of the public schools in the state of Kansas; the equalization of the benefits and burdens of education throughout the various communities in the state; to expedite the organization of public school districts of the state so as to establish a thorough and uniform system of free public schools throughout the state . . . . K.S.A. 72-6734.

Indeed, the State Board of Education's own Strategic Plan for Kansas Public Education for the Year 2005 recites:

The Kansas State Board of Education affirms its support for high quality education and learning opportunities for all Kansas citizens and for the elimination of differential access on the basis of race, sex, national origin, geographic location, age, socioeconomic status, or handicapping conditions.

The final question may arise, how could we have come from 1861 to 1991 without having had these issues decided. There are several possible answers:

The first is simple - no one ever asked. Courts only decide cases actually presented. Although several cases

were filed over the years, none were ever prosecuted to final conclusion and thus no controlling precedent ever emerged.

Second, for many years the original system of completely supporting public schools, or nearly completely, with property tax dollars was probably constitutionally sufficient. When the assets of the state consisted virtually entirely of unimproved prairie land, and when school districts had about equal amounts of that - the property tax likely resulted in reasonably equal educational opportunities for every child.

Third, as the assets of the state developed unevenly, various funding programs were apparently invented, by the legislature, which gave schools enough funds that they elected not to complain. Today, however, with tight budgets and many demands on the resources of the state, these plaintiffs here before the Court today have elected to chance litigation.

Finally, commencing constitutional litigation is always a high risk enterprise. As perhaps some plaintiffs today will tell you, the scope of the decision reached this day may be quite different from what they had expected or perhaps even desired.

In any event - here we are. The Court has been presented with the questions now and it has an absolute constitutional duty to decide. However difficult, however popular or unpopular - that is the role of the court from which no judicial officer is permitted to retreat. There is no more solemn duty for any Court than to uphold, protect, and defend the Constitution. This duty, however, is not the sole responsibility of the judiciary. All those in government service, the Governor, Legislators, state and local school board members, even educators and teachers who are on the front lines of education, have all taken the same oath and assumed the same duty.

This Court is confident, therefore that as it today discharges its duty under the Constitution, so tomorrow will its counterparts throughout our democratic and constitutional government.

#### ORDER

IT IS THEREFORE CONSIDERED, ORDERED, AND ADJUDGED that the rules set forth in questions one through ten, supra, are held to be the governing rules of law applicable to the controversy at bar, which rules will be applied to the facts found controlling at trial.

Because these rulings are entirely dispositive, the Court need not, and does not, reach other contentions raised, with the exception of the standing issue, now moot in view of the holding that the legislative duty herein defined inures to the benefit of all Kansas school children, some of whom are plaintiffs in these consolidated causes. (For a sobering look at what happens in places where the guarantees of the Kansas constitution, as announced in this

opinion, are not available or are not yet observed, see *Savage Inequalities*, Jonathan Kozol (Crown Publishers, N.Y. 1991).

Done and entered at Topeka, the capital, this fourteenth day of October, 1991  
Terry L. Bullock, District Judge

1. See for example, *Wichita Public Schools Employees Union v. Smith*, 194 Kan 2, at p. 4, wherein our Court held:

"A school district is an arm of the state existing only as a creature of the legislature to operate as a political subdivision of the state. A school district has only such power and authority as is granted by the legislature and its power . . . is only such as is conferred either expressly or by necessary implication. (Citation omitted).

"The existence of a school district as a political subdivision of the state of Kansas was established and recognized as early as *Beach v. Leahy*, 11 Kan 23, 29."

(92-CV-1099) UNIFIED SCHOOL DISTRICT NO. 229, et al., Appellants, v. THE STATE OF KANSAS, et al., Appellees. (92-CV-1202) UNIFIED SCHOOL DISTRICT NO. 217, et al., Appellants, v. THE STATE OF KANSAS, et al., Appellees. (92-CV-1175) UNIFIED SCHOOL DISTRICT NO. 244, et al., Appellants, v. THE STATE OF KANSAS, et al., Appellees. (92-CV-2406) UNIFIED SCHOOL DISTRICT NO. 373, et al., Appellees, v. THE STATE OF KANSAS, et al., Appellants.

No. 70,931

SUPREME COURT OF KANSAS

256 Kan. 232; 885 P.2d 1170; 1994 Kan. LEXIS 144

December 2, 1994, Opinion Filed

**PRIOR HISTORY:** [\*\*\*1] Appeal from Shawnee district court, MARLA J. LUCKERT, judge.

**DISPOSITION:** Affirmed in part, reversed in part, and remanded with directions.

**SYLLABUS**

**SYLLABUS BY THE COURT**

1. A school district created by the legislature has no inherent power of taxation. It must look to the legislature for its right to raise funds by taxation and has only such power to levy, assess, and collect taxes or otherwise receive public funds as is clearly granted by the legislature.

2. A local school board's duties under § 5 of Article 6 of the Kansas Constitution are not self-executing but are dependent upon statutory enactments of the legislature.

3. The respective duties and obligations vested in local school boards and the legislature by Article 6 of the Kansas Constitution must be read together and harmonized so both entities may carry out their respective obligations.

4. The judiciary interprets, explains, and applies the law to controversies concerning rights, wrongs, duties, and obligations arising under the law and has had imposed upon it the obligations of interpreting the Constitution and of safeguarding the basic rights reserved thereby to the people. In this sphere of responsibility, courts have no power to [\*\*\*2] overturn the law enacted by the legislature within constitutional limitations, even though the law may be unwise, impolitic, or unjust. The remedy in such a case lies with the people through the political process.

5. The School District Finance and Quality Performance Act is examined and held not to be violative of the duties imposed upon local school boards and the

legislature by §§ 5 and 6, respectively, of Article 6 of the Kansas Constitution.

6. The three standards of review applicable where legislation is claimed to be violative of the equal protection provisions of the United States and Kansas Constitutions (rational basis, heightened scrutiny, and strict scrutiny) are stated and discussed.

7. The rational basis test is held appropriate to challenges made to the School District Finance and Quality Performance Act on state and federal equal protection grounds, the test is applied, and the legislation is held not to be constitutionally impermissible.

8. Article 2, § 16 of the Kansas Constitution should not be construed narrowly or technically to invalidate proper and needful legislation, and where the subject of the legislation is germane to other provisions, the legislation [\*\*\*3] is not objectionable as containing more than one subject or as containing matters not expressed in its title. This provision is violated only where an act of legislation embraces two or more dissimilar and discordant subjects that cannot reasonably be considered as having any legitimate connection with or relationship to each other.

9. The School District Finance and Quality Performance Act is held not to be violative of Article 2, § 16 of the Kansas Constitution requiring that all legislative bills contain a single subject.

10. The "recapture" provisions of the School District Finance and Quality Performance Act are held not to be a "taking" violative of the Fifth Amendment of the United States Constitution and §§ 1 and 2 of the Kansas Constitution Bill of Rights.

11. Article 2, § 17 of the Kansas Constitution, which provides that all laws of a general nature shall have a uniform operation throughout the state, requires that all laws of a general nature which affect the people of this state generally must operate with geographical uniformity.



Constitutional challenges based upon a denial of equal protection of the laws not involving a claim of lack of geographical uniformity [\*\*\*4] do not violate Article 2, § 17.

12. The School District Finance and Quality Performance Act is held not to be violative of the uniform operation requirements of Article 2, § 17 of the Kansas Constitution.

13. The School District Finance and Quality Performance Act is held to be within all asserted constitutional limitations and, accordingly, is constitutionally permissible legislation.

COUNSEL: John L. Vratil, of Lathrop & Norquist, L.C., of Overland Park, argued the cause and Patrick J. Gregory, of the same firm, was with him on the brief for appellants Unified School District No. 229, et al.

Alan E. Popkin, of Husch & Eppenberger, of St. Louis, Missouri, argued the cause, and Harry B. Wilson, Daniel N. Bloom, and Karen Halbrook, of the same firm, were with him on the brief for appellants Unified School District No. 217, et al.

Robert J. Perry, of Perry, Hamill & Fillmore, L.C., of Overland Park, argued the cause, and Thomas A. Hamill and Gregory M. Dennis, of the same firm, and Bryan K. Joy, of Burlington, were with him on the brief for appellants Unified School District No. 244, et al.

Carl L. Gallagher, assistant attorney general, argued the cause, and Robert T. Stephan, attorney [\*\*\*5] general, was with him on the briefs for appellant State of Kansas.

Alan L. Rupe, of Rupe & Girard Law Offices, P.A., of Wichita, argued the cause, and Steven J. Rupp, of the same firm, and John S. Robb, of Somers, Robb & Robb, of Newton, were with him on the brief for appellees Unified School District No. 373, et al.

Dan Biles, of Gates & Clyde, Chartered, of Overland Park, argued the cause, and Rodney J. Bieker, of the Kansas State Department of Education, was on the brief for appellee Kansas State Board of Education.

JUDGES: The opinion of the court was delivered by McFARLAND, J.

OPINION BY: McFARLAND

#### OPINION

[\*234] [\*\*1173] The opinion of the court was delivered by

McFARLAND, J.: In these four consolidated actions, 97 plaintiffs, including unified school districts, taxpayers,

and students, challenge the constitutionality of the School District Finance and Quality Performance Act. The 1992 legislature enacted Senate Substitute for H.B. 2892 (L. 1992, ch. 280). This massive bill [\*235] contains 69 sections, although only the first 36 sections thereof are designated as the School District Finance and Quality Performance Act. The bulk of the Act is codified at K.S.A. 72-6405 *et seq.*, although some of the first 36 sections and [\*\*\*6] the undesignated remaining 33 sections are, in codification, widely scattered in the Kansas Statutes. For our purposes, unless otherwise noted, we will refer to L. 1992, ch. 280 as the Act, which also encompasses subsequent legislative amendments thereto.

The district court upheld the Act against challenges that it was constitutionally impermissible as being violative of

1. Article 6, § 5 of the Kansas Constitution by infringing upon the authority granted to locally elected school boards to maintain, develop, and operate local public schools;

2. Article 6, § 6(b) of the Kansas Constitution in that it does not contain "suitable provision for finance of the educational interests of the state";

3. Section 1 of the Bill of Rights of the Kansas Constitution concerning equal protection (except for the low enrollment weighting factor);

4. Article 2, § 16 of the Kansas Constitution as containing more than one subject;

5. The Fifth and Fourteenth Amendments to the United States Constitution and §§ 1 and 2 of the Bill of Rights of the Kansas Constitution on the claim that recapture funds provisions of K.S.A. 72-6431(d) constitute an excessive "taking" of property; and

6. Article 2, § 17 of [\*\*\*7] the Kansas Constitution as a law of a general nature which does not operate uniformly throughout the state.

As to the low enrollment weighting factor, the district court held:

The record did not "contain a rational basis grounded upon education theory for distinguishing" between districts containing more than 1,899 students and those having fewer students; the low enrollment provision could not be severed from the Act; and the Act was, accordingly, unconstitutional.

[\*236] Each of the foregoing holdings of the district court is an issue before us via interlocutory appeal or cross-appeal. Additionally, the district court held that a provision of the Act that set the school districts' mill levy for a period in excess of two years was constitutionally impermissible but was severable. However, that infirmity has been corrected by the 1994 legislature and is not

before us.

The Act is, arguably, the most significant single piece of legislation ever enacted by the Kansas Legislature in terms of the amount of tax dollars involved and its impact on the citizens of Kansas. The Act represents a major policy shift in how public school education is viewed and how it is to be funded. That the magnitude [\*\*\*8] of the change contained in the Act has generated such a firestorm of protest in a number of areas of the State is not surprising. The Act has been through the legislative process, was amended in many respects on its way to enactment, and became the law of this state. The consolidated actions herein are challenges to the constitutionality of the legislation. Accordingly, the judiciary's role is very limited in its scope. The wisdom or desirability of the legislation is not before us. The constitutional challenge goes only to testing the legislature's power to enact the legislation.

In *U.S.D. No. 380 v. McMillen*, 252 Kan. 451, 845 P.2d 676 (1993), constitutional challenges were asserted, as in the case before [\*\*1174] us, that certain legislation violated provisions of Article 6 of the Kansas Constitution. In discussing the court's limited role in such matters, we stated:

"In considering the constitutionality of a statute duly enacted by the legislature, certain basic principles and rules apply. 'When a statute is attacked as unconstitutional a presumption of constitutionality exists and the statute must be allowed to stand unless it is shown [\*\*\*9] to violate a clear constitutional inhibition. *Shawnee Hills Mobile Homes, Inc. v. Rural Water District*, 217 Kan. 421, 435, 537 P.2d 210 (1975). It is generally agreed that the Kansas Constitution limits rather than confers power and any power and authority not limited by the constitution remains with the people and their legislators. In *Leek v. Theis*, 217 Kan. 784, 800, 539 P.2d 304 (1975), this concept was stated as follows:

[\*237] "When an act of a state legislature is assailed as void, it is only necessary to look to the federal and state constitutions for a specific restriction on that power. Thus an act of a state

legislature on a rightful subject of legislation, is valid unless prohibited by the federal or state constitution. . . ."

"This court need not attempt to search out constitutional authority for enacting a challenged statute, but rather must determine if the legislation so clearly violates a constitutional prohibition as to place it beyond legislative authority. *Unified School District No. 255 v. Unified School District No. 254*, 204 Kan. 282, Syl. P. 2, 463 P.2d 499 (1969). [\*\*\*10] ' *NEA-Fort Scott v. U.S.D. No. 234*, 225 Kan. 607, 608-09, 592 P.2d 463 (1979).

In *Bair v. Peck*, 248 Kan. 824, Syl. P. 1, 811 P.2d 1176 (1991), we held:

"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, it must clearly appear the statute violates the Constitution. Moreover, it is the court's duty to uphold the statute under attack, if possible, rather than defeat it, and, if there is any reasonable way to construe the statute as constitutionally valid, that should be done.

Furthermore, '[a] statute will not be declared unconstitutional unless its infringement on the superior law of the constitution is clear beyond substantial doubt' *Samsel v. Wheeler Transport Services, Inc.*, 246 Kan. 336, Syl. P. 3, 789 P.2d 541 (1990)." 252 Kan. at 457-58.

In *McMillen*, the trial court had agreed with the school district's position that the subject legislation infringed upon vesting of the power in Article 6, § 5 [\*\*\*11] to maintain, develop, and operate local public schools in locally elected boards. In upholding the legislation, we stated:

"The position of the trial court and the school district is one that has considerable support, arguably makes sense, and certainly appeals to several, if not all, of the members of this court. However, if a legislative enactment is constitutional, it is not for this court to set policy or to

substitute its opinion for that of the legislature no matter how strongly individual members of the court may personally feel on the issue.

"The duty of an appellate court in considering a constitutional attack upon a legislative enactment was stated in *Harris v. Shanahan*, 192 Kan. 183, 206-07, 387 P.2d 771 (1963), as follows:

"It is sometimes said that courts assume a power to overrule or control the action of the people's elected representative in the legislature. That is a misconception. . . . The judiciary interprets, explains and applies the law to controversies concerning rights, wrongs, duties and obligations arising under the law and has imposed upon it the obligation of interpreting the Constitution and of safeguarding [\*\*\*12] [\*238] the basic rights reserved thereby to the people. In this sphere of responsibility courts have no power to overturn a law enacted by the legislature within constitutional limitations, even though the law may be unwise, impolitic or unjust. The remedy in such a case lies with the people."

See *Kansas Malpractice Victims Coalition v. Bell*, 243 Kan. 333, 341, 757 P.2d 251 (1988). In *Samsel v. Wheeler Transport [\*\*1175] Services, Inc.*, 246 Kan. at 348-49, this court stated:

"The interpretation of constitutional principles is an important responsibility for both state and federal courts. In determining whether a statute is constitutional, courts must guard against substituting their views on economic or social policy for those of the legislature. Courts are only concerned with the legislative power to enact statutes, not with the wisdom behind those enactments. When a legislative act is appropriately challenged as not conforming to a constitutional mandate, the function of the court is to lay the constitutional provision invoked beside the challenged statute and decide whether the latter squares with [\*\*\*13] the former—that is to say, the function of the court is merely to ascertain and declare whether legislation was enacted in accordance with or in contravention of the constitution—and not to approve or condemn the underlying

policy.'

Thus, if the statute in question does not clearly contravene the provisions of § 5 of Article 6 of the Kansas Constitution, 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.'" 252 Kan. at 461-62.

Before proceeding to the issues, some comments are appropriate. The actions herein have been well briefed, tried, and argued. The district court did an outstanding job in analyzing the issues and setting forth its decision and rationale. The parties and the district court are to be commended for their handling of the complex issues herein.

The district court referred to the plaintiffs in case No. 92-CV-1099 collectively as the "Blue Valley" plaintiffs; those in case No. 92-CV-1202 as the "Southwestern plaintiffs"; those in case No. 92-CV-1175 as the "Burlington plaintiffs"; and those in case No. [\*\*\*14] 90-CV-2406 as the "Newton" plaintiffs. Where it is necessary to refer to the plaintiffs in one of the four cases, we shall use the same designation utilized by the district court.

In order to place the issues in perspective, considerable space in the opinion must be devoted to the evolutionary development of the law relative to public schools and their financing.

#### [\*239] HISTORICAL PERSPECTIVE

The history of public schools in Kansas commenced well before Kansas achieved statehood. The Organic Act, an Act to Organize the Territory of Kansas § 34 (1854), and the Act for the Admission of Kansas into the Union, § 3 (1861), included provisions providing that certain sections of land be reserved for educational purposes. A Territorial Superintendent of Common Schools certified teachers and organized local school districts within walking distance of students' homes.

When passed in 1859, the Ordinance to the Constitution contained eight sections, three of which dealt with elementary public education. The framers of the constitution devoted an entire article to the establishment and finance of a system of "common schools." Section 6 of the Ordinance provided for statewide financing of schools by earmarking [\*\*\*15] five percent of all proceeds from the sale of public lands for the exclusive use of the public schools.

The original Article 6 of the Kansas Constitution was adopted by the statehood convention in July 1859, ratified by the electors of the state of Kansas on October 4, 1859,

and became law upon the admission of Kansas into statehood in 1861. Section 3 of Article 6 provided for funding of public education. It stated that sale of public lands, unclaimed estates, rents on public lands, "and such other means as the Legislature may provide, by tax or otherwise, shall be inviolably appropriated to the support of common schools." (Emphasis supplied.)

Clearly, from its creation, the State of Kansas has financed public schools through taxes and other mechanisms provided for by the legislature, not by local districts. The legislature, utilizing the authority granted under the constitution, gave school districts the power to levy ad valorem taxes within the district.

For most of its history, Kansas public schools were principally funded by local tax revenue generated pursuant to the powers [\*\*1176] and limitations granted by the legislature. Most of the various school finance acts imposed minimum [\*\*\*16] ad valorem tax levies or floors as well as maximum levies or caps. In 1937, the first state aid provision was enacted when the legislature established minimum [\*240] levels of support based upon enrollment categories. L. 1937, ch. 306. Prior thereto, less than five percent of school finances came from state aid. The nature and amounts of state aid have varied over the subsequent years, but from that point forward, state aid was always a part of the formula.

After over a century of utilization, the constitutional provisions regarding education, including school finance, came under scrutiny. Much of the impetus for the scrutiny was the unification mandated by the 1963 school unification law. L. 1963, ch. 393. The law was challenged by 148 school districts. One month after the Kansas Supreme Court rendered a preliminary decision in *Tecumseh School District v. Throckmorton*, 195 Kan. 144, 403 P.2d 102 (1965) (see 194 Kan. 519, 403 P.2d 102 [1965]), House Concurrent Resolution No. 537 was passed. L. 1965, ch. 428. The legislature directed a study to be conducted by the Kansas Legislative Council.

An 11-person [\*\*\*17] citizen advisory committee was appointed to conduct research, hold hearings, make findings, and report recommendations relative to the needs of public school systems. At the time, there was an elected State Superintendent of Public Instruction and an appointed State Board of Education. The advisory committee proposed a complete revamping of this structure, noting that "members were impressed by the remarkable growth and changes in Kansas education during the past 25 years." Kansas Legislative Council, *Implementation of the Education Amendment—Report of the Education Advisory Committee*, p. vi (Publication No. 260, November 1966). As reasons for change, the committee listed: The consolidation of schools resulting in the number of school districts in Kansas being reduced from 8,624 in 1940-41 to 349 in 1966, the large growth in expenditures, and the growth in the number of Kansas

school students. Seeking a structure which would allow Kansas to move into the future, the committee recommended the election of a state board of education.

In granting the State Board of Education supervisory powers, the drafters rejected a proposal for "a uniform system" operated by local boards and instead [\*\*\*18] incorporated language requiring a [\*241] "comprehensive system" of local public schools under the general supervision of the state board but "maintained, developed and operated by locally elected boards." Kan. Const. art. 6, § 5. The committee stated the amendments "provide constitutional guarantees of local control of local schools." Kansas Legislative Council, *The Education Amendment to the Kansas Constitution*, p. iii (Publication No. 256, December 1965). At the same time, the amendment reaffirmed the inherent powers of the legislature—and through its members, the people—to shape the general course of public education and provide for its financing.

Amended Article 6 as passed by the legislature and ratified by the people in 1966, provides, in relevant part:

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

" § 2. (a) The legislature shall provide for a state board of education which shall have general supervision of public schools . . . and all the educational interests of the state, except [\*\*\*19] educational functions delegated by law to the state board of regents.

....

" § 5. Local public schools under the general supervision of the state board of education shall be maintained, developed and operated by locally elected boards. When authorized by law, such boards may make and carry out agreements for cooperative operation and administration of educational programs under the general supervision of the state board of education, but such agreements shall be subject to limitation, change or termination by the legislature.

§ 6. . . .

[\*\*1177] "(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."

At the time of the ratification of Article 6, school finance was controlled by the State School Foundation Fund Act. L. 1965, ch. 402. This Act was the most comprehensive school finance legislation to that point in Kansas history. Fundamental to the legislation was an indexing of a geographic area's ability to fund public education. Money was then distributed [\*\*\*20] commensurate with the "index" and other factors. Each county assessed a levy to [\*242] finance the state aid. School districts were also empowered to levy ad valorem taxes to fund operating expenses, but were restricted from increasing the budget to no more than 104 percent of the operating expenses per pupil in the preceding school year. L. 1965, ch. 402, § 15. If a district found this inadequate, a school budget review board could authorize additional expenditures in certain specified situations, such as where there had been "unusual occurrences". The review board consisted of the state superintendent, the state controller, and the state budget director. Hence, districts did not have the ability to raise budgets beyond the statutory limits without state authorization, even if the voters of the district wished to do so. L. 1965, ch. 402, §§ 15, 16.

In 1967, the legislature authorized school boards to seek voter approval to exceed budgetary limitations. L. 1967, ch. 409, § 18. This authorization was later repealed. In 1970, the budget limitations were replaced with the so-called "school tax lid." L. 1970, ch. 402.

The School Foundation Fund Act and related school finance statutes were determined [\*\*\*21] to be unconstitutional by the District Court of Johnson County in *Caldwell v. State*, case No. 50616 (Johnson County District Court, slip op. August 30, 1972). The court found that the law failed to provide equalization aid sufficient to offset the disparity in either tax effort or per pupil operating expenditures, "thereby making the educational system of the child essentially the function of, and dependent on, the wealth of the district in which the child resides."

Responding to this decision, the legislature enacted the School District Equalization Act (SDEA) in 1973, L. 1973, ch. 292. Seeking resource equalization, SDEA distributed state aid based upon district wealth. The higher the assessed valuation and taxable income of the district, which were the measures of the district's wealth, the lower the state aid. The lower the wealth, the higher the aid. A district below the spending median was given authority to increase the district budget, upon voter approval, to the level of the median [\*243] budget per pupil within the district's enrollment category or a maximum of 15 percent. L. 1973, ch. 292, § 26.

The alternative 15 percent cap was eliminated in 1978, allowing a district, upon [\*\*\*22] voter approval, to raise the budget to the median budget per pupil in the same enrollment category. L. 1978, ch. 296, § 6. In 1979, the limitation was lifted entirely, and the district was allowed to increase its budget by any amount approved by the voters. L. 1979, ch. 221, § 3.

Some of these modifications were prompted by litigation. In 1975, the constitutionality of the SDEA was challenged by numerous parties, including 41 unified school districts. The District Court of Chautauqua County found the Act unconstitutional. The legislature amended the Act, but the court did not hear further evidence and dismissed the case. On appeal, the Supreme Court reversed and remanded for further proceedings. *Knowles v. State Board of Education*, 219 Kan. 271, 547 P.2d 699 (1976). On remand, the case was transferred to the District Court of Shawnee County and the judge presiding over this division, the Honorable E. Newton Vickers, ruled the SDEA was constitutional. *Knowles v. State Board of Education*, 77CV251 (Shawnee County District Court, slip op. January 26, 1981).

The SDEA became the subject of litigation again in 1990 as several school districts [\*\*\*23] and individuals, including several of the plaintiffs [\*\*1178] in this action, challenged the constitutionality of the statutes. On October 14, 1991, the Honorable Terry L. Bullock issued an opinion answering 10 questions which formed governing rules of law applicable to the challenges. *Mock v. State of Kansas*, 91CV1009 (Shawnee County District Court, slip op. October 14, 1991). The decision prompted the Governor and legislative leadership to appoint a task force to investigate legislative alternatives which would satisfy the guidelines in the decision. This task force issued a report recommending a new formula granting each district the same base state aid per pupil (BSAPP) and then allowing for certain adjustments for student needs and district size. Report of the Governor's Task Force on Public School Financing (November 2, 1991).

In 1992, the legislature repealed the SDEA and enacted the School District Finance and Quality Performance Act. L. 1992, ch. 280.

#### SUMMARY OF THE ACT

Under the Act, the school board of each school district in the [\*244] state of Kansas must levy an ad valorem tax upon the taxable tangible property of the district at the rate of 32 mills for the 1992-93 school year, [\*\*\*24] 33 mills for the 1993-94 school year, and 35 mills for the 1994-95 school year and succeeding years. K.S.A. 72-6431(a), (b). (The provision for 1994-95 and later years was held invalid by the district court herein and then legislatively corrected. L. 1994, ch. 7.) Except for portions of the tax which pay for principal and interest on redevelopment project bonds issued pursuant to K.S.A.

12-1774, the proceeds from the tax are deposited in the general fund of the district. K.S.A. 72-6431(c). On June 1 of each year, the district remits to the Kansas State Treasurer those revenues from the district's "local effort" which exceed the district's "state financial aid." K.S.A. 72-6431(d). The funds which are remitted are often referred to as "recapture" funds.

The funds from the "local effort" are comprised primarily of the ad valorem tax revenues (K.S.A. 72-6431), but may also be comprised of motor vehicle tax receipts; mineral production tax receipts; industrial revenue bonds and port authority bonds in lieu of tax payments; federal PL 874 Impact Aid (in accord with federal law and regulations) (K.S.A. 72-6430(e)); unexpended and unencumbered balances remaining in the district's general [\*\*\*25] fund; unexpended and unencumbered balances remaining in a district's "program weighted" funds, i.e., transportation, and bilingual and vocational education funds (except for the vocational fund of a district which operates a vocational school) (K.S.A. 72-6409(e)); and remaining proceeds of the former general fund and transportation tax levies prior to their repeal in 1992. K.S.A. 72-6410(e).

The district's "state financial aid" is determined by a formula of the legislatively-designated BSAPP multiplied by the district's adjusted or weighted enrollment. K.S.A. 72-6410(b)(1). The BSAPP was set at \$3,600. K.S.A. 72-6410(d). The adjusted or weighted enrollment is based upon the district's full time enrollment adjusted by weighting factors which account for specified student populations to whom higher costs are associated: bilingual education students, vocational education students, at-risk students, students in low enrollment districts, students in new facilities, and students who are transported.

[\*245] School districts qualify for the bilingual education weighting when their students are in a bilingual class in which bilingual services are offered through an approved program. The approved [\*\*\*26] programs provide substantive instruction in core classes (math, science, social studies, and others) in the student's native language while also teaching English. The goal is to accommodate the student's transition to English-only classes. The weighting arises from the additional staffing demands of operating the program. In the formula, the bilingual education weighting is determined by multiplying the full time equivalent (FTE) enrollment in bilingual education programs approved by the State Board of Education by a factor of 0.2. K.S.A. 72-6413(a). By measuring FTE enrollment, a weighting is not provided for those portions of the day in which the student is taking English-only classes.

[\*\*1179] The vocational education weighting is only available for students enrolled in vocational education programs which are approved by the State Board of Education. The formula utilizes FTE enrollment,

thus compensating for only those portions of the day in which the student is participating in the approved program. The FTE enrollment is multiplied by 0.5, which is the statutory weighting factor. K.S.A. 72-6413(b).

The weighting factor for at-risk students is 0.05. K.S.A. 72-6414. This factor is multiplied [\*\*\*27] by the number of students qualifying for free or reduced meals under the national school lunch program. To receive the funds, the district must maintain an at-risk assistance plan approved by the State Board of Education. K.S.A. 72-6407(c).

Low enrollment weighting is available in districts with a regular enrollment (defined in K.S.A. 72-6407(d)) of under 1,900. K.S.A. 72-6412. During the 1992-93 school year, 261 school districts were under this level. Of the various weighting factors, the low enrollment weighting is the most significant, accounting for approximately 11 percent of the total general operating budgets adopted by all school districts in the state.

The amount of low enrollment weighting received depends upon whether the district has an enrollment of under 100 pupils, between 100 and 299, or between 300 and 1,899. K.S.A. 72-6412. [\*246] As opposed to the other weighting factors, no specific weight is specified in the statute. Rather, formulas codified at K.S.A. 72-6412(e), (f), and (g) determine the weighting to be afforded.

The new facility weighting is based upon the number of pupils in a district attending a new facility (a term not defined) multiplied by 0.25. K.S.A. 72-6415(a). [\*\*\*28] This weighting is only available during the first two years of operation of a new facility and is available only to those districts which have adopted a local option budget and have budgeted the total amount authorized for the school year. K.S.A. 72-6407(i).

The final weighting factor, transportation, is determined by a formula codified at K.S.A. 72-6411. The weighting is available for pupils who reside 2.5 miles or more from school. In general, the weighting is based on cost and density factors associated with the number of pupils transported and the number of pupils per square mile. The computation relies upon utilization of the statistical method of the "curve of best fit," with the purpose of accounting for the varying costs of per pupil transportation in areas populated at different densities.

Once each of the weighting factors is determined for a district, those amounts are added to the \$3,600 BSAPP multiplied by the enrollment. This is the amount available to the district unless a district was affected by the cap imposed by the "transitional state financial aid" provision of K.S.A. 72-6410(c) or unless the district adopted a local option budget.

The transitional state financial [\*\*\*29] aid cap applied in the 1992-93 school year only. The cap

restricted increases in each school district's operating budget to no more than 10 percent, plus enrollment growth, over the 1991-92 adjusted operating budget. The limitation applied regardless of whether the budget increase was from state financial aid or a combination of state financial aid and the local option budget. K.S.A. 72-6411(c).

School districts may adopt a local option budget in an amount which in no situation can exceed 25 percent of a district's state financial aid. A formula in the statute reduces the 25 percent figure by the same percentage as the percentage increase of any legislatively enacted increases in the BSAPP. K.S.A. 72-6433. Because [\*247] of the cap imposed through the transitional state financial aid provision, some districts could not utilize the local option budget provisions or, at least, the full 25 percent allowed. Hence, in 1992-93, only 231 school districts were eligible to use the local option budget provisions. The local option budget provisions are triggered when and if the local school board determines the amount budgeted is insufficient and the adoption of a local option budget would be in the [\*\*\*30] best interests of the district. K.S.A. 72-6433(b)(1).

Beginning in the 1993-94 school year, the district's adoption of a local option budget is subject to a protest petition and election if five percent of the electors in a district sign a [\*1180] protest petition within 30 days of the publication of the school board's resolution. If protested, the board must notify the county election officer within 30 days of the filing of the protest petition that an election is requested. If the board fails to do so, the local option budget is deemed abandoned, and the board cannot publish a local option budget resolution for nine months. K.S.A. 72-6433(b)(1).

The school board may adopt a local option budget for a period of up to four years in any amount up to the maximum allowed under the statute. The board need not, however, utilize the full amount of the local option budget authorized by the resolution. If less than the full amount is authorized, during the period of a resolution, the board may pass another resolution to increase the amount of the local option budget, following the same procedure as with the original resolution. The new resolution expires at the same time as the first resolution would [\*\*\*31] have expired. K.S.A. 72-6433 (b)(2),(3).

To fund the local option budget, the school district may levy local property taxes. K.S.A. 72-6435. In addition, a district may receive supplemental general state aid if the district's "assessed valuation per pupil" is at or below the 75th percentile of the assessed valuation per pupil statewide for the prior year. The supplemental general state aid is based upon an equalization methodology known as a "guaranteed tax base". A district under the 75th percentile of the assessed valuation per pupil statewide for the prior year receives supplemental

general state aid in the proportion [\*248] of the district's assessed valuation per pupil for the prior year to the 75th percentile of assessed valuation per pupil statewide for the prior year. K.S.A. 72-6434.

In order to accomplish the mission of Kansas education (K.S.A. 72-6439), the Act also contains provisions mandating the adoption of a Quality Performance Accreditation (QPA) system for Kansas schools. Section 35 of the Act, codified at K.S.A. 72-6439, requires the State Board of Education to design an accreditation system "based upon goals for schools which will be framed in measurable terms." Ten outcomes [\*\*\*32] are specified in the statute. K.S.A. 72-6439.

As part of the effort to achieve these outcomes, each district with more than one school site is required to have a school site council composed of the principal and representatives of teachers, school personnel, parents of students, the business community, and other community groups. The school site council is responsible for providing advice and counsel in (1) evaluating state, school district, and school site performance goals and objectives and (2) determining how the school will meet those goals and objectives. K.S.A. 72-6439(c)(1). The requirement of maintaining school site councils expires on June 30, 1996 unless extended by the legislature during the 1996 session. K.S.A. 72-6439(c)(3).

The QPA provisions are phased in so that all schools must participate by the 1995-96 school year. K.S.A. 72-6439(e).

The Act also imposes several other school reforms. All school districts were required to provide two days of in-service training for their personnel in 1992-93 and three days in 1993-94. K.S.A. 72-6439(g).

K.S.A. 72-1106 extends the school year in a number of respects not pertinent to the issues herein.

The Act further established a [\*\*\*33] 16-member Committee on School District Finance and Quality Performance. The Committee was comprised of the chairs and ranking minority members of the House Education, Appropriation, and Taxation Committees and of the Senate Education, Ways and Means, and Assessment and Taxation Committees. Two additional members were appointed by the Governor to serve at her pleasure and two were appointed [\*249] by the State Board of Education to serve at the board's pleasure. K.S.A. 72-64a01(a).

The Committee had the duty to monitor many of the issues raised in this litigation. The Committee shall:

1. monitor implementation and operation of the Act;
2. evaluate the fairness and equity of the costs and weightings;

[\*\*1181] 3. determine whether there should be additional weightings;

4. evaluate the Act's impact upon local control;

5. determine whether the Act furthers the mission of Kansas education; 6

6. evaluate the educational reform segments of the Act;

7. review other states' systems of finance;

8. review the \$ 3,600 figure for sufficiency in providing "quality educational opportunities";

9. determine mechanisms for decreasing local option budget authority when base state aid or weightings [\*\*\*34] increase;

10. explore alternative funding sources;

11. evaluate criteria for categorical state aid and whether entitlement formulas are equitable; and

12. make an annual report to the legislature, Governor, and State Board of Education. K.S.A. 72-64a02(a).

The sunset date for this committee was June 30, 1994. K.S.A. 72-64a02(c).

Beginning at L. 1992, ch. 280, § 55 are 10 sections which amend the Kansas Tax Code. Amendments to K.S.A. 79-32,110, 72-32,119, and 72-32,120 changed the tax rates and allowable deductions for income tax computation. L. 1992, ch. 280, §§ 55, 56, and 57. Sections 58, 59, and 60 amended the retailers' sales tax provisions, changing the rate and the items to which the tax applies. Section 61 of the Act increased the rate of the compensating use tax to the same rate as the sales tax, 4.9 percent. The mechanics of the function of the local ad valorem tax reduction fund were amended by § 62 of the Act. Section 63 amended dates and rates of credit in the county and city revenue sharing fund. Section 64 affected transfers from the state general fund of certain sales tax proceeds to the state highway fund. Finally, § 65 dealt with the effective dates of some [\*\*\*35] of these provisions.

[\*250] The Act details the expenditures of portions of the proceeds of these taxes. Under K.S.A. 72-6438, on January 15, March 15, and June 15 of each year, the director of accounts and reports must transfer from the state general fund to the state school district finance fund

all revenue attributable to the operation of provisions of K.S.A. 79-32,110 (imposition of income tax), K.S.A. 79-3602, K.S.A. 79-3603, and K.S.A. 79-3606 (retailers' sales tax definitions, imposition of tax, and exemptions) and K.S.A. 79-3703 (imposition of compensating use tax).

The state school district finance fund may only be used for purposes of financing school districts and for no other governmental purposes. K.S.A. 72-6438(c). The monies in the fund are distributed as general state aid as provided for under the Act. K.S.A. 72-6438(d).

The Act also contains a provision regarding severability. K.S.A. 72-6440(a) states:

"If any clause, paragraph, subsection or section of the school district finance and quality performance act shall be held invalid or unconstitutional, it shall be conclusively presumed that the legislature would have enacted the remainder of the act without such invalid [\*\*\*36] or unconstitutional clause, paragraph, subsection or section."

The 1993 legislature amended the Act in several respects, four of which are particularly pertinent to the issues in this suit.

First, the 1993 amendments added a declining enrollment provision to assist school districts which have a drop in enrollment when the enrollment in the current school year has decreased from the preceding school year. Under the amendment, a district may add to its enrollment for the current school year one-half of the number of pupils by which the enrollment in the current school year has decreased from the enrollment in the preceding school year. No adjustment may be made for deceases exceeding four percent of the enrollment in the preceding school year. L. 1993, ch. 264, § 8.

Second, the amendments added a mechanism by which school districts could apply to the State Board of Tax Appeals for additional taxing authority to offset start-up costs associated with opening new school facilities not otherwise covered by the new facilities weighting. L. 1993, ch. 264, § 14.

[\*251] Third, the 1993 legislation changed the Act to require an adjustment to the BSAPP in [\*1182] the event appropriations in any school year [\*\*\*37] for general state aid are not sufficient to pay a school district's computed entitlement. L. 1993, ch. 264, § 11.

Finally, the amendments adopted a concurrent resolution reconfirming support of school accreditation through QPA, but urging the State Board of Education to consider certain modifications to the QPA system as specified in the resolution. L. 1993, ch. 294.

The district court traced the legislative history of the Act and concluded the legislature had four major goals in enacting the legislation: "(1) more equitable funds for students regardless of district wealth; (2) more equitable property taxes from district to district; (3) increased funding for education; and (4) increased accountability and measurements to assess the outcomes resulting from the funding, *i.e.*, measures to improve schools and accreditation." This determination is supported by the record, and it can hardly be argued these are not legitimate legislative goals.

We turn now to the specific issues on appeal.

#### INFRINGEMENT OF LOCAL SCHOOL BOARDS' AUTHORITY UNDER ARTICLE 6, § 5.

Article 6, § 5 of the Kansas Constitution provides:

"Local public schools under the general supervision of the state board [\*\*\*38] of education shall be maintained, developed, and operated by locally elected boards. When authorized by law, such boards may make and carry out agreements for cooperative operation and administration of educational programs under the general supervision of the state board of education, but such agreements shall be subject to limitation, change or termination by the legislature."

It is argued that the Act is violative of Article 6 in that the imposition of the statewide tax levy, the restriction on the local option budget, and the diminution of each school district's budget authority impermissibly infringes on the local control provision. Fiscal control is argued to be an integral part of "local control." We do not agree.

Article 6, § 6 provides in pertinent part:

"(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 [\*252] school to pupils required by law to attend such school, except such fees or supplemental charges as may be authorized by law." (Emphasis supplied.)

The proponents of the claims made in this issue would, in effect, rewrite §§ 5 and 6 to require the [\*\*\*39] State to provide direct financial aid or the means to raise tax monies sufficient to cover what each school district

determines is "suitable financing" for the particular district's needs. Under this rationale, the legislature would have little or no role in the determination of what amount of finance was suitable for a particular district.

In *Chicago, R. I. & P. Ry. Co. v. Nichols*, 130 Kan. 509, 512, 287 Pac. 262 (1930), this court stated:

"Since the constitution places the responsibility for providing a system of education upon the legislature, it logically follows that a school district created by the legislature has no inherent power of taxation. It must look to the legislature for its rights to raise funds by taxation, and has only such power to levy, assess and collect taxes as is clearly granted by the legislature."

Although *Nichols* predates our present constitution, its holding is equally applicable today. Article 6, § 1 places the responsibility of establishing and maintaining a public school system on the State. Kansas school districts have no inherent power of taxation and never have had. They have always been funded [\*\*\*40] through legislation. Far from supporting the proponents' arguments herein, the 1966 amendment of Article 6, § 6 specifically placed the "suitable financing" responsibility with the legislature. L. 1966, ch. 10.

Article 6, §§ 1 and 2 are pertinent to this discussion and provide:

"§ 1. The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions [\*\*1183] and related activities which may be organized and changed in such manner as may be provided by law.

"§ 2. (a) The legislature shall provide for a state board of education which shall have general supervision of public schools, educational institutions and all the educational interests of the state, except educational functions delegated by law to the state board of regents. The state board of education shall perform such other duties as may be provided by law."

In *U.S.D. No. 380 v. McMillen*, 252 Kan. 451, 845 P.2d 676 (1993), at issue was the apparent conflict

between Article 6, §§ 1 and 5. The former places responsibility for maintaining public [\*253] schools with the legislature, while the [\*\*\*41] latter places it with the locally elected school boards. The challenged statute (K.S.A. 72-5443) provides for a hearing panel to make a final decision on the firing of a teacher, subject to judicial review. In upholding the statute, we said:

"It appears clear that the legislature under § 1 of Article 6 has the broad duty of establishing the public school system. The local school board's duties under § 5 of Article 6 are not self-executing but are dependent upon statutory enactments of the legislature. However, we do not imply that the legislature has carte blanche over the duties and actions of local school boards. The respective duties and obligations vested in the legislature and the local school boards by the Kansas Constitution must be read together and harmonized so both entities may carry out their respective obligations. In considering the competing provisions, we do not find that the statute in question is so unreasonable that it unduly interferes with or hamstring the local school board in performing its constitutional duty to maintain, develop, and operate the local public school system.

"When viewed as this court must, under the presumption of constitutionality and [\*\*\*42] with all doubts resolved in favor of the statute's validity, it cannot be said K.S.A. 1991 Supp. 72-5443 'infringes beyond substantial doubt' upon § 5 of Article 6 of the Kansas Constitution. See *Bair v. Peck*, 248 Kan. 824, 811 P.2d 1176 (1991); *Samsel v. Wheeler Transport Services, Inc.*, 246 Kan. 336, 789 P.2d 541 (1990)." 252 Kan. at 464.

The argument is also made herein that a school board's duties under § 5 of Article 6 are self-executing. *McMillen* specifically held they were not and is controlling herein.

The proponents on this issue cite decisions from other jurisdictions which have held fiscal control inherent in a school board's local control over its district. As the district court appropriately noted, none of these decisions involved constitutional provisions comparable to those in Article 6 and, accordingly, are not persuasive.

Utilizing the appropriate judicial review standards previously enunciated, we conclude, as did the district

court, that the Act does not violate Article 6, § 5 of the Kansas Constitution in the asserted particulars. [\*\*\*43] The legislature, in exercising its power to finance public schools, did not unduly impede the power of locally elected boards to establish, operate, and maintain schools.

[\*254] WHETHER THE ACT MAKES SUITABLE PROVISION

FOR FINANCE UNDER ARTICLE 6, § 6(b)

One of the difficulties inherent in discussing the constitutional challenges to the Act is that some of the specific claims are so interrelated that it is virtually impossible to focus on them individually, but the alternative, consideration *en massa*, is so unwieldy as to be impractical. This second issue illustrates the problem.

Article 6, § 6(b) provides, in pertinent part: "The legislature shall make suitable provision for finance of the educational interests of the state."

In this issue, it is claimed the Act is violative of § 6(b) of Article 6 in that it fails to make the mandated "suitable provision." Much of the argument leads directly back to the first issue, that is, the financing provisions of the Act are not suitable because they infringe on the local control provisions of § 5 of Article 6, previously discussed.

In this issue, districts which have seen their funding reduced by the Act presented [\*\*1184] evidence of how they have had [\*\*\*44] to reduce programs, personnel, etc., to accommodate the reduced funding. They argue the funding is not "suitable" when it results in cutting programs deemed necessary by the local boards of education. They acknowledge there is a wide disparity in per pupil spending but argue the legislature is improperly cutting off the mountain tops to fill in the valleys. There was testimony, however, that some school districts believed they had greater local control under the Act.

The 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. The district court's analysis of this issue first considered decisions from other states and then analyzed Kansas law. The district court's rationale is as follows:

"6. The issue for judicial determination is whether the Act satisfies this provision, not whether the level of finance is optimal or the best policy.

"A. *Decisions From Other States*

[\*255] "... In other jurisdictions much of the recent litigation has focused upon the education clauses of the various state constitutions and charters. However, analysis of these decisions [\*\*\*45]

reveals that each of these decisions is necessarily controlled by the particular wording of the state's education clause and, to a lesser extent, organization and funding. Some state constitutions specifically mandate 'equality'. Others mandate 'uniformity'. Many require 'efficiency'. Some constitutions specify an explicit and significant standard such as 'high quality' or 'quality' public education. In Louisiana the standard is to provide 'excellence'. Many other states imply a lower standard such as 'thorough', 'efficient', or 'adequate'. See McUsic, 'The Use of Education Clauses in School Finance Reform Litigation,' 28 Harv. J. Leg. 308 (1991).

"Based upon the language of their respective state constitutions, some courts have rejected education clause challenges to public school funding legislation when the challenge is based upon the adequacy of funding or upon uniformity of funding. See, e.g., *Lujan v. Colorado State Board of Education*, 649 P.2d 1005, 1025 (Colo. 1982) (Colorado's constitution requirement of a 'thorough and uniform system of free public schools,' while mandating equal educational opportunities, does not necessitate equal expenditures [\*\*\*46] per pupil); *McDaniel v. Thomas*, 248 Ga. 632, 285 S.E.2d 156, 164 (1981) (constitution requires only an 'adequate education,' not equal educational opportunities); *Thompson v. Engelking*, 96 Idaho 793, 537 P.2d 635, 647 (1975) (equal educational opportunities not required by constitutional requirement of 'general, uniform and thorough system' of public schools); *Hornbeck v. Somerset County Board of Education*, 295 Md. 597, 458 A.2d 758, 776 (1983) ('thorough and efficient' clause commands only that legislature provide the students of the state 'with a basic public school education'); *East Jackson Public Schools v. State*, 133 Mich. App. 132, 348 N.W.2d 303, 305 (1984) (provision mandating legislature to 'maintain and support a system of free public elementary and secondary schools' grants only a right to an adequate education); *Board of Education, Levittown Union Free School District v. Nyquist*, 57 N.Y.2d 27, 47-48, 453 N.Y.S.2d 643, 653, 439 N.E.2d 359, 368-69 (1982) [\*\*\*47] (constitutional provision for 'the

maintenance and support of a system of free schools' contemplates only 'minimal acceptable facilities and services'), *appeal dismissed*, 459 U.S. 1138, 74 L. Ed. 2d 986, 103 S. Ct. 775 (1983); *Britt v. North Carolina State Board of Education*, 86 N.C. App. 282, 357 S.E.2d 432, 436 (1987) (state constitutional provision requiring 'general and uniform system of free public schools . . . wherein equal opportunities shall be provided for all students' mandates only equal access to schools, not a right to identical opportunities); *Board of Education of the City School District of Cincinnati v. Walter*, 58 Ohio St. 2d 368, 390 N.E.2d 813, 825, 12 Ohio Op. 3d 327 (1979), *cert. denied*, 444 U.S. 1015, 62 L. Ed. 2d 644, 100 S. Ct. 665 (1980) (constitutional requirement that a 'thorough and efficient' education be provided mandates only that students not be deprived of 'educational opportunity'); *Fair School Finance Council of Oklahoma, Inc. v. State*, [\*\*1185] 746 P.2d 1135, 1149 (Okla. 1987) (mandate to 'establish and maintain' a public school [\*\*\*48] system guarantees only a 'basic, adequate education according to [\*\*\*256] standards . . .'); *Olsen v. State ex rel. Johnson*, 276 Or. 9, 554 P.2d 139, 148 (1976) (constitution prescribing a 'uniform and general system' of schools guarantees only a minimum of educational opportunity); *Danson v. Casey*, 484 Pa. 415, 399 A.2d 360, 365 (1979) (a 'thorough and efficient' education is equated with an 'adequate,' 'minimum,' or 'basic' education); *Richland County v. Campbell*, 294 S.C. 346, 364 S.E.2d 470, 472 (1988) (constitutional requirement that legislature maintain and support public schools guarantees equal standards and equal opportunity under the method of funding chosen by the legislature).

"Even in states which the courts have upheld constitutional challenges based upon their respective education clauses, often only 'adequacy' has been required. See, e.g., *Alabama Coalition for Equity, Inc. v. Hunt*, No. CV-90-883-R (Ala. Cir. 1 993) (1993 Westlaw 204083) (constitution's education guarantee accords right to 'quality education that is generous in its provision [\*\*\*49] and that meet minimum standards of adequacy'); *Rose v. Council for Better Education*, 790

S.W.2d 186, 211 (Ky. 1989) (the constitutionally required 'efficient' system of public schools' must be substantially uniform throughout the state,' providing every child in the state 'with an equal opportunity to have an adequate education'); *Helena Elementary School District No. 1 v. State*, 236 Mont. 44, 769 P.2d 684, 690 (1989) (constitution expressly provides for equality of educational opportunity), *modified in* 236 Mont. 44, 784 P.2d 412 (1990) (delaying effective date of decision); *Abbott v. Burke*, 119 N.J. 287, 575 A.2d 359, 368-69 (1990) ('thorough and efficient' system will provide an 'equal educational opportunity for children' enabling each student to become 'a citizen and . . . a competitor in the labor market'); *Edgewood Independent School District v. Kirby*, 777 S.W.2d 391, 397 (Tex. 1989) ('efficient' system guarantees 'substantially equal access to similar [\*\*\*50] revenues per pupil at similar levels of tax effort' so that students are 'afforded a substantially equal opportunity to have access to educational funds'); *Seattle School District No. 1 of King County v. State*, 90 Wash. 2d 476, 585 P.2d 71, 97 (1978) (constitutional language calling for 'ample provision' for a 'general and uniform' system of schools imposes a duty to 'make ample provision for the "basic education" of our resident children through a general and uniform system supported by dependable and regular tax sources'); *Pauley v. Kelly*, 162 W. Va. 672, 255 S.E.2d 859, 877 (1979) ('thorough and efficient' education is one which 'develops, as best the state of education expertise allows, the minds, bodies and social morality of its charges to prepare them for useful and happy occupations, recreation and citizenship, and does so economically').

#### "B. The Standard in Kansas

"What may be concluded from these decisions is that the analysis necessarily differs state to state. While many courts state laudatory goals for educational systems, such statements reach beyond the requirement of the [\*\*\*51] Kansas constitution.

"The standard most comparable to the Kansas constitutional requirement of 'suitable' funding is a requirement of

adequacy found in several state constitutions. In common terms, 'suitable' means fitting, proper, appropriate, or satisfactory. [\*\*\*257] *Webster's New Collegiate Dictionary* (1977). 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 regardless of whether the constitutional mandate requires that education be suitable, sufficient, appropriate, or adequate. Because these concepts are amorphous, courts have molded tests by which to assess the level of funding.

"One of the most frequently cited definitions of an adequate education was one proffered by the Kentucky Supreme Court when it iterated six goals of education: (1) sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization; [\*\*\*1186] (2) sufficient knowledge of economic, social, and political systems to enable the student to understand the issues that affect the community, [\*\*\*52] state, and nation; (3) sufficient selfknowledge and knowledge of his or her mental and physical wellness; (4) sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage; (5) sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and (6) sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states whether competing in academics or the job market. *Rose v. Council for Better Education*, 790 S.W.2d at 212.

"Another court indicated that a sufficient education was one which 'will equip all the students of this state to perform their roles as citizens and competitors in the same society'. *Abbott v. Burke*, 119 N.J. 287, 575 A.2d 359, 410 (N.J. 1990).

"Most recently, these definitions were embraced by the Alabama Circuit Court, in *Alabama Coalition for Equity, Inc. v.*

*Hunt*, No. CV-90-883-R (Ala. Cir. 1993) (1993 Westlaw 204083), after the court found that the state's [\*\*\*53] constitution's education 'guarantee is one that accords school children of the state the right to a quality education that is generous in its provision and meets minimum standards of adequacy'. *Id.* at 1993 WL \*52.

"The definitions in *Hunt*, *Rose* and *Abbott* bear striking resemblance to the ten statements or goals enunciated by the Kansas legislature in defining the outcomes for Kansas schools, which includes the goal of preparing the learners to live, learn, and work in a global society. K.S.A. 72-6439. Through the quality performance accreditation standards, the Act provides a legislative and regulatory mechanism for judging whether the education is 'suitable'. These standards were developed after considerable study by educators from this state and others. It is well settled that courts should not substitute judicial judgment for educational decisions and standards. *Finstad v. Washburn University of Topeka*, 252 Kan. 465, 475, 845 P.2d 685 (1992). Hence, the court will not substitute its judgment of what is 'suitable', but will utilize as a base the standards enunciated by the legislature and the state department of education. [\*\*\*54]

"The evidence presented is that all schools in Kansas are able to meet such a standard. Some Plaintiffs, particularly Moscow [of the Southwestern group of [\*258] plaintiffs], argue that eventually the Act will result in closure of schools and even the district and, therefore, the financing will not be suitable. However, the court cannot base its judgment upon the speculation of what may happen in the future. At this time, the standards are being met. Nor is the judgment of the court controlled by the many policy concerns raised by Plaintiffs who indicted the Act for failing to ensure that per pupil spending would continue to increase in proportion with increasing needs, for not allowing local boards to make long range plans, for not providing an inflationary factor, and for fostering a spend-or-lose philosophy.

"However, the issue of suitability is not stagnant; past history teaches that this issue must be closely monitored. Previous school finance legislation, when initially attacked upon enactment or modification, was determined constitutional. Then, underfunding and inequitable distribution of finances lead to judicial determination that the legislation no longer complied with constitutional [\*\*\*55] provisions. *Compare Knowles v. Board of Education*, Case No. 77 CV 251 (Shawnee County District Court, January 26, 1981) (upon remand from the Supreme Court [219 Kan. 271, 547 P.2d 699 (1976)] for evaluation of legislative modifications, finding the School District Equalization Act [SDEA] constitutional) with *Mock v. State of Kansas*, Consolidated Case No. 91-CV-1009 (Shawnee County District Court, October 14, 1991) (impliedly holding SDEA was unconstitutional). However, while the issues raised by Plaintiffs raise serious policy questions, the arguments do not compel a determination that the financing is not 'suitable' at [\*\*1187] the present time. The Act does not violate section 6 of article 6."

The 10 goals referred to in the district court's opinion are found at K.S.A. 72-6439(a), a part of the Act, and are set forth as follows:

"(1) Teachers establish high expectations for learning and monitoring pupil achievement through multiple assessment techniques;

(2) schools have a basic mission which prepares the learners to live, learn, and work in a global society;

(3) schools provide planned learning activities within an orderly and safe [\*\*\*56] environment which is conducive to learning;

(4) schools provide instructional leadership which results in improved pupil performance in an effective school environment;

(5) pupils have the communication skills necessary to live, learn, and work in a global society;

(6) pupils think creatively and

problem-solve in order to live, learn and work in a global society;

(7) pupils work effectively both independently and in groups in order to live, learn and work in a global society;

(8) pupils have the physical and emotional well-being necessary to live, learn and work in a global society;

(9) all staff engage in ongoing professional development;

(10) pupils participate in lifelong learning."

[\*259] We agree with the district court's analysis and conclusion that the Act does not contravene the provisions of § 6(b) of Article 6 that the legislature shall make suitable provision for the financing of public education.

#### EQUAL PROTECTION

The Blue Valley plaintiffs contend that certain provisions violate the right of equal protection contained in § 1 of the Kansas Constitution Bill of Rights, which provides:

"All men are possessed of equal and inalienable natural rights, among which are life, [\*\*\*57] liberty, and the pursuit of happiness."

This section is given the same construction as the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution. *Henry v. Bauder*, 213 Kan. 751, 752-53, 518 P.2d 362 (1974); *Tri-State Hotel Co. v. Londerholm*, 195 Kan. 748, 759, 408 P.2d 877 (1965).

Before turning to the particular claims made, we must determine the appropriate level of scrutiny to be applied.

"The various levels of scrutiny employed in determining whether a statutory scheme violates equal protection guarantees recently were reviewed by the court in *Stephenson v. Sugar Creek Packing*, 250 Kan. 768, 774-75, 830 P.2d 41 (1992), wherein we stated:

'As quoted in *State ex rel Schneider v. Liggatt*, 223 Kan. 610, 613, 576 P.2d 221 (1978), the United States Supreme Court has described the concept of "equal protection" as one which "emphasizes disparity in treatment by a State between classes of individuals whose situations are arguably indistinguishable." [\*\*\*58] *Ross v. Moffitt*, 417 U.S. 600, 609, 41 L. Ed. 2d 341, 94 S. Ct. 2437 (1974). Whether or not the legislation passes constitutional muster depends on the relationship borne by the challenged classification to the objective sought by its creation. . . .

The examination of the relationship between the classification and the objective has become quite formalized. The United States Supreme Court articulates and applies three degrees of scrutiny when examining the relationship. The various levels of scrutiny were reviewed by this court in *Farley v. Engelken*, 241 Kan. 663, 669-70, 740 P.2d 1058 (1987).

"The least strict scrutiny is referred to as the "rational basis" test. Relevance is the only relationship required between the classification and the objective. In *McGowan v. Maryland*, 366 U.S. 420, 425, 6 L. Ed. 2d 393, 81 S. Ct. 1101 (1961), it was explained that "the constitutional safeguard is offended only if the classification rests on grounds wholly irrelevant to [\*\*1188] the achievement of the [\*260] State's objective." Insofar [\*\*\*59] as the objective is concerned, "[a] statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it." 366 U.S. at 426. Thus, it appears that the legislature's purpose in creating the classification need not be established. The classification must, however, bear a rational relationship to a legitimate objective. As noted by Justice Marshall in his dissent in *Lyng v. Automobile Workers*, 485 U.S. 360, 375, 99 L. Ed. 2d 380, 108 S. Ct. 1184 (1988):

"The Court fails to note, however, that this standard of review, although deferential, "is not a toothless one." *Mathews v. De Castro*, 429 U.S. 181, 185,

50 L. Ed. 2d 389, 97 S. Ct. 431 (1976), quoting *Mathews v. Lucas*, 427 U.S. 495, 510, 49 L. Ed. 2d 651, 96 S. Ct. 2755 (1976). The rational basis test contains two substantive limitations on legislative choice: legislative enactments must implicate legitimate goals, and the means chosen by the legislature must bear a rational relationship to those goals. In an alternative formulation, the Court has explained that these limitations [\*\*\*60] amount to a prescription that 'all persons similarly situated should be treated alike.'"

"The intermediate level of scrutiny is termed "heightened scrutiny." *Farley v. Engelken*, 241 Kan. at 669. "It requires the statutory classification to substantially further a legitimate legislative purpose." 241 Kan. at 669. Another, perhaps stronger, statement of the heightened scrutiny test is that the classification "must serve important governmental objectives and must be substantially related to achievement of those objectives." *Craig v. Boren*, 429 U.S. 190, 197, 50 L. Ed. 2d 397, 97 S. Ct. 451 (1976).

"The highest level of scrutiny requires that the defendant demonstrate "that the classification is necessary to serve a compelling state interest." *Farley v. Engelken*, 241 Kan. at 670. This "strict scrutiny" test has been applied by the United States Supreme Court in cases involving classifications such as race and fundamental rights guaranteed by the federal Constitution." *Thompson v. KFB Ins. Co.*, 252 Kan. 1010, 1016-17, 850 P.2d 773 (1993). [\*\*\*61]

The district court applied the rational basis test. The Blue Valley plaintiffs contend that the strict scrutiny test should have been applied or, alternatively, the heightened scrutiny test. We do not agree.

In *San Antonio School District v. Rodriguez*, 411 U.S. 1, 37, 36 L. Ed. 2d 16, 93 S. Ct. 1278, reh. denied 411 U.S. 959 (1973), the United States Supreme Court rejected an equal protection challenge to the Texas system of financing public schools because, *inter alia*, education was not a "fundamental right." A right is "fundamental" for purposes of equal protection analysis, the court said, if it is "explicitly or implicitly guaranteed by the

Constitution." 411 U.S. at 33-34.

[\*261] The *Rodriguez* court, addressing what it termed a direct attack on the way Texas chooses to raise and disburse state and local funds, turned aside this challenge, stating:

"The broad discretion as to classification possessed by a legislature in the field of taxation has long been recognized. . . . The passage of time has only served to underscore the [\*\*\*62] 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[, 84 L. Ed. 590, 60 S. Ct. 406 (1940)]." 411 U.S. at 40-41.

We quoted *Rodriguez* with approval in *Knowles v. State Board of Education*, 219 Kan. 271, 277-78, 547 P.2d 699 (1976), a case [\*\*1189] bringing an equal protection challenge to the SDEA, but declined, because of a limited record, to decide the constitutional issue.

Here, the district court exhaustively analyzed decisions from other jurisdictions [\*\*\*63] in concluding that education was not a fundamental right requiring application of the strict scrutiny test in analyzing legislation involving the funding of public education. A portion of the district court's persuasive rationale is as follows:

"In addition to rejecting . . . the notion that the importance of education is a sufficient ground for applying strict scrutiny, many state courts have enumerated several factors which have compelled them to find that strict scrutiny is not the appropriate level of review. First, courts have noted that there is no authoritative consensus on how to provide the greatest educational opportunity for all students. As the Colorado Supreme Court noted:

"These are considerations and goals which properly lie within the legislative domain. Judicial intrusion to weigh such considerations and achieve such goals must be avoided. This is especially so in this case where the controversy, as we perceive it, is essentially directed toward what is the best public policy which can be adopted to attain quality schooling and equal educational opportunity of all children who attend our public schools. See *M. Cox, State Judicial Power: A Separation of [\*\*\*64] Powers Perspective*, 34 Okla. L. Rev. 207, 227 (1981)."

*Lujan v. Colorado State Board of Education*, 649 P.2d 1005, 1018 (Colo. 1982).

[\*262] "The other frequently cited reason is that courts should avoid excessive involvement in questions of taxation. See *McDaniel v. Thomas*, 248 Ga. 632, 647, 285 S.E.2d 156, 167 (1981); *Lujan v. Colorado State Board of Education*, 649 P.2d 1005, 1017 (Colo. 1982); *Hornbeck v. Somerset County Board of Education*, 295 Md. 597, 458 A.2d 759, 786 (1983); *Board of Education of City School District of City of Cincinnati v. Walter*, 58 Ohio St. 2d 368, 390 N.E.2d 813, 12 Ohio Op. 3d 327 (1979), *cert. denied*, 444 U.S. 1015, 62 L. Ed. 2d 644, 100 S. Ct. 665 (1980). This reasoning follows from *Rodriguez* as approvingly quoted by the Kansas Supreme Court in *Knowles*. The United States Supreme Court noted that education presents a myriad of intractable economic and social problems. 411 U.S. at 42, 93 S. Ct. at 1031. [\*\*\*65] The Court, at 41-42, 93 S. Ct. at 1301, acknowledged its lack of expertise and familiarity with the problems implicated in the raising and disposing of public revenues associated with public education.

"Closely related to this reasoning is another reason often articulated by courts in rejecting strict scrutiny. The Maryland Court of Appeals noted:

"In this regard, it must be noted that many, if not all, of these rights could, within the *Rodriguez* formulation of fundamental rights, be deemed implicitly guaranteed in most state constitutions, thereby requiring application of the strict scrutiny test—a result which the defendant[s] say is certain to wreak havoc with the ability of state legislatures to deal effectively with such critical governmental services. To conclude that education is a right so fundamental as to require strict scrutiny analysis would, the defendants say, likely render unconstitutional a substantial portion of the statutes, bylaws and practices that regulate education in Maryland. The defendants advance the further suggestion that if there must be, as the trial judge held, a compelling State [\*\*\*66] interest that would justify deviation from mathematically exact dollar per pupil equality among all of the school districts, intradistrict disparities between areas, schools and even classes within schools in the same county could not be sustained. Similarly, if the right to education is fundamental, it is suggested that the State would be required to show



a compelling interest for maintaining any differences among the State's school districts, even if the differences were not financial.'

*Hornbeck v. Somerset County Board of Education*, 295 Md. 597, 458 A.2d 758, 785-86 (1983). Later in the decision, the Court recognized that these arguments by [\*\*1190] the defendants were valid, noting that the strict scrutiny test 'foreordains the invalidation of nearly every classification involving such analysis'. *Id.* at 786.

"Finally, many decisions recognize the impossibility of measuring equal protection analysis. While it may be recognized that money does make a difference in education, it is equally recognized that there are many other variables. Hence, educators, social scientists, and courts have been unable to agree on the correlation between [\*\*\*67] educational expenditures and the quality of education. See Murnane, 'Interpreting the Evidence on "Does Money Matter"', 28 Harv. J. on Leg. [263] 457 (1991); Ferguson, 'Paying for Public Education: New Evidence on How and Why Money Matters', 28 Harv. J. on Legis. 465 (1991). As a result it is difficult, if not impossible, to develop an ascertainable standard by which to measure equality. Few commentators or courts recommend dollar for dollar equalization. Certainly, the testimony before this court was that dollar for dollar spending does not result in equal educational opportunities. Some state courts have aided in the development of a standard by the state constitution's statement of a benchmark or standard to measure equality. See McUsic, 'The Use of Education Clauses in School Finance Reform Litigation,' 28 Harv. J. on Leg. 307, 319-25 (1992). However, the Kansas education clause does not contain this requirement or a standard. Kan. Const. art. 6, § 1. See McUsic, 28 Harv. J. on Leg. at 325.

"Hence, a variety of persuasive reasons exist for applying a rational basis analysis to the equal protection arguments raised by the Plaintiffs. The analysis of these decisions [\*\*\*68] is persuasive and leads to the determination that the rational basis test should be applied."

A look at specific provisions of the Act reflects we are not dealing with any suspect classes. Blue Valley is challenging on equal protection grounds the following portions of the Act: "The BSAPP of \$ 3,600; the bilingual education weighting factor of .2; the vocational education weighting factor of .5; the low enrollment weighting factor; the at-risk weighting factor of .05; the school facilities weighting factor of .25; the LOB [Local Option Budget] provisions; and the SGSA [Supplemental General State Aid] provisions."

We conclude the district court was correct in applying the rational basis test herein.

That the legislation is in a legitimate area for state action cannot be disputed. The constitution mandates that the legislature establish and maintain schools and provide suitable financing thereof, as previously discussed.

In this issue, Blue Valley does not actually dispute the legislature's authority to draw lines in these categories—rather, complaint is made of where the lines were drawn. The refrain is much the same for each of the complained-of provisions—empirical studies and [\*\*\*69] statistical information were lacking to support a \$ 3,600 BSAPP, the LOB provision, the SGSA provision, and the disputed weighting factors at the time the legislature acted. Hence, the argument goes, the lines drawn lack a rational basis.

[\*264] At trial, massive amounts of testimony, expert and lay, as well as scientific studies were admitted relative to the various classifications. The focus was more on dissatisfaction with where the lines were drawn than on where the lines should have been drawn. There was little agreement or exactitude in such evidence. The argument before us appears to be that a rational basis must always be grounded on and arise from scientific data. Blue Valley relies heavily for its proposition on *Thompson v. KFB Ins. Co.*, 252 Kan. 1010, 850 P.2d 773. At issue in *Thompson* was legislation which modified the prior law that had excluded evidence of collateral source benefits in personal injury cases to permit the introduction of such evidence in claims exceeding \$ 150,000. The proponents argued that the "line is drawn at an approximation of the dollar amount at which the potential duplicative recovery and the potential costs of discovery [\*\*\*70] of collateral source converge." 252 Kan. at 1022. This court invalidated the legislation, stating:

"The problem with the proponents' contention is that they fail to provide facts or [\*\*1191] any data upon which to make such a projection, such as that plaintiffs seeking damages in excess of \$ 150,000 have more collateral sources available to them than those plaintiffs seeking less, or that the costs of discovery are more because a plaintiff seeks damages in excess of \$ 150,000, or that there is a statistical relationship between the amount a plaintiff claims and the collateral sources available to a plaintiff.

"We are not presented with a set of facts upon which we can conclude the challenged classification is rationally related to a legitimate legislative purpose. Instead, we are presented with a wholly unsubstantiated assumption. Even assuming the objective of cutting insurance costs is a legitimate legislative goal, we do not find the classification in the present case will reasonably further that purpose. Under the rational basis test, great deference is given to the legislature in establishing classifications. However, where, as here, the only [\*\*\*71] basis for the classification is to deny a benefit to one group for no purpose other than to discriminate against that group, the statutory classification is not only mathematically imprecise, it is without a rational basis and is arbitrary. Here, the challenged classification unreasonably discriminates in favor of claimants demanding \$ 150,000 or less and unduly burdens those seeking judgments in excess of \$ 150,000. We hold that the provision of K.S.A. 1992 Supp. 60-3802 which allows evidence of collateral source benefits where claimant demands judgment for damages in excess of \$ 150,000 violates the equal protection clause of the Fourteenth Amendment to the United States Constitution and § 1 of the Bill of Rights of the Kansas Constitution." 252 Kan. at 1022-23.

[\*265] Blue Valley waves the first paragraph of the cited quote aloft in support of its position and ignores the second paragraph. The legislation in *Thompson* fell because this court held that classifying injured plaintiffs into two groups was not shown to be rationally related to a legitimate legislative purpose. The classification served

only to discriminate against one class [\*\*\*72] of injured persons. As previously noted, that a legitimate legislative purpose is involved in the Act herein is a given. Lines have to be drawn in the financing of public schools. The dispute herein is primarily over where the lines were drawn.

As was also stated in *Thompson*:

"This court has stated that 'establishment of classifications with mathematic precision is not required.' *State ex rel. Schneider v. Liggert*, 223 Kan. 610, 619, 576 P.2d 221 (1978). To the same effect, the court quoted a dissenting opinion of Mr. Justice Holmes: "... When it is seen that a line or point there must be, and that there is no mathematical or logical way of fixing it precisely, the decision of the legislature must be accepted unless we can say that it is very wide of any reasonable mark." 223 Kan. at 619 (quoting *Louisville Gas Co. v. Coleman*, 277 U.S. 32, 41, 72 L. Ed. 770, 48 S. Ct. 423, Ct. 423 [1928]). A statutory classification that has a reasonable basis is not violative of the due process clause simply because it is not made with mathematical precision. . . . [\*\*\*73] In *Henry*, the court stated that 'there must be some difference in character, condition, or situation, to justify distinction . . . ; otherwise, the classification is forced and unreal, and greater burdens are, in fact, imposed on some than on others of the same desert'. (Citation omitted). 213 Kan. at 753. Although the classification need not be mathematically precise, it must have a rational basis." 252 Kan. at 1021.

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. Reliance solely on local property tax levies would be disastrous for the smaller and/or poorer districts which have depended on state aid for many years. 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.

As the New York Court of Appeals stated in *Levittown UFSD v. Nyquist*, 57 N.Y.2d 27, 38-39. [\*\*1192] 439 N.E.2d 359, 453 N.Y.S.2d 643 (1982): [\*\*\*74]

[\*266] "The determination of the

amounts, sources, and objectives of expenditures of public moneys for educational purposes, especially at the State level, presents issues of enormous practical and political complexity, and resolution appropriately is largely left to the interplay of the interests and forces directly involved and indirectly affected, in the arenas of legislative and executive activity. This is of the very essence of our governmental and political polity. It would normally be inappropriate, therefore, for the courts to intrude upon such decision-making (see *Matter of Board of Educ. v. City of New York*, 41 NY2d 535, 538, 394 N.Y.S.2d 148, 362 N.E.2d 948; *Matter of Anderson v. Krupak*, 40 NY2d 397, 402-403, 386 N.Y.S.2d 859, 353 N.E.2d 822; *New York Public Interest Research Group v. Steingut*, 40 NY2d 250, 257, 386 N.Y.S.2d 646, 353 N.E.2d 558; cf. *James v. Board of Educ.*, 42 NY2d 357, 397 N.Y.S.2d 934, 366 N.E.2d 1291)."

The New York court then applied the rational basis test and upheld the challenged legislation providing for the financing of public schools. We agree with the New York court's quoted rationale.

After carefully examining the claims made as to the complained-of provisions [\*\*\*75] of the Act, we find there is a rational basis for each such provision without further discussion except for the low enrollment weighting factor.

This one provision requires further discussion as the district court held there was no rational basis therefor and, upon finding this provision was not severable, held the entire Act was constitutionally impermissible.

The weighting factors to serve students for whom additional costs are associated are: (1) program weighting for bilingual education students and vocational education students, (2) at-risk students, (3) students in low enrollment districts, (4) students in new facilities, and (5) students who are transported. Of these, the low enrollment weighting factor accounts for the allocation of the most funds of any of the weights: approximately \$ 221 million. Although 85% of the districts received low enrollment weighting funds, this additional money affected slightly more than one-third (37%) of Kansas students. Unlike the other weighting factors, the low enrollment weighting factor is applied across-the-board to all students in the district as opposed to that number of students having the characteristic necessary for the particular [\*\*\*76] weighting factor.

Plain common sense advises there is a rational basis

for the allowance of extra funding for low enrollment situations. Overhead [\*267] costs for a third-grade class containing 10 "ordinary" students are virtually the same as one containing 20 <1,>"ordinary" students. A great deal of testimony was presented to the district court on low enrollment weighting factors. There was virtual unanimity in the evidence that additional funding in this area was appropriate, but little specific evidence on where the lines should be drawn. Under the Act, regressive weighting factors are applied to school districts having less than 100 full-time students, 100-299 full-time students, and 300-1,899 full-time students. In the school year 1992-93 there were three school districts in the first category, 58 in the second, and 200 in the third. Thus, 261 school districts out of a total of 304 received at least some measure of low enrollment weighting.

The thrust of Blue Valley's argument is that the 1,899 line is too high, is the result only of compromise aimed at getting additional supporting legislators, is not supported by statistical or scientific data, and has no rational basis.

The district [\*\*\*77] court carefully analyzed the evidence on low enrollment weighting and held:

"The record does not contain a rational basis grounded upon education theory for distinguishing between districts larger than 1,900 and smaller schools, especially those districts with an enrollment between 400 and 1,899 students." (Emphasis supplied.)

The emphasized portion of the holding illuminates where the district court erred. The district court acknowledged there was historical precedent in Kansas for low enrollment weighting and the establishing of categories [\*\*\*1193] based upon student numbers with different levels of funding. The district court further found:

"When the 1991-92 costs are graphed, the costs are quite high for small schools with a decreasing cost which flattens out on the curve. There was debate in the legislature as to precisely where the costs flattened, but generally it was in the range of 1,800 to 2,000 students. Finally, the legislature made the cutoff at 1,900. The graph then illustrates that after the flattening at about 2,000, the curve rises again at the level of 10,000."

The district court's decision was obviously based upon the expert testimony at trial which did not [\*\*\*78]

support the 1,899 cut-off but was inconsistent as to where a more appropriate line should [\*268] be drawn. The absence of scientific evidence at trial specifically approving the 1,899 cut-off is not determinative of whether or not the legislature had a rational basis for drawing the line where it did. We conclude there is a rational relationship between the legislature's legitimate objective of more suitably funding public schools and the classifications created in the low enrollment weighting factor. The district court erred in holding otherwise.

#### MULTIPLE SUBJECTS

Some of the plaintiffs herein contend the district court erred in holding that the Act was not violative of Article 2, § 16 of the Kansas Constitution, which provides, in pertinent part:

"No bill shall contain more than one subject, except appropriation bills and bills for revision or codification of statutes. The subject of each bill shall be expressed in its title. . . . The provisions of this section shall be liberally construed to effectuate the acts of the legislature."

The purposes of the "one-subject" constitutional provision have been stated many times:

"They include the prevention of a matter of legislative merit [\*\*\*79] from being tied to an unworthy matter, the prevention of hodge-podge or log-rolling legislation, the prevention of surreptitious legislation, and the lessening of improper influences which may result from intermixing objects of legislation in the same act which have no relation to each other." *Gard en Enterprises, Inc. v. City of Kansas City*, 219 Kan. 620, 622, 549 P.2d 864 (1976).

"Log-rolling" refers to a situation in which several legislators combine their unrelated proposals and present them as separate provisions of one bill." Note, *Appropriation Bills and the Kansas One-Subject Rule*, 30 Kan. L. Rev. 625 (1982). One has only to look to federal legislation to see the evils of operating without such a provision.

We recently examined this constitutional requirement in *Harding v. K.C. Wall Products, Inc.*, 250 Kan. 655, Syl. P. 8, 831 P.2d 958 (1992), where we held:

"Article 2, § 16, of the Kansas Constitution should not be construed narrowly or technically to invalidate

proper and needful legislation, and where the subject of the legislation is germane to [\*\*\*80] other provisions, the legislation is not objectionable as containing more than one subject or as containing matter not expressed in its title. This provision is violated only where an act of legislation [\*\*\*269] embraces two or more dissimilar and discordant subjects that cannot reasonably be considered as having any legitimate connection with or relationship to each other."

The Act herein is a comprehensive package. It drastically alters the method of financing public education, sets quality performance standards, and raises revenue to fund the package by a variety of means, including raising existing tax rates and earmarking the increased revenues for general state aid to school districts.

It is argued that the earmarking of these additional revenues was a ploy to avoid the requirements of Article 2, § 16 and is an example of log-rolling. To buttress this argument, reference is made to the legislative history of the 1993 legislation which amended the Act, including a report of the Kansas Committee on School District Finance and Quality Performance covering the Committee's interim study of the Act. The Committee stated:

"[\*\*\*1194] The new school finance law provides that the enhanced sales and [\*\*\*81] income tax revenues attributable to income and corporate income tax rate increases and sales and use tax increases and exemption removal be earmarked and used for general state aid to school districts. Perhaps the main reason for the earmarking was to prevent a challenge to the constitutionality of the legislation on the grounds that it violated the 'one subject' provision of the Kansas Constitution. In other words, earmarking the new tax revenues for general state aid to school districts provided what was considered by some to be the necessary nexus between the law's taxing provisions and its school aid distribution plan. Now that the bill has become law, there is no constitutional imperative to continue the earmarking."

This subsequent report does not destroy the natural nexus in the original bill. Everything in the Act relates to public education. The Act is a package which increased

state funding and school district accountability, changed the basic policy underlying the funding of public schools, and made a variety of other public school law changes. The package was complete—the changes were set forth, and the means to raise sufficient revenue to fund the changes were included. [\*\*\*82] Rather than separating the package into various components, it was presented as a package. There is certainly nothing inherently wrong in tying expenditures and the means of raising the extra revenue together in order that members of the legislature may see where revenue will come from before they vote on its expenditure.

[\*270] Applying *Harding*, we conclude the Act does not embrace two or more dissimilar and discordant subjects that cannot reasonably be considered as having any legitimate connection with or relationship to each other.

#### EXCESSIVE TAX AS A TAKING

The Burlington plaintiffs contend that the Act, specifically K.S.A. 72-6431(d), violates the Fifth and Fourteenth Amendments to the United States Constitution, as well as §§ 1 and 2 of the Kansas Constitution Bill of Rights. They contend that the Act's recapture provision, which results in funds from their district being used in another district, constitutes a "taking" in violation of the various constitutional provisions.

K.S.A. 72-6431(d) provides:

"On June 1 of each year, commencing on June 1, 1993, the amount, if any, by which a district's local effort exceeds the amount of the district's state financial aid, as determined [\*\*\*83] by the state board, shall be remitted to the state treasurer."

Funds which are remitted, pursuant to K.S.A. 72-6431(d), are often labelled "recapture" funds. Once turned over to the State, these monies are deposited in the State School District Finance Fund and are remitted to those districts which do not have sufficient local effort to fully fund the district's state financial aid. The difference between the district's state financial aid and the district's local effort is the amount of "general state aid" to which the district is entitled. K.S.A. 72-6416.

Burlington is one of approximately 10 districts which had local tax efforts in excess of the district's state financial aid entitlement. The 10 districts contributed an estimated \$ 14 million of recapture funds.

The Takings Clause of the Fifth Amendment of the United States Constitution, made applicable to the State through the Fourteenth Amendment, *Chicago, Burlington &c. R'd v. Chicago*, 166 U.S. 226, 239, 41 L. Ed. 979, 17

S. Ct. 581 (1897), provides: "Nor shall private property be taken for public use, without just compensation." One of the principal purposes of [\*\*\*84] the Takings Clause is to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should [\*271] be borne by the public as a whole." *Armstrong v. United States*, 364 U.S. 40, 49, 4 L. Ed. 2d 1554, 80 S. Ct. 1563 (1960).

Nearly 100 years ago, the United States Supreme Court described a "taking

"In our judgment the exaction from the owner of private property of the cost of a public improvement in substantial excess of the special benefits accruing to him is, to the extent of such excess, a taking, under [\*\*1195] the guise of taxation, of private property for public use without compensation. We say substantial excess,' because exact equality of taxation is not always attainable, and for that reason the excess of cost over special benefits, unless it be of a material character, ought not to be regarded by a court of equity when its aid is invoked to restrain the enforcement of a special assessment." *Village of Norwood v. Baker*; 172 U.S. 269, 279, 43 L. Ed. 443, 19 S. Ct. 187 (1898).

Here, the issue is whether taxpayers in the recapture districts [\*\*\*85] receive a benefit for the taxes which ultimately educate students in another school district or whether the mill levy imposed in those districts imposes such a disproportionate inequality between the burden imposed and the benefit received that it constitutes a "taking" in violation of the Fourteenth Amendment.

The trial court reasoned that, in today's society, each Kansas taxpayer benefits from the quality or suffers from the lack of quality of the education received by all Kansas students. The court stated:

"The Act embodies a recognition that in the 1990's, the State cannot thrive with a parochial attitude of educating 'our children; in today's heterogeneous and mobile society each taxpayer benefits or suffers from the quality or lack of quality of the education received by all Kansas students. Education is the greatest vehicle available to the state to prepare our children to be the neighbors, parents, leaders, workers, taxpayers, citizens, voters, and patriots of tomorrow. Having small pockets of well-educated students does not support an economy or society in

the 1990's and beyond."

We agree therewith. It is well established that a taxpayer does not, personally, have to [\*\*\*86] have children in a public school before he or she benefits from public education. As stated in *Morton Salt Co. v. City of South Hutchinson*, 159 F.2d 897, 900-01 (1947):

"It is no constitutional defense to a tax that the taxpayer is not directly benefited thereby, or is less benefited than others who pay the same or less tax. [Citations [\*272] omitted.] For example, 'every citizen is bound to pay his proportion of a school tax, although he has no children, or is not a resident, and this applies also to corporations . . .'. Cooley, [Taxation, 4th ed., vol. 1], Sec. 89, p. 214. The fact of living in an organized society carries with it the obligations to contribute to its general welfare, whether or not the recipient of particular benefits. Furthermore, the legislative determination that the property taxed will be benefited by the public improvement for which it is assessed is ordinarily conclusive."

One cannot ignore the fact that the Act is intended to remedy some existing inequities relative to public education and its funding. One of the basic purposes of the Act is to reduce the disparity among the districts. The legislature, in enacting this legislation, [\*\*\*87] viewed public education and its funding from a broader perspective. The State of Kansas is viewed as a whole for funding purposes rather than focusing on the legislatively created individual school districts. The education of each similarly situated student is to be equally funded regardless of where he or she resides. Stripped of its variables (local option budget, etc.), the Act provides that the cost of public education as a charge against taxable property will be at a uniform mill rate across the state. Thus, the cost of public education as a charge against taxable property no longer depends on where the property is located or the assessed valuation of other property in the district. It would be difficult to conclude that a uniform mill rate to fund public education is an excessive taking violative of the respective constitutional provisions.

Burlington taxpayers, primarily because of the existence in their essentially rural district of a large taxable public utility facility, have enjoyed an artificially low tax levy to fund public education. The major shift in policy in the funding of public education embodied in the Act has resulted in a dramatic rise in the district's mill

[\*\*\*88] levy. The excess raised is used to assist in funding less fortunate districts. However, the Burlington taxpayers are paying only the same uniform mill [\*\*1196] levy for public education as the other Kansas taxpayers.

We conclude the Act does not result in a constitutionally impermissible "taking."

#### UNIFORMITY

The Burlington plaintiffs contend that the Act is violative of Article 2, § 17 of the Kansas Constitution, which provides:

[\*273] "All laws of a general nature shall have a uniform operation throughout the state: *Provided*, The legislature may designate areas in counties that have become urban in character as 'urban areas' and enact special laws giving to any one or more of such counties or urban areas such powers of local government and consolidation of local government as the legislature may deem proper."

The only prohibition contained in Article 2, § 17 of the Kansas Constitution relates to laws of a general nature which affect the people of the state generally. Such laws must apply uniformly throughout the state and, thus, must be geographically uniform.

In *Stephens v. Snyder Clinic Ass'n*, 230 Kan. 115, 127, 631 P.2d 222 (1981), quoted with [\*\*\*89] approval in *State ex rel. Stephan v. Smith*, 242 Kan. 336, 380, 747 P.2d 816 (1987), we traced the history of Article 2, § 17 from its original adoption in 1859 to the present, and concluded:

"It is important to note that the 1974 amendment of Article 2, Section 17, has completely eliminated the second sentence which provided that 'in all cases where a general law can be made applicable, no special law shall be enacted.' It is thus to be emphasized that Article 2, Section 17, of the Kansas Constitution as of 1981, simply requires that all laws of a general nature shall have a uniform operation throughout the state. The effect of this change is that the only prohibition contained in Article 2, Section 17, relates to laws of a general nature which affect the people of the state generally. Such laws must apply uniformly throughout the state and thus be geographically uniform. We, therefore, hold that Article 2, Section 17, of the Kansas Constitution as it exists

today is not applicable to constitutional challenges based upon a denial of equal protection of the laws not involving a claim of lack of geographical uniformity."

A rational [\*\*\*90] justification for treating different localities differently preserves the constitutionality of a statute under an Article 2, § 17 challenge. *Board of Riley County Comm'rs v. City of Junction City*, 233 Kan. 947, 958-59, 667 P.2d 868 (1983), and authorities cited therein. However, the basis of the differential treatment cannot be based entirely upon financial or economic considerations. *State ex rel. Stephan v. Smith*, 242 Kan. at 382.

Burlington cites three provisions in the Act to illustrate the Act's claimed lack of uniformity. The first is the Act's treatment of the Judge James V. Riddel Boys Ranch. While the Act does distinguish the residents of the Judge James V. Riddel Boys Ranch, it also requires that for the additional weighting the resident [\*274] must be in the custody of the Secretary of Social and Rehabilitation Services. K.S.A. 72-6407(a). The purpose for the distinction is that, under the Act, persons who are in the custody of SRS and are provided educational services at the state institution do not count in the definition of a pupil. Hence, the definition takes those at the Boys Ranch [\*\*\*91] out of the operation of the definitional exclusion. Second, the provision creates a specific weighting tied to the additional needs of those children in the special circumstance of being at the Boys Ranch. The special provision relative to the Boys Ranch does not involve an issue of lack of geographical uniformity. Given the unique circumstances and needs arising from the Boys Ranch situation, the special weighting is rationally justified.

The second illustration is K.S.A. 72-6435, regarding disposition of ad valorem tax levy proceeds. This provision allows districts which have adopted local option budgets to levy an ad valorem tax to pay principal and interest on bonds for the financing of redevelopment projects under the authority of K.S.A. 12-1774. That statute gives "any city" the power to issue the bonds. Consequently, the provision is uniform throughout the state. While there will be districts with [\*\*1197] cities which have issued the bonds and others which have not, this distinction does not arise from lack of uniformity in the wording or application of either K.S.A. 12-1774 or K.S.A. 72-6435.

The third alleged instance of lack of nonuniformity relates to the fact that under the Act [\*\*\*92] each district receives a different amount of money and has a different budget. The new model adopted by the legislature is one

of uniform funding per similarly situated pupil. Each district, wherever located, receives the same amount per pupil as a district in which a similarly situated pupil (*i.e.*, weighted pupil) attends school. Consequently, although per pupil spending may vary, that variance is not based on geographic disparities but rational distinctions relating to the needs of the student as recognized by the weighting system. Each district receives a different amount of money, but the difference is derived from the mathematical computation on a uniform per pupil weighted basis.

[\*275] We conclude the Act does not violate Article 2, § 17 of the Kansas Constitution.

In this appeal, some issues were raised by more than one group of plaintiffs. The same issue thus may have a variety of arguments and numerous sub-issues. We have carefully considered each argument, whether or not specifically referred to in this opinion.

#### CONCLUSION

The School District Finance and Quality Performance Act represents major changes in the operation and financing of public schools in Kansas. No one contends [\*\*\*93] the Act is perfect. The extraordinarily elaborate review procedures provided by the provisions creating the Kansas Committee on School District Finance and Quality Performance and its inclusion of legislative leadership positions reflect legislative concern over the legislation's impact and possible need for amendment. The record herein reflects the Act has caused much concern and discomfort in a substantial number of districts. Revolutionary change to correct perceived inequity, unfortunately, almost always has such an effect. The legislature, as the people's representatives, studied the whole gamut of public school education and its funding, heard from many interested persons expressing different concerns, altered the existing public policy, and enacted this legislation into law. In so doing, to paraphrase a popular television show's preamble, the legislature decided to boldly go where Kansas has never gone before. If experience establishes that the Act needs further revision, the legislature will have ample opportunity to do so, as it has already done in a number of significant respects. Applying the appropriate standards of review to this legislation, we conclude the Act is within [\*\*\*94] all asserted constitutional limitations and, accordingly, is constitutionally permissible legislation.

The judgment of the district court is affirmed in part and reversed in part, and, as the matter is before us on interlocutory appeals, the consolidated case is remanded to the district court for entry of judgment in accordance with this opinion.

## [MONTROY 1- January 24, 2003]

ERIC and RYAN MONTROY, et al., Appellants, v. STATE OF KANSAS, et al., Appellees.

No. 88,440

SUPREME COURT OF KANSAS

275 Kan. 145; 62 P.3d 228; 2003 Kan. LEXIS 16

January 24, 2003, Opinion Filed

**SUBSEQUENT HISTORY:** Subsequent appeal at Montroy v. State, 278 Kan. 765, 102 P.3d 1158, 2005 Kan. LEXIS 1 (2005)  
Subsequent appeal at Montroy v. State, 278 Kan. 769, 102 P.3d 1160, 2005 Kan. LEXIS 2 (2005)  
Later proceeding at Montroy v. State, 2005 Kan. LEXIS 460 (Kan., Jan. 3, 2005)

**PRIOR HISTORY:** [\*\*\*1] Appeal from Shawnee district court, TERRY L. BULLOCK, judge.

**DISPOSITION:** District court judgment reversed, and case remanded.

#### SYLLABUS

1. Since the adoption of the Kansas Rules of Civil Procedure, Kansas courts have followed the rules of notice pleading. K.S.A. 60-208(a)(1) requires a short and plain statement of the claim showing that the pleader is entitled to relief. A rule of liberal construction applies when judging whether a claim has been stated. The purpose of the petition is to give notice of the substance of the plaintiffs' claims. Discovery will more easily and effectively fill the gaps.

2. The spirit of our present rules of civil procedure permits a pleader to shift the theory of his or her case as the facts develop, as long as the pleader has fairly informed his opponent of the transaction or the aggregate of the operative facts involved in the litigation. The determination of whether a party's claim is a late shift in the thrust of the case which prejudices the opponent is left to the sound discretion of the trial court. Where such an exercise of discretion is questioned on appeal, we must determine whether the opposing party was taken by surprise and, if so, whether it resulted in [\*\*\*2] substantial prejudice to that party.

3. The record is reviewed and it is determined that under the facts of this case, the district court erred in failing to permit the plaintiffs to raise constitutional

challenges to the special education provisions, capital outlay provisions, and the encroachment on the general supervision responsibility of the Kansas State Board of Education before it summarily disposed of the plaintiffs' claims.

4. Ordinarily, summary judgment should not be granted when discovery is incomplete.

5. A judge of a court of general jurisdiction possesses the inherent power to summarily dispose of litigation where there remains no genuine issue as to any material fact.

6. The inherent power to summarily dispose of litigation exists on the same conditions as would justify a summary judgment on motion of a party. Summary disposition of an action may logically follow a pretrial conference when proper pretrial proceedings disclose the lack of a disputed issue of material fact and the facts so established indicate an unequivocal right to a judgment in favor of a party.

7. Generally, it must appear conclusively that there remains no genuine issue as [\*\*\*3] to a material fact and that one of the parties is entitled to judgment as a matter of law. A mere surmise or belief on the part of the trial court, no matter how reasonably entertained that a party cannot prevail upon a trial will not justify a summary judgment where there remains a dispute as to a material fact which is not clearly shown to be sham, frivolous, or so unsubstantial that it obviously would be futile to try it.

8. The record in this case is reviewed and it is determined that based there remain genuine issues as to material facts which are not clearly shown to be a sham, frivolous, or so unsubstantial that it obviously would be futile to try the case.

**COUNSEL:** Alan L. Rupe, of Husch & Eppenberger, LLC, of Wichita, argued the cause, and Dwight D. Fischer, and Alisa A. Nickel, of the same firm, and

John S. Robb, of Somers, Robb and Robb, of Newton, were with him on the briefs for appellants.

Dan Biles, of Gates, Biles, Shields & Ryan, P.A., of Overland Park, argued the cause, and William Scott Hesse, assistant attorney general, was with him on the brief for appellees.

**JUDGES:** The opinion of the court was delivered by DAVIS, J. NUSS, J., not participating. BRAZIL, S. J. [\*\*\*4], assigned.

1 REPORTER'S NOTE: Judge Brazil was appointed to hear case No. 88,440 vice Justice Nuss pursuant to the authority vested in the Supreme court by K.S.A. 20-2616.

**OPINION BY: DAVIS**

**OPINION**

[\*\*230] [\*146] The opinion of the court was delivered by

DAVIS, J.: In this constitutional challenge to the Kansas scheme of financing public education, numerous students representing African-American, Hispanic, and disabled groups, along with two large school districts, sued the State of Kansas, the Governor, the chairperson of the Kansas State Board of Education (State Board), and the Commissioner of the Kansas State Department of Education. In three separate counts, the plaintiffs alleged (1) a violation of the requirement that the legislature provide for the suitable finance of the educational interests of the State under Kan. Const. art. 6, § 6(b); (2) a violation of equal rights protection under the Kansas Constitution; and (3) a violation of substantive due process rights under the Kansas Constitution. The district court *sua sponte* [\*147] granted judgment to the defendants, concluding that the plaintiffs failed to present legally sufficient claims.

In their appeal, the plaintiffs claim [\*\*\*5] (1) that the district court erred by excluding certain [\*\*231] claims on the grounds that they were outside the pleadings; (2) that the district court erred by failing to treat the dismissal of their case as a dismissal based upon a motion for summary judgment; and (3) that contrary to the findings of the district court, their claims are legally sufficient. We conclude the district court prematurely granted judgment and remand the case for further proceedings.

Excluded claims

We first consider whether the district court erred in excluding consideration of certain claims of the plaintiffs. The district court explained its exclusion as follows:

"Plaintiffs have raised several new issues that were not contained in their pleadings. Kansas law requires that a challenge to the constitutionality of a statute be specifically raised in the pleadings. *Missionary Baptist Convention v. Wimberly Chapel Baptist Church*, 170 Kan. 684, 228 P.2d 540 (1951). Plaintiffs had the opportunity to amend their pleading to include these new issues prior to the Court ordered deadline of November 11, 2000. Plaintiffs failed to do so. The issues raised by Plaintiffs that the Court will not consider because they [\*\*\*6] were not properly pled are: (1) Plaintiffs' constitutional challenge to K.S.A. § 72-8801 *et seq.* (Capital Outlay); (2) Plaintiffs' constitutional challenge to K.S.A. § 72-961 *et seq.* (Special Education Excess Costs); and (3) Plaintiffs' claim that the SDFQPA [School District Finance and Quality Performance Act] violates Article 6, § 2(a) of the Kansas Constitution (as being an encroachment on the 'general supervision' responsibility of the State Board of Education). Plaintiffs failed to properly raise these issues or amend their petition to include these issues. Therefore, this Court will not permit these claims to be raised at this point in the case."

While *Missionary Baptist Convention v. Wimberly Chapel Baptist Church*, 170 Kan. 684, 228 P.2d 540 (1951), excluded consideration of constitutional claims raised for the first time on appeal, the district court's reliance upon the holding in *Missionary Baptist* is inappropriate in this case. *Missionary Baptist* is a case where the excluded constitutional issues surfaced the first time before the appellate court, not the district court. The constitutionality [\*\*\*7] of the statutes involved in *Missionary Baptist* was neither raised in the [\*148] pleadings nor presented by the parties to the action at any stage of the proceedings before the district court. 170 Kan. at 687-88. Unlike *Missionary Baptist*, the plaintiffs' constitutional issues in this case were raised by the plaintiffs before the district court. Thus, this court's decision in *Missionary Baptist* fails to provide authority for excluding consideration of the plaintiffs' challenges to the capital outlay provisions, the special education provisions, and the encroachment on the general supervision responsibility of the State Board. Other reasons for exclusion of the plaintiffs' additional claims before the district court and advanced by the district court and the defendants in this appeal are considered herein.

In Count I of their petition, the plaintiffs alleged a violation of Kan. Const. Art. 6, § 6(b), which requires the legislature to "make suitable provision for finance

of the educational interests of the state." Under this court, the petition made the constitutionality of the School District Finance and Quality Performance Act (SDFQPA), K.S.A. 72-6405 [\*\*\*8] *et seq.*, the issue before the trial court. The district court rejected the plaintiffs' three additional constitutional claims, capital outlay provisions, the special education excess cost provisions, and the encroachment on the general supervision responsibility of the State Board on the basis that these matters were not specifically pled by the plaintiffs. The question presented is whether consistent with notice pleading, the claims of the plaintiffs are broad enough to include the additional constitutional claims.

Since the adoption of the Kansas Rules of Civil Procedure, Kansas courts have followed the rules of notice pleading. K.S.A. 60-208(a)(1) requires a "short and plain statement of the claim showing that the pleader is entitled to relief." A rule of liberal construction applies when judging whether a claim has been stated. The purpose of the petition is to give notice of the substance of the plaintiffs' claims. Discovery [\*\*232] will more easily and effectively fill the gaps. See *Fowler v. Criticare Home Health Services, Inc.*, 27 Kan. App. 2d 869, 873-75, 10 P.3d 8 (2000) *aff'd* 271 Kan. 715, 26 P.3d 69 (2001). We note [\*\*\*9] in this case that while discovery was nearing completion, it was not complete. On appeal, the plaintiffs argue that outstanding discovery related to the three additional [\*149] issues they asked the district court to consider. Ordinarily, a summary disposition of a pending case before the district court should not be granted until discovery is complete. See *Bell v. Kansas City, Kansas, Housing Authority*, 268 Kan. 208, 220, 992 P.2d 1233 (1999).

Based upon the record before us, including matters considered by the district court in a memorandum filed by the plaintiffs and the defendants' response, and the defendants' pretrial questionnaire, the three issues of capital outlay, special education excess costs, and encroachment on the general supervision responsibility of the State Board were sufficiently raised and should have been considered by the trial court in its resolution of this case. The plaintiff's petition focused on the SDFQPA in particular. However, while the petition focused on SDFQPA, it alleged a violation of the suitability requirement. Under the liberal interpretation of the pleadings required by our rules of notice pleading, relying on discovery to fill [\*\*\*10] in any gaps, we conclude that the trial court erred in refusing to consider the three excluded issues.

We acknowledge that the district court's deadline for amending the pleadings had passed. However, it is clear that the plaintiffs sought to include their three

additional constitutional claims before the district court. A final pretrial conference order was not entered in this case. K.S.A. 2001 Supp. 60-216(c)(3) provides that the district court should consider at any pretrial conference "the necessity or desirability of amendments to the pleadings." See *Brown v. United Methodist Homes for the Aged*, 249 Kan. 124, 141-42, 815 P.2d 72 (1991). Once a pretrial order is made pursuant to K.S.A. 2001 Supp. 60-216, it supercedes the pleadings and controls the subsequent course of the action. *Herrell v. Maddux*, 217 Kan. 192, 193, 535 P.2d 935 (1975).

The spirit of our present rules of civil procedure permits a pleader to shift the theory of his case as the facts develop, as long as he has fairly informed his opponent of the transaction or the aggregate of the operative facts involved in the litigation. [\*\*\*11] *Griffith v. Stout Remodeling, Inc.*, 219 Kan. 408 Syl P3, 548 P.3d 1238 (1976). The determination of whether a party's claim is a late shift in the thrust of the case which prejudices the [\*150] opponent is left to the sound discretion of the trial court. Where such exercise of discretion is questioned on appeal, we must determine whether the opposing party was taken by surprise and, if so, whether it resulted in substantial prejudice to that party. *Boydston v. Kansas Board of Regents*, 242 Kan. 94 Syl. P 1, 744 P.2d 806 (1987).

We do not believe that consideration of the additional constitutional claims would cause the defendants surprise or unfair prejudice. Even if accomplished through amendment by a final pretrial conference order allowing the plaintiffs to advance their three claims, we find such an amendment would cause no surprise or unfair prejudice to the defendants. See *Johnson v. Board of Pratt County Comm'rs*, 21 Kan. App. 2d 76, 90-91, 897 P.2d 169 (1995). We conclude that it was error for the district court to exclude consideration of the plaintiffs' three additional constitutional claims.

Summary Judgment Procedure

[\*\*\*12] The plaintiffs claim that the order entered was a summary judgment without any of the procedural safeguards set forth in K.S.A. 60-256. The plaintiffs complained to the district court that its memorandum decision was entered without the benefit of Supreme Court Rule 141 (2002 Kan. Ct. R. Annot. 189), and the procedure set forth in K.S.A. 60-256. In addressing this contention, the district court noted:

"The Court's memorandum decision and order was not based on a motion for summary judgment. The parties submitted briefs to the Court to determine whether Plaintiffs' claims were legally sufficient as [\*\*233] a matter of law. Therefore, the rules set forth for summary judgment did not have to be followed.

"There is no question Plaintiffs understood that they were submitting briefs for the Court to determine the legal sufficiency of their claims. Not only did the Court order them to file a brief, but they argued that a briefing schedule should be established to determine these issues. Plaintiffs had ample opportunity to present and argue the legal sufficiency of their claims."

The trial court ordered the parties to file briefs to [\*\*\*13] determine various legal issues in advance of trial. While the trial court later declared such legal issues in advance of trial included the legal [\*151] sufficiency of the plaintiffs' claims, there is no indication that the case was to be disposed of based upon the briefs submitted. Based upon the responses of the parties, the parties were asked to identify in advance of trial the legal issues involved in the trial of the case. Both parties attempted to identify those issues for the court. Had the plaintiffs been informed by the court that it would consider their submission to determine the legal sufficiency of the plaintiffs' claims, rather than to determine what legal issues it would be faced with upon trial of the case, the plaintiffs may have approached their task differently.

Nevertheless, the district court disposed of the case based upon the legal insufficiency of the plaintiffs' claims and we, therefore, consider its ultimate ruling. While the trial court may not have based its memorandum decision and order on a motion for summary judgment, the order disposing of the case was a judgment within the definition of K.S.A. 60-254 as a final determination of the [\*\*\*14] rights of the parties in this action. A judge of a court of general jurisdiction, as the trial judge in this case, possesses the inherent power to summarily dispose of litigation where there remains no genuine issue as to any material fact. See *Missouri Medical Ins. Co. v. Wong*, 234 Kan. 811, 816, 676 P.2d 113 (1984); *Green v. Kaesler-Allen Lumber Co.*, 197 Kan. 788, 790, 420 P.2d 1019 (1966). The judgment entered in this case was based upon the trial court's inherent power to dispose of litigation on its own motion as a matter of law.

Before such a judgment is entered, this court has stated that "it may be said that . . . the same conditions must exist as would justify a summary judgment on motion of a party." *Green*, 197 Kan. at 790. We further noted:

"Summary disposition of an action may logically follow a pretrial conference when proper pretrial proceedings disclose the lack of a disputed issue of material fact and the facts so established indicate an unequivocal right to a judgment in favor of a party."

"This court has now laid down a definite yardstick for the granting of such judgments. Generally, it must appear [\*\*\*15] conclusively that there remains no genuine issue as to a material fact and that one of the parties is entitled to judgment as a [\*152] matter of law. A mere surmise or belief on the part of the trial court, no matter how reasonably entertained, that a party cannot prevail upon a trial will not justify a summary judgment where there remains a dispute as to a material fact which is not clearly shown to be sham, frivolous or so unsubstantial that it would obviously be futile to try it. A party against whom a summary judgment is being considered must be given the benefit of all reasonable inferences that may be drawn from the facts under consideration. [Citations omitted.]" (Emphasis added.) 197 Kan. at 790-791.

*Missouri Medical* reiterated and reinforced the principles set forth in *Green* and sustained a judgment where discovery had been completed, a thorough pretrial conference had been held, and all of the basic facts had been developed. We concluded that there remained no genuine issue of material fact and that the plaintiff was entitled to judgment as a matter of law. 234 Kan. at 816. The same, however, may not be concluded in this case.

The judgment [\*\*\*16] entered by the district court in this case fails to address the factual allegations of the plaintiffs except to [\*\*234] say that all allegations of the plaintiffs are without merit and resolved by our recent decision in *U.S.D. 229 v. State*, 256 Kan. 232, 885 P.2d 1170 (1994). As more fully discussed below, giving the plaintiffs the benefit of all reasonable inferences that may be drawn from the record, we conclude that there remain genuine issues of material fact not shown to be a sham, frivolous, or so unsubstantial that it would be futile to try the case. See *Green*, 197 Kan. at 790.

In Count I involving the suitability of school finance, the plaintiffs assert that state law no longer contains educational goals or standards and that the State Board has not issued any regulations containing academic standards or objective criteria against which to measure the education Kansas children receive. The 10 goals quoted by *U.S.D. 229* are no longer part of the statute. L. 1995, ch. 263, § 1. What remains is a statutory requirement that the State Board adopt an accreditation system that is "based upon improvement in performance that reflects higher academic standards [\*\*\*17] and is measurable." K.S.A. 2001 Supp. 72-6439(a). While the amendment to K.S.A. 72-6439(a) may not represent a serious shift in the goals of public education in the state of Kansas, we believe that the suitability analysis required by [\*153] *U.S.D. 229* is more rigorous than presumed by the district court.

*U.S.D. 229* relied on the legislature to promulgate standards but asserted that the ultimate question on suitability must be one for the court. Accreditation is a "base," but *U.S.D. 229* also quoted the following caveat from the district court in that case:

"The issue of suitability is not stagnant; past history teaches that this issue must be closely monitored. Previous school finance legislation, when initially attacked upon enactment or modification, was determined constitutional. Then, underfunding and inequitable distribution of finances lead to judicial determination that the legislation no longer complied with constitutional provisions." 256 Kan. at 258.

*U.S.D. 229*, quoting the district court, noted that "while the issues raised by Plaintiffs raise serious policy questions, the arguments do not [\*\*\*18] compel a determination that the financing is not 'suitable' at the present time." 256 Kan. at 258. We conclude that this case is sufficiently removed in time from our decision in *U.S.D. 229* so as to preclude summary application of *U.S.D. 229* to dispose of the plaintiffs' claims.

In this case, the plaintiffs assert the following facts are disputed in the memorandum to determine legal issues in advance of trial:

"The state law no longer contains educational goals or standards;

"the BOE has not issued any regulations containing academic standards or objective criteria against which to measure the education Kansas children receive;

"the amount of Base State Aid Per Pupil (BSAPP) has not kept up with inflation. For FY 2003, the BOE requested approximately \$ 635 million in additional educational funding;

"school districts are still required to raise capital outlay expenses locally, and the four mill levy limit has been removed, allowing wealthier districts even greater access to capital outlay expenditures than poorer districts and thus increasing funding disparities; see K.S.A. 72-8801. In *Mock*, this Court specifically held that [\*\*\*19] Article 6(b) of the Constitution, in its direction to the legislature to provide suitable financing, makes the state responsible for capital expenses. *Mock*, supra at 501. See also *Wyoming v. Campbell County School District, et al.*, 2001 WY 19, 19 P.3d 518, 557 (Wyo. 2001 (capital construction financing system based upon a school district's assessed valuation necessarily depends on local wealth creating unconstitutional disparities in educational opportunities.);

"the school finance formula provides widely differing amounts of revenue to different districts;

"the number of minority students in the plaintiff school districts has increased dramatically;

[\*154] "a substantial gap exists between the performance of minorities and whites, and between students in the free and reduced lunch programs and those not in these programs, on state standardized tests;

[\*\*235] "the 2001 legislature changed the finance formula to allow school boards to raise a greater proportion of funds with local taxes creating disparities in educational opportunity;

"the plaintiff school districts must raise money locally through the 'local option budget' ('LOB') or the capital outlay fund to meet the minimum school accreditation [\*\*\*20] requirements;

"the LOB was originally capped at 25% of the general fund budget of the local school district, and was designed to decrease as the base state aid per pupil increased, in an attempt to achieve parity statewide over time. In the 1993 legislative session, this equalizing method was abandoned and the LOB was allowed to increase as the BSAPP increased;

"the plaintiff school districts raise less money per pupil with each mill levy than wealthier districts;

"increased reliance on local taxes has resulted in a less advantageous education in the plaintiff school districts than in wealthier districts;

"although it purports to be based on the cost of educating children in the various school districts, the school finance formula is based on political decisions, because neither the legislature nor the BOE has gathered information about the actual costs of education in the various districts;

"the Kansas legislature has recognized that there are inherent inadequacies and inequities in the SDFQPA. L. 2001, Ch. 215, § 10(a);

"young people nowadays need additional technological skills to compete favorably in the global society."

The judgment entered by the district court contains [\*\*\*21] no findings of fact to support its *sua sponte* judgment for the defendants. We reject the district court's legal conclusion that *U.S.D. 229* alone supports its judgment. Based upon its decision, the district court did not see the need to address the factual allegations of the plaintiffs. Generally, however, when we review such a judgment we, as well as the trial court, are required to resolve all facts and inferences which may reasonably be drawn from the evidence in favor of the party against whom the ruling is sought. *Mitchell v. City of Wichita*, 270 Kan. 56, 59, 12 P.3d 402 (2000).

We do not believe that the plaintiffs' factual allegations are a sham, frivolous, or so unsubstantial that it would be futile to try the case we now consider. The issues raised in this case require the district court to determine either on the basis of uncontroverted facts or on facts [\*155] determined by trial whether the school financing provisions complained of are now constitutional.

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 [\*\*\*22] provision for finance of the educational interests of the state." Kan. Const. art. 6, § 6. *U.S.D. 229* suggested base criteria for determining suitability. The district court must make a finding, after giving the plaintiffs the opportunity to substantiate their claims, that the legislature has provided suitable provisions for financing the educational interests of the State before judgment may be entered for the defendants regarding the plaintiffs' unsuitability claim. Presently, the statute requires an accreditation system which is "based upon improvements in performance that reflects higher academic standards and is measurable." K.S.A. 2001 Supp. 72-6439(a).

In Count II involving a claim of denial of equal protection, the plaintiffs advance a number of allegations. For example, they alleged that the minority students in the plaintiff school districts have increased dramatically, that a substantial gap exists between the performance of minorities and whites, and that a substantial gap exists between the performance standards of students in the free and reduced lunch programs and those not in these programs. Upon remand, these factual allegations will [\*\*\*23] have to be addressed by the parties as well as by the district court in order for a final judgment to be entered. The same may be said for the factual allegations by the plaintiffs in Count III regarding their claim that they have been denied substantive due process of law.

When this court is called upon to review a trial court decision, we must acknowledge the [\*\*236] wisdom of the Kansas Code of Civil Procedure in requiring that the controlling facts be set forth in a final judgment rendered by a district court. See K.S.A. 2001 Supp. 60-252; K.S.A. 2001 Supp. 60-256. Moreover, Supreme Court Rule 141, while only dealing with summary judgment, further emphasizes the necessity that such judgments be entered only where there remains no genuine issue of material fact and a party is entitled to judgment as a matter of law. In light of our decision, we [\*156] may not ignore the plaintiffs' factual allegations. When we consider the record as a whole and apply the standard we are required to apply, we conclude that there remain in dispute genuine issues

of material fact which do not support the summary disposition of the district court. We, therefore, reverse [\*\*\*24] the judgment of the district court and remand for further proceedings.

Reversed and remanded.

NUSS, J., not participating.

BRAZIL, S. J., assigned.<sup>1</sup>

<sup>1</sup> **REPORTER'S NOTE:** Judge Brazil was appointed to hear case No. 88,440 vice Justice Nuss pursuant to the authority vested in the Supreme court by K.S.A. 20-2616.

## [MONTROY 2- January 3, 2005]

RYAN MONTROY, et al., Appellees/Cross-appellants, v. STATE OF KANSAS, et al., Appellants/Cross-appellees.

No. 92,032

SUPREME COURT OF KANSAS

278 Kan. 769; 120 P.3d 306; 2005 Kan. LEXIS 460

January 3, 2005, Opinion Filed

**PRIOR HISTORY:** [\*\*\*1] Appeal from Shawnee district court; TERRY L. BULLOCK, judge. *Montroy v. State*, 275 Kan. 145, 62 P.3d 228, 2003 Kan. LEXIS 16 (2003)

**DISPOSITION:** Affirmed in part and reversed in part.

**COUNSEL:** Curtis L. Tideman, of Lathrop & Gage L.C., of Overland Park, argued the cause, and Kenneth L. Wertz and Alok Ahuja, of the same firm, and David W. Davies, assistant attorney general, and Phill Kline, attorney general, were with him on the briefs for appellant/cross-appellee State of Kansas.

Dan Biles, of Gates, Biles, Shields & Ryan, P.A., of Overland Park, argued the cause, and Rodney J. Bieker, of Kansas Department of Education, and Cheryl Lynne Whelan, of Lawrence, were with him on the briefs for appellants/cross-appellees Janet Waugh, Sue Gamble, John Bacon, Bill Wagnon, Connie Morris, Bruce Wyatt, Kenneth Willard, Carol Rupe, Iris Van Meter, Steve Abrams, and Andy Tompkins.

Alan L. Rupe, of Kutak Rock LLP, of Wichita, argued the cause, and Richard A. Olmstead, of the same firm, and John S. Robb, of Somers Robb & Robb, of Newton, were with him on the briefs for appellees/cross-appellants.

Wm. Scott Hesse, assistant attorney general, was on the brief for defendants/cross-appellees Governor Kathleen Sebelius and State Treasurer Lynn Jenkins.

Jane L. Williams, [\*\*\*2] of Seigfried, Bingham, Levy, Selzer & Gee, of Kansas City, Missouri, was on

the brief for amicus curiae Kansas Families United for Public Education.

Patricia E. Baker, of Kansas Association of School Boards, of Topeka, was on the brief for amicus curiae Kansas Association of School Boards.

avid M. Schauner and Robert Blaufuss, of Kansas National Education Association, of Topeka, were on the brief for amicus curiae Kansas National Education Association.

Joseph W. Zima, of Topeka Public Schools, was on the brief for amicus curiae Unified School District No. 501, Shawnee County, Kansas.

Michael G. Norris and Melissa D. Hillman, of Norris, Keplinger & Hillman, L.L.C., of Overland Park, were on the brief for amici curiae Unified School Districts Nos. 233, 229, and 232, Johnson County, Kansas.

Anne M. Kindling, of Goodell, Stratton, Edmonds & Palmer, L.L.P., of Topeka, was on the brief for amicus curiae Unified School District No. 512, Shawnee Mission, Kansas.

Bernard T. Giefer, of Giefer Law LLC, of WaKeeney, was on the brief for amici curiae Unified School District No. 208, Trego County, Kansas (WaKeeney), et al. (60 other Kansas school districts).

Thomas [\*\*\*3] R. Powell and Roger M. Theis, of Hinkle Elkouri Law Firm L.L.C., of Wichita, were on the brief for amicus curiae Unified School District No. 259, Sedgwick County, Kansas.

Janice L. Mathis, of Rainbow/PUSH Coalition, of Atlanta, Georgia, was on the brief for amicus curiae Rainbow/PUSH Coalition.

Cynthia J. Sheppard, of Weathers & Riley, of Topeka, was on the brief for amicus curiae Kansas Action for Children.

Bob L. Corkins, of Lawrence, was on the brief for amicus curiae Kansas Taxpayers Network.

Kirk W. Lowry, of Kansas Advocacy & Protective Services, of Topeka, was on the brief for amicus curiae Kansas Advocacy & Protective Services.

**JUDGES:** BEIER, J., DAVIS, J., LUCKERT, J., concurring.

#### OPINION

[\*\*307] [\*770] *Per Curiam:* The defendants in this case, the State of Kansas (appellant/cross-appellee) along with Janet Waugh, Sue Gamble, John Bacon, Bill Wagnon, Connie Morris, Bruce Wyatt, Kenneth Willard, Carol Rupe, Iris Van Meter, Steve Abrams and Andy Tompkins (the State Board of Education related defendants) (appellants/cross-appellees) appeal from a decision of the district court holding that the Kansas School District Finance and Quality Performance Act (SDFQPA), K.S.A. 72-6405 [\*\*\*4] *et seq.*, is unconstitutional.

[\*\*308] The plaintiffs in this case, U.S.D. No. 305 (Salina) and U.S.D. No. 443 (Dodge City), along with 36 individually named students in those districts, cross-appeal from the district court's determination that the legislature did not abrogate the constitutional obligations of the State Board of Education.

The constitutionality of the statutory scheme for funding the public schools in Kansas is at issue in this appeal. Because this court's resolution of this issue will have statewide effect and require [\*771] legislative action in the 2005 legislative session, we announce our decision in this brief opinion. A formal opinion will be filed at a later date.

After examining the record and giving full and complete consideration to the arguments raised in this appeal, we resolve the issue as follows:

1. We reverse the district court's holding that SDFQPA's financing formula is a violation of equal protection. Although the district court correctly determined that the rational basis test was the proper level of scrutiny, it misapplied that test. We conclude that all of the funding differentials as provided by the SDFQPA are rationally related to a [\*\*\*5] legitimate legislative purpose. Thus, the SDFQPA does not vio-

late the Equal Protection Clause of the Kansas or United States Constitutions.

2. We also reverse the district court's holding that the SDFQPA financing formula has an unconstitutional disparate impact on minorities and/or other classes. In order to establish an equal protection violation on this basis, one must show not only that there is a disparate impact, but also that the impact can be traced to a discriminatory purpose. *Personnel Administrator of Mass. v. Feeney*, 442 U.S. 256, 272, 60 L. Ed. 2d 870, 99 S. Ct. 2282 (1979). No discriminatory purpose was shown by the plaintiffs. Thus, the SDFQPA is not unconstitutional based solely on its "disparate impact."

3. We affirm the district court's holding that the legislature has failed to meet its burden as imposed by Art. 6, § 6 of the Kansas Constitution to "make suitable provision for finance" of the public schools.

The district court reached this conclusion after an 8-day bench trial which resulted in a record of approximately 1,400 pages of transcript and 9,600 pages of exhibits. Most of the witnesses were experts in the fields of primary [\*\*\*6] and secondary education. The trial followed this court's decision in *Montoy v. State*, 275 Kan. 145, 152-53, 62 P.3d 228 (2003) (*Montoy I*), in which we held, in part, that the issue of suitability was not resolved by Unified Sch. Dist. No. 229 v. State, 256 Kan. 232, 885 P.2d 1170 (1994), *cert. denied* 515 U.S. 1144, 132 L. Ed. 2d 832, 115 S. Ct. 2582 (1995). We had held in *U.S.D. No. 229* that the SDFQPA as [\*772] originally adopted in 1992 made suitable provision for the finance of public education. See 256 Kan. at 254-59. Later, in *Montoy I*, we noted that the issue of suitability is not stagnant but requires constant monitoring. See 275 Kan. at 153.

Following the trial, the district court made findings regarding the various statutory and societal changes which occurred after the decision in *U.S.D. No. 229* and affected school funding. Regarding societal changes, the district court found: (1) 36% of Kansas public school students now qualify for free or reduced-price lunches; (2) the number of students with limited proficiency in English has increased dramatically; (3) the number of immigrants has increased dramatically; and (4) state institutions [\*\*\*7] of higher learning now use more rigorous admission standards.

Additionally, the district court found a number of statutory changes made after the decision in *U.S.D. No. 229* which affected the way the financing formula delivers funds: (1) the goals set out in K.S.A. 72-6439(a) were removed; (2) the SDFQPA's provision requiring an oversight committee to ensure fair and equitable funding was allowed to expire; (3) the low enrollment weighting was changed; (4) correlation weighting was added; (5) at-risk pupil weighting was changed; (6) the

mill levy was decreased from 35 mills to 20 mills; (7) a \$20,000 exemption for residential property was added to the mill levy, also decreasing revenue; (8) a new facilities weighting was added; (9) special education funds were added to the calculation to increase the base on which the local option [\*\*309] budget funding was calculated; (10) ancillary weighting was added; (11) the cap on capital outlay authority was removed; and (12) most special education funds were limited to reimbursement for 85 percent of the costs incurred in hiring special education teachers and paraprofessionals.

Our standard of review requires [\*\*\*8] us to determine whether the district court made findings of fact which are supported by substantial competent evidence and are sufficient to support the conclusions of law. *McCain Foods USA, Inc. v. Central Processors, Inc.*, 275 Kan. 1, 12, 61 P.3d 68 (2002). We conclude that the district court's findings regarding the societal and legislative changes are supported by substantial competent evidence.

[\*773] The plaintiffs argued and the district court found that the cumulative result of these changes is a financing formula which does not make suitable provision for finance of public schools, leaving them inadequately funded. Before determining whether there is substantial competent evidence to support these findings, we must examine the standard for determining whether the current version of the SDFQPA makes suitable provision for the finance of public school education. The concept of "suitable provision for finance" encompasses many aspects. First and perhaps foremost it must reflect a level of funding which meets the constitutional requirement that "the legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing [\*\*\*9] and maintaining public schools . . . ." (Emphasis added.) Kan. Const. art. 6, § 1. The Kansas Constitution thus imposes a mandate that our educational system cannot be static or regressive but must be one which "advances to a better quality or state." See Webster's II New College Dictionary 557 (1999) (defining "improve"). In apparent recognition of this concept, the legislature incorporated performance levels and standards into the SDFQPA and, although repealing the 10 goals which served as the foundation for measuring suitability in the *U.S.D. No. 229* decision, has retained a provision which requires the State Board of Education to design and adopt a school performance accreditation system "based upon improvement in performance that reflects high academic standards and is measurable." K.S.A. 72-6439(a). Moreover, the legislature mandated standards for individual and school performance levels "the achievement of which represents excellence in the academic area at the grade level to which the assessment applies." K.S.A. 72-6439(c).

Through these provisions, the legislature has imposed criteria for determining whether it [\*\*\*10] has made suitable provision for the finance of education: Do the schools meet the accreditation requirements and are students achieving an "improvement in performance that reflects high academic standards and is measurable"? K.S.A. 72-6439(a).

These student performance accreditation measures were utilized in 2001 when the legislature directed that a professional evaluation [\*774] be performed to determine the costs of a suitable education for Kansas school children. In authorizing the study, the legislature defined "suitable education." K.S.A. 2003 Supp. 46-1225(c). The Legislative Education Planning Committee (LEPC), to whom the task of overseeing the study was delegated, determined which performance measures would be utilized in determining if Kansas' school children were receiving a suitable education. The evaluation, performed by Augenblick & Myers, utilized the criteria established by the LEPC, and, in part, examined whether the current financing formula and funding levels were adequate for schools to meet accreditation standards and performance criteria. The study concluded that both the formula and funding levels were inadequate [\*\*\*11] to provide what the legislature had defined as a suitable education.

Although in *Montoy I*, 275 Kan. at 153-55, we concluded that accreditation standards may not always adequately define a suitable education, our examination of the extensive record in this case leads us to conclude that we need look no further than the legislature's own definition of suitable education to determine that the standard is not being met under the current financing formula. Within that record there is substantial competent evidence, including the Augenblick & Myers study, establishing that [\*\*310] a suitable education, as that term is defined by the legislature, is not being provided. In particular, the plaintiff school districts (Salina and Dodge City) established that the SDFQPA fails to provide adequate funding for a suitable education for students of their and other similarly situated districts, i.e., middle- and large-sized districts with a high proportion of minority and/or at-risk and special education students. Additional evidence of the inadequacy of the funding is found in the fact that, while the original intent of the provision for local option budgets within the financing formula [\*\*\*12] was to fund "extra" expenses, some school districts have been forced to use local option budgets to finance general education.

Furthermore, in determining if the legislature has made suitable provision for the finance of public education, there are other factors to be considered in addition to whether students are provided a suitable education. Specifically, the district court found that the [\*775] financing formula was not based upon actual



costs to educate children but was instead based on former spending levels and political compromise. This failure to do any cost analysis distorted the low enrollment, special education, vocational, bilingual education, and the at-risk student weighting factors.

Thus, there is substantial competent evidence to support the district court's findings discussed above. These findings are sufficient to support the conclusion that the legislature has failed to "make suitable provisions for finance" of the public school system as required by Art. 6, § 6 of the Kansas Constitution.4. As to the cross-appeal, we affirm the district court's holding that the legislature has not usurped the powers of the State Board of Education.

In addressing [\*\*\*13] the appropriate remedy, as the district court noted, there are "literally hundreds of ways" the financing formula can be altered to comply with Art. 6, § 6. Similarly, there are many ways to recreate or reestablish a suitable financing formula. We do not dictate the precise way in which the legislature must fulfill its constitutional duty. That is for the legislators to decide, consistent with the Kansas Constitution.

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 a cost analysis, but rather on political and other factors not relevant to education.

We are aware that our decision (1) raises questions about continuing the present financing formula pending corrective action by the legislature; (2) could have the potential to disrupt the [\*\*\*14] public schools; and (3) requires the legislature to act expeditiously to provide constitutionally suitable financing for the public school system. Accordingly, at this time we do not remand this case to the district court or consider a final remedy, but instead we will retain jurisdiction and stay all further proceedings to allow the legislature a [\*776] reasonable time to correct the constitutional infirmity in the present financing formula. In the meantime, the present financing formula and funding will remain in effect until further order of this court.

We have in this brief opinion endeavored to identify problem areas in the present formula as well as legislative changes in the immediate past that have contributed to the present funding deficiencies. We have done so in order that the legislature take steps it deems necessary to fulfill its constitutional responsibility. Its

failure to act in the face of this opinion would require this court to direct action to be taken to carry out that responsibility. We believe further court action at this time would not be in the best interests of the school children of this state.

The legislature, by its action or lack thereof in the 2005 [\*\*\*15] session, will dictate what form our final remedy, if necessary, will take. To ensure the legislature complies with our holding, we will withhold our formal opinion until corrective legislation has been enacted [\*\*\*311] or April 12, 2005, whichever occurs first, and stay the issuance of our mandate in this case.

Affirmed in part and reversed in part.

CONCUR BY: BEIER

CONCUR

<sup>1</sup> BEIER, J., concurring: I concur fully in the court's result and in the bulk of its rationale. I write separately only because I disagree with the holding of *U.S.D. No. 229 v. State*, 256 Kan. 232, 260-63, 885 P.2d 1170 (1994), that education is not a fundamental right under the Kansas Constitution. I believe it is. Thus I would not, as the court implicitly did on its way to the opinion in this case, rely on *U.S.D. No. 229* to conclude that the Kansas school financing formula under SDFQAA did not violate the Equal Protection Clauses of the federal and state Constitutions. Rather, I would take the opportunity presented by this case to overrule the *U.S.D. No. 229* holding on the status of the right to education under the Kansas Constitution.

**1 REPORTER'S NOTE:** Two concurring opinions to the majority opinion in *Montoy v. State*, No. 92,032 filed January 3, 2005, were filed with the Clerk of the Appellate Courts on September 9, 2005.

[\*\*\*16] In *San Antonio School District v. Rodriguez*, 411 U.S. 1, 36 L. Ed. 2d 16, 93 S. Ct. 1278, *reh. denied* 411 U.S. 959, 36 L. Ed. 2d 418, 93 S. Ct. 1919 (1973), the United States Supreme Court held that education is not a fundamental [\*776A] right under the United States Constitution. In reaching this conclusion, the Court stated:

"The key to discovering whether education is 'fundamental' is not to be found in comparisons of the relative societal significance of education as opposed to subsistence or housing. Nor is it to be found by weighing whether education is as important as the right to travel. Rather, the answer lies in assessing whether there is a right to education explicitly or implicitly guaranteed by the Constitution." 411 U.S. at 33-34.

Article 6, § 1 of our state constitution reads: "The legislature shall provide for intellectual, educational,

vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities." (Emphasis added.) Article 6, § 6 provides: "The legislature shall make suitable provision for finance of the educational interests of the state." (Emphasis added.)

If [\*\*\*17] we were to apply the United States Supreme Court's straightforward pattern of analysis from *Rodriguez*, we would need to look no further than the mandatory language of these two constitutional provisions. Because they explicitly provide for education, education is a fundamental right.

It is certainly true, however, that our sister states, when faced with the question of whether their own constitutions make education a fundamental right, have not always been satisfied with the *Rodriguez* approach. For example, in *Lujan v. Colorado State Bd. of Educ.*, 649 P.2d 1005, 1017 (Colo. 1982), the Colorado Supreme Court stated:

"While the [*Rodriguez*] test may be applicable in determining fundamental rights under the United States Constitution, it has no applicability in determining fundamental rights under the Colorado Constitution. This is so because of the basic and inherently different natures of the two constitutions. . . . [Footnote omitted.]

"The United States Constitution is one of restricted authority and delegated powers. As provided in the Tenth Amendment, all powers not granted to the United States by the Constitution, nor denied to the [\*\*\*18] States by it, are reserved to the States or to the People. [Citations omitted.]

"Conversely, the Colorado Constitution is not one of limited powers where the state's authority is restricted to the four corners of the document. [Citation omitted.] The Colorado Constitution does not restrict itself to addressing only those areas deemed fundamental. Rather, it contains provisions which are . . . suited [\*\*\*16] for statutory enactment . . . as well as those deemed fundamental to our concept of ordered liberty . . . Thus, under the Colorado Constitution, fundamental rights are not necessarily determined by whether they are guaranteed explicitly or implicitly within the document."

[\*\*312] Several other states also have rejected *Rodriguez* as the test for whether their state constitutional provisions on education demand recognition of a fundamental right. See *Serrano v. Priest (Serrano II)*, 18 Cal.3d 728, 766-67, 135 Cal.Rptr. 345, 557 P.2d 929 (1976) (refusing to be constrained by whether rights and interests are explicitly or implicitly guaranteed by state constitution), *cert. denied* 432 U.S. 907, 53 L. Ed. 2d 1079, 97 S. Ct. 2951 (1977); *McDaniel v. Thomas*, 248 Ga. 632, 646, 285 S.E.2d 156 (1981) [\*\*\*19] ("explicit or implicit" guarantee model lacks

meaningful limitation under state constitution); *Thompson v. Engelking*, 96 Idaho 793, 803-05, 537 P.2d 635 (1975) (rejecting categorization of "fundamental" versus "non-fundamental" rights); *Hornbeck v. Somerset Co. Bd. of Educ.*, 295 Md. 597, 650, 458 A.2d 758 (1983) (state constitution explicitly guarantees rights and interests not considered "fundamental"); *Bd. of Edn. v. Walter*, 58 Ohio St. 2d 368, 375, 390 N.E.2d 813 (1979) (state constitution not limited in power and contains provisions suitable for statutory enactment), *cert. denied* 444 U.S. 1015, 62 L. Ed. 2d 644, 100 S. Ct. 665 (1980); *Fair Sch. Finance Coun. v. State of Okla.*, 1987 OK 114, 746 P.2d 1135, 1149 (Okla. 1987) (fundamental rights not necessarily determined by inclusion in state constitution); *Olsen ex rel. Johnson v. State*, 276 Or. 9, 19-20, 554 P.2d 139 (1976) (laws considered to be legislation included in state constitution; thus *Rodriguez*' method weak); see also Dayton, *Serrano and its Progeny: An Analysis of 30 Years of School Funding Litigation*, 157 Ed. Law. Rep. 447, 453 (2001) (most states reject [\*\*\*20] *Rodriguez* test to determine existence of state constitutional right to education). In such states, *Rodriguez*' simple search for explicit or implicit recognition of a fundamental right to education in a constitution's language gives way to a variety of other patterns of analysis. For example, certain interests are deemed fundamental in California "because of their impact on those individual rights and liberties which lie at the core of our free and representative form of government." *Serrano II*, 18 Cal.3d at 767-68.

[\*776C] At this point in time, courts in 15 states - Alabama, California, Connecticut, Kentucky, Minnesota, New Hampshire, New Jersey, North Carolina, North Dakota, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming - appear to have recognized a fundamental right to education under their constitutions, employing various patterns of analysis. See *Opinion of the Justices*, 624 So. 2d 107, 157 (Ala. 1993) (advisory opinion) ("The right to education in Alabama is fundamental" and implicitly guaranteed by the state constitution); *Serrano v. Priest (Serrano I)*, 5 Cal.3d 584, 608-09, 96 Cal.Rptr. 601, 487 P.2d 1241 (1971) [\*\*\*21] ("The distinctive and priceless function of education in our society warrants, indeed compels, our treating it as a 'fundamental interest.'"); *Horton v. Meskill (Horton I)*, 172 Conn. 615, 646, 376 A.2d 359 (1977) (state constitution specifically recognizes right to education; this right is "basic and fundamental"); *Rose v. Council for Better Educ., Inc.*, 790 S.W.2d 186, 206 (Ky. 1989) (framers of state constitution emphasized education as essential to welfare of citizens of Kentucky); *Skeen v. State*, 505 N.W.2d 299, 313 (Minn. 1993) ("We hold that education is a fundamental right under the state constitution, not only because of its overall importance to the state but also because of

the explicit language used to describe this constitutional mandate."); *Claremont School Dist. v. Governor*, 142 N.H. 462, 473, 703 A.2d 1353 (1997) ("Even a minimalist view of educational adequacy recognizes the role of education in preparing citizens to participate in the exercise of voting and first amendment rights. The latter being recognized as fundamental, it is illogical to place the means to exercise those rights on less [\*\*\*22] substantial constitutional footing than the rights themselves."); *Robinson v. Cahill*, 69 N.J. 133, 147, 351 A.2d 713 (1975) ("The right of children to a thorough and efficient system of education is a fundamental right."); *cert. denied sub nom. Klein v. Robinson*, 423 U.S. 913, 46 L. Ed. 2d 141, 96 S. Ct. 217 (1975); *Leandro v. State of North Carolina*, 346 N.C. 336, 348, 488 S.E.2d 249 (1997) ("The intent of the framers [of the state constitution] was that every child have a fundamental right to a sound basic education which would prepare the child to participate fully in society as it existed in his or her lifetime."); *Bismarck Public School Dist. I v. State*, 511 N.W.2d 247, 256 (N.D. 1994) ("The [\*\*776D] parties agree that [\*\*313] the right to education is a fundamental right under the North Dakota Constitution."); *Brigham v. State*, 166 Vt. 246, 262, 692 A.2d 384 (1997) (emphasizing importance of education to self-government and state's duty to ensure proper dispersion); *Scott v. Commonwealth*, 247 Va. 379, 386, 443 S.E.2d 138, 10 Va. Law Rep. 1192 (1994) (finding state constitution's language clear and unambiguous; state should assure opportunity for [\*\*\*23] fullest development through education); *Seattle School Dist. v. State*, 90 Wn. 2d 476, 511, 585 P.2d 71 (1978) ("The [state constitution's] singular use of the term 'paramount duty,' when taken together with its plain English meaning, is [a] clear indication of the constitutional importance attached to the public education of the State's children."); *Pauley v. Kelly*, 162 W. Va. 672, 707, 255 S.E.2d 859 (1979) (finding education is fundamental right under state constitution's mandatory requirement of "thorough and efficient system of free schools"); *Kukor v. Grover*, 148 Wis. 2d 469, 496, 436 N.W.2d 568 (1989) ("Equal opportunity for education' is a fundamental right," as emphasized by Wisconsin's case law and legislature's involvement); *Washakie Co. Sch. Dist. No. One v. Herschler*, 606 P.2d 310, 333 (Wyo. 1980) ("In light of the emphasis which the Wyoming Constitution places on education, there is no room for any conclusion but that education for the children of Wyoming is a matter of fundamental interest."); *cert. denied* 449 U.S. 824, 66 L. Ed. 2d 28, 101 S. Ct. 86 (1980).

Meanwhile, six states — Colorado, Georgia, Idaho, [\*\*\*24] Maryland, New York, and Ohio — have rejected arguments that their state constitutions establish education as a fundamental right. See *Lujan*, 649 P.2d at 1017 (noting Colorado Constitution not restricted to

areas deemed fundamental; on its face, does not establish education as fundamental right); *Bd. of Educ. v. Nyquist*, 57 N.Y.2d 27, 43, 453 N.Y.S.2d 643, 439 N.E.2d 359 (1982) (The state constitution "does not automatically entitle [education] to classification as a 'fundamental constitutional right' triggering a higher standard of judicial review for purposes of equal protection analysis."); *Bd. of Edn.*, 58 Ohio St. 2d at 374 (rejecting the *Rodriguez* analysis which would have established education as a fundamental right under Ohio's constitution); *Hornbeck*, 295 Md. at 649 ("Education 'can be a major factor in an individual's chances for [\*\*776E] economic and social success as well as a unique influence on a child's development as a good citizen and on his future participation in political and community life.' [Citation omitted.] Nevertheless, we conclude that education is not a fundamental right for purposes of [\*\*\*25] equal protection analysis."); *McDaniel*, 248 Ga. at 647 (noting complexity of school financing and management, remaining consistent with *Rodriguez*, and holding education "per se" not fundamental right); *Thompson*, 96 Idaho at 805 (refusing to classify right to education as fundamental; holding schemes for school funding unconstitutional could negatively affect funding for other local services).

The exact nature of any right to education under the Oklahoma Constitution is currently unclear. See *Fair Sch. Finance Coun.*, 746 P.2d at 1149-50 (Okla. 1987) (Even "assuming that education is a fundamental interest, the question remains as to what is the exact nature of the interest guaranteed. . . . We find no authority to support the plaintiffs' contention that the school finance system should be subjected to strict judicial scrutiny."). The status of any right in Arizona also is unclear at this time. See *Shofstall v. Hollins*, 110 Ariz. 88, 90, 515 P.2d 590 (1973) ("We hold that the [state] constitution does establish education as a fundamental right of pupils between the ages six and twenty-one years."); but see [\*\*\*26] *Roosevelt Elem. School Dist. No. 66 v. Bishop*, 179 Ariz. 233, 238, 877 P.2d 806 (1994) ("We do not understand how the rational basis test can be used when a fundamental right has been implicated. . . . If education is a fundamental right, the compelling state interest test [strict scrutiny] ought to apply. . . . If the rational basis test properly applies, education is not a fundamental right").

Those courts that recognize a fundamental right to education under their state constitutions also vary on the extent to which they permit the right's status to strengthen judicial review of specific legislative enactments. Some apply strict scrutiny when they review [\*\*314] statutes on school funding. See, e.g., *Serrano I*, 5 Cal.3d 584, 96 Cal. Rptr. 601, 487 P.2d 1241 (state funding scheme invidiously discriminates against poor; no compelling state purpose necessitates state's inequitable method of financing education); *Scott v. Com-*

*monwealth*, 247 Va. 379, 386, 443 S.E.2d 138, 10 Va. Law Rep. 1192 (1994) (state's system of funding withstands strict scrutiny). [\*\*776F] But others reserve strict scrutiny for equity challenges to statutory schemes that constitute a denial of the fundamental right to [\*\*\*27] education; they employ a more forgiving standard of review when their focus is on legislative mechanisms to find exercise of the right. See *Skeen*, 505 N.W.2d at 315-16 (strict scrutiny applies when offered education falls below "adequacy" level; otherwise, Minnesota applies rational basis standard); *Bismarck Public School Dist. I*, 511 N.W.2d at 257 (North Dakota applies intermediate scrutiny); *Kukor*, 148 Wis. 2d at 498 (Wisconsin applies rational basis standard); see also *Horton v. Meskill*, (*Horton II*), 195 Conn. 24, 35-38, 486 A.2d 1099 (1985) (Connecticut adopts three-part analysis for school funding; educational funding "in significant aspects sui generis"); *Seattle School Dist.*, 90 Wn. 2d at 518 (although education "paramount duty," means of discharging duty left to legislature).

In *Bismarck Public School Dist. I*, 511 N.W.2d 247, the North Dakota Supreme Court held that a fundamental right to education existed under the state constitution. The court declined, however, to adopt strict scrutiny for decisions involving the financing of the educational system. Instead, [\*\*28] the court adopted intermediate scrutiny in order to strike a balance between flexibility needed in finance decisions and the importance of the right. 511 N.W.2d at 257-59.

In *Skeen v. State*, 505 N.W.2d 299, 313 (Minn. 1993), the Minnesota Supreme Court found that a fundamental right to education existed because of education's overall importance to the state and an explicit provision in the state constitution mandating a duty to "establish a 'general and uniform system' of education." The court concluded that strict scrutiny should apply only to challenges to adequacy and uniformity in funding the school system, but that particular funding mechanisms should be reviewed under the rational basis standard. 505 N.W.2d at 315-16. The court noted that the state constitution used only the word "shall" in the section describing financing, while the "duty of the legislature" language was used in the section addressing establishment of schools. 505 N.W.2d at 315 n.9. Further, the court stated: "Because the state constitution does not require strict economic equality under the [\*\*776G] equal protection clause, it cannot be said that there is [\*\*\*29] a 'fundamental right' to any particular funding scheme. . . ." 505 N.W.2d at 315.

In *Kukor v. Grover*, 148 Wis. 2d 469, 496, 436 N.W.2d 568 (1989), the Wisconsin Supreme Court concluded that "equal opportunity for education' is a fundamental right" but concluded that absolute equality in financing was not required. The court noted that the equalization system at issue actually exceeded the de-

gree of uniformity required under the state constitution. 148 Wis. 2d at 496. Holding that the rational basis test rather than strict scrutiny applied to issues based on spending disparities, the court reasoned that spending disparities did not involve the denial of an educational opportunity within the scope of the state constitution. 148 Wis. 2d at 496-98.

When District Judge (now Justice) Luckert wrote her opinion in *U.S.D. No. 373, et al. v. State*, No. 90 CV 2406 (Shawnee County District Court, filed Dec. 16, 1993) (For ease of reference, this slip opinion will be referred to hereinafter as "*U.S.D. No. 229, slip op.*"), she looked at all of the school finance opinions from other jurisdictions to that point and concluded [\*\*\*30] that those applying a rational basis standard of review to school finance equity challenges were the most persuasive. *U.S.D. No. 229, slip op.* at 89-92. Those justices who sat on this court at the time the appeal arose in that case adopted Justice Luckert's position, as well as nearly all of her exhaustive and eloquent discussion. *U.S.D. No. 229, 256 Kan.* at 239-51, 261-63.

In my view, the precedential landscape on the appropriateness of a rational basis standard of review for school finance legislation, [\*\*315] as opposed to outright denial of the right to an education, has changed little since *U.S.D. No. 229* was decided, and I agree that the cases on which Justice Luckert and the Supreme Court relied remain persuasive on the wisdom of applying that standard to statutes providing for education finance in Kansas. However, I am not comfortable reasoning backward from that conclusion to say there is no fundamental right to education under our Kansas Constitution. In fact, on close reading, it is evident that Justice Luckert was also reluctant to make this backward leap of logic. See *U.S.D. No. [\*\*776H] 229, slip op.* at 94 ("Further, while there may be a fundamental right [\*\*\*31] to the constitutional guarantee of an education, the legislature met this right and the lesser rational basis standard should be applied to the examination of the equality of the financing."). It was not until the Kansas Supreme Court's opinion in *U.S.D. No. 229* that Justice Luckert's use of a rational basis standard for review of school finance legislation was equated to a conclusion that the Kansas Constitution recognizes no fundamental right to education. See *U.S.D. No. 229, 256 Kan.* at 261 ("Here, the district court exhaustively analyzed decisions from other jurisdictions in concluding that education was not a fundamental right requiring application of the strict scrutiny test in analyzing legislation involving the funding of public education.").

As stated above, if we were to regard *Rodriguez* as controlling on the method for determining the existence of a fundamental right to an education, our Kansas Constitution's explicit education provisions would settle the matter in favor of holding that such a right ex-

ists. *Lujan* and like cases are probably correct, however, to question the utility of this approach for the interpretation of state constitutions. [\*\*\*32] See *Lujan*, 649 P.2d at 1017. Like the Colorado Constitution under consideration in *Lujan*, the Kansas Constitution contains several explicit provisions "suited for statutory enactment" that plainly do not give rise to fundamental rights for individuals. See, e.g., Kan. Const. Art. 12, §§ 1, 2 (provisions regarding corporations, stockholder liability).

As Justice Luckert recognized, factors that may be considered in addition to the language of a state's education clause include the relationship of that clause to the state constitution as a whole, the state's particular constitutional history, and any perception that the framers intended education to be a fundamental right. See *U.S.D. No. 229*, slip op. at 85-92 (citing *Alabama Coalition for Equity v. Hunt*, No. CV-90-883-R [Ala. Cir. unpublished opinion filed April 1, 1993] [1993 Westlaw 204083]; *Horton I*, 172 Conn. at 653-54 [Bogdanski, J. concurring]; *Washakie Co. Sch. Dist. No. One*, 606 P.2d at 333). In Kansas, all of these factors support the existence of a fundamental right to education.

[\*776] First, the language of the education article is mandatory. [\*\*\*33] The legislature "shall provide for intellectual, educational, vocational and scientific improvement" and it "shall make suitable provision for finance of the educational interests of the state." Kan. Const. Art. 6, §§ 1, 6. Neither the provision of progressive educational improvement nor the financing of it is optional.

Second, the education article's relationship to the constitution as a whole emphasizes its centrality to the document's overall design. Only five articles precede it. Each of the first three outlines one of the three branches of government. See Kan. Const. Arts. 1, 2, 3. The fourth and the fifth deal with elections and suffrage, without which the three branches could not be populated. See Kan. Const. Arts. 4, 5. Next comes education; once the branches are established and their seats filled, it appears education is the first thing on the agenda of the new state. See Kan. Const. Art. 6. The education article comes before those dealing with public institutions and welfare, the militia, county and township organization, apportionment of the legislature, and finance and taxation, among others. See Kan. Const. Arts. 7, 8, 9, 10, 11. Our constitution not only [\*\*\*34] explicitly provides for education; it implicitly places education first among the many critical tasks of state government.

Third, our state's constitutional history reinforces the importance of education even before statehood. As noted both by Justice [\*\*\*316] Luckert in her *U.S.D. No. 229* opinion and by District Judge Terry Bullock in

his earlier decision in *Mock v. State*, No. 90 CV 918 (Shawnee County District Court, filed Oct. 14, 1991), public schools were significant components of life on the prairie that would become Kansas. In Justice Luckert's words:

"The Organic Act and the Act for the Admission of Kansas into the Union included provisions providing that certain sections of land be reserved for educational purposes. (The Organic Act, and Act to Organize the Territory of Kansas § 34 (10 Stat. 289, chapter 59, § 34, May 30, 1854). A Territorial Superintendent for Common Schools certified teachers and organized local school districts within walking distance of students' homes.

"When passed in 1859, the Ordinance to the Constitution contained eight sections, three of which dealt with elementary public education. The framers of the constitution devoted an entire [\*\*\*35] article to the establishment and finance of a system of 'common schools.' Section 6 of the Ordinance provided for statewide financing [\*776] of schools by earmarking five percent of all proceeds from the sale of public lands for the exclusive use of the public schools.

"The original Article 6 of the Kansas Constitution was adopted by the statehood convention in July 1859, ratified by the electors of the State of Kansas on October 4, 1859, and became law upon the admission of the State into the United States in 1861]. Section 3 of the Article 6 provided for funding of public education. Sale of public lands, unclaimed estates, rents on public lands, 'and such other means as the legislature may provide, by tax or otherwise, shall be enviably appropriated to the support of common schools.'

"Hence, from its inception, Kansas has financed public schools through taxes and other mechanisms provided for by the legislature . . ." *U.S.D. No. 229*, slip op. at 5-6.

See King, C., *The Kansas School System-Its History and Tendencies*, Collections of the Kansas State Historical Society 1909-1910, pp. 424-25.

The relevant original language of our constitution's Article 6 stated:

[\*\*\*36] "§ 2. "The legislature shall encourage the promotion of intellectual, moral, scientific and agricultural improvement, by establishing a uniform system of common schools, and schools of a higher grade, embracing normal, preparatory, collegiate and university departments." (Emphasis added.) Kan. Const. Art. 6, § 2 (1859).

This language remained in place until 1966, when Article 6 was amended to its current form. The amendment re-affirmed "the inherent power of the legislature — and through its members, the people — to

shape the general course of public education and provide for its financing." *U.S.D. No. 229*, slip op. at 8 (quoting Kansas Legislative Council, *Implementation of the Education Amendment-Report of the Education Advisory Committee*, p. vii [Nov. 1966]). The amendment also revamped administration of the consolidated state system of education, but it did nothing to undercut any individual right to education. In fact, it strengthened the language outlining the legislature's responsibilities. Section 2 of Article 6 of the original constitution became § 1 of Article 6 and now commands: "The legislature shall provide for intellectual, educational, [\*\*\*37] vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities." (Emphasis added.) Kan. Const. Art. 6, § 1. In addition, new language was inserted in Section 6 of the Article: "The legislature [\*776] shall make suitable provision for finance of the educational interests of the state." Kan. Const. Art. 6, § 6(b).

Finally, indications are that the framers of our constitution intended education to be a fundamental right. Education was central to Kansas settlers, both pro and anti-slavery. Early proposed constitutions and the ultimate document, adopted at Wyandotte on July 29, 1859, and ratified October 4 of that year, "reveal the educational spirit of the Kansas pioneer." See King, *The Kansas School System-Its History and Tendencies*, pp. 424-25. Statutes since 1858 enumerated subjects that must be taught in the common schools; after that time, curriculum has been marked by continuous expansion and enrichment. [\*\*\*317] See King, p. 425. As Justice Luckert discussed in *U.S.D. No. 229*, slip op. at 5-6, the Ordinance to the Kansas Constitution passed in 1859 devoted three of its eight sections to elementary public education. [\*\*\*38] And the original and amended constitution not only devoted an entire article to the establishment and finance of a public education system, see *U.S.D. No. 229*, slip op. at 5, the placement of that article and its resulting emphasis suggest that education was considered a high, if not first, priority of state government.

Beyond the factors enumerated in the cases, it is also well worth noting that Justice William J. Brennan discussed the societal and political significance of education in his *Rodriguez* dissent: "There can be no doubt that education is inextricably linked to the right to participate in the electoral process and to the rights of free speech and association guaranteed by the First Amendment." 411 U.S. at 63 (Brennan, J., dissenting); see Blumenson and Nilsen, *One Strike and You're Out? Constitutional Constraints on Zero Tolerance in Public Education*, 81 Wash. U. Q. 65, 99, 102 (Spring 2003).

What was true when Justice Brennan wrote those words in 1973 certainly continues to be true in the ear-

ly years of the 21st century. Our sister courts have not disagreed, instead recognizing education's overwhelming political and economic importance. [\*\*\*39] See *U.S.D. No. 229*, slip op. at 88 (citing *Lujan*, 649 P.2d at 1017; *Hornbeck*, 295 Md. at 649-50; *Levittown UFSD*, 57 N.Y.2d at 43; *Tennessee Small School Sys. v. McWhorter*, 851 S.W.2d 139, 151-52 [\*776L] [Tenn. 1993]). That a certain level and quality of formal education is necessary for any citizen to function intelligently and productively in our increasingly complex democracy and our shrinking world is not honestly debatable. An individual citizen's right to education at this level and quality is "fundamental" in every imaginable sense of the word. Given the mandatory language of our constitution, the clarity of the historical record, and modern exigencies, how can it be otherwise? Education is vital for each citizen and no less imperative for the survival and progress of our republic.

Of course, once we recognize the existence of a fundamental right to education under our Kansas Constitution, the question is how legislation implicating education financing should be reviewed. As I have said, I understand and agree that the rational basis standard of review should apply. Like the Minnesota Supreme Court in [\*\*\*40] *Skeen*, 505 N.W.2d at 313-16, however, I believe there is a theoretical point of no return. At that point, the standard must shift to strict scrutiny. If inequities in a school financing system become so egregious that they actually or functionally deny the fundamental right to education to a segment of otherwise similarly situated students, we must be prepared to require more of our legislature than a mere rational basis for its line drawing.

In addition to the reasons outlined in Justice Luckert's *U.S.D. No. 229*, slip op., and adopted by our court for using rational basis review as the usual governing standard in *U.S.D. No. 229*, 256 Kan. 232, 885 P.2d 1170, Syl. P7, I believe there are at least two other justifications in school finance cases for deviation from our typical strict scrutiny of alleged violations of a fundamental right.

First, the exercise — indeed, the existence — of an individual's fundamental right to education under the Kansas Constitution is unavoidably dependent at least in part on societal and governmental philosophy and action. Unlike, for example, the right to free speech or the right to privacy, which are inherent in the [\*\*\*41] humanity of any individual and thus cannot be infringed by the government, see *Gilbert v. Minnesota*, 254 U.S. 325, 332, 65 L. Ed. 287, 41 S. Ct. 125 (1920) (right to free speech natural, inherent); *Lawrence v. Texas*, 539 U.S. 558, 573-74, 156 L. Ed. 2d 508, 123 S. Ct. 2472 (2003) (right to privacy discussed; choices "central to personal dignity [\*776M] and autonomy" protected from government interference) (citing

*Planned Parenthood of Southwestern PA. v. Casey*, 505 U.S. 833, 846-47, 120 L. Ed. 2d 674, 112 S. Ct. 2791 [1992]), the right to education is at least in part a function of the way in which our society and other societies of the world have chosen to order and govern themselves and [\*\*318] to prepare citizens for full political and economic participation. No child but the most exceptional is capable of educating himself or herself completely independently to the level and quality assured by the fundamental right. Some governmental assistance or intervention is required. State government, through the legislature, is a guarantor and facilitator of the exercise of the right as well as a potential source of interference with it. When the government [\*\*42] must be involved, as it must be here, and that involvement demands investment of resources purchased at some cost to taxpayers, it is logical and reasonable that the legislature should be more free than the specter of strict scrutiny would allow it to be when it makes policy choices. Even under rational basis review, however, the judiciary retains its power to decide whether legislative choices make educational sense, i.e., whether they comport with the overall constitutional mandates that the legislature "provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities" and "make suitable provision for finance of the educational interest of the state." Kan. Const. Art. 6, §§ 1, 6.

Second, I agree that rational basis review has much to recommend it when a case reaches a remedial phase, i.e., when we are called upon to judge the adequacy and efficacy of the legislature's efforts to correct constitutional problems identified by the courts. See *U.S.D. No. 229*, slip op. at 92-95 (discussing Connecticut's approach in *Horton v. Meskill* [Horton III], 195 Conn. 24, 486 A.2d 1099 [\*\*43] [1985]).

For all of the foregoing reasons, I concur in the judgment and most of the rationale of my colleagues. I respectfully disagree with their view that education is not a fundamental right under the Kansas Constitution. It is, Justice Luckert never held otherwise in *U.S.D. No. 229*, slip op. This court should not have jumped to that [\*\*776N] regressive conclusion then, and it should not reinforce that error now.

DAVIS, J., joins in the foregoing concurring opinion.

LUCKERT, J., concurring: I concur fully in the result of the majority of the court and most of its rationale. However, I would find that education is a fundamental right under the Kansas Constitution. In this regard, I agree with Justice Beier's analysis of this issue.

As Justice Beier indicates, I addressed this issue when acting as the trier of fact in *U.S.D. No. 373, et al. v. State*, No. 90 CV 2406 (Shawnee County District Court, filed Dec. 16, 1993) (Slip op.), but did not state a conclusion of law regarding whether there was a fundamental right to education under the Kansas Constitution. Rather, as does Justice Beier, I cited the analysis of opinions such as *Skeen v. State*, 505 N.W.2d 299, 313 (Minn. 1993), [\*\*44] and *Kukor v. Grover*, 148 Wis. 2d 469, 496, 436 N.W.2d 568 (1989), and left open the issue stating that "there may be a fundamental right." (Slip op. at 94). Despite this language in the trial court decision, the Supreme Court interpreted my conclusions of law to include a determination that education was not a fundamental right. Further, the Supreme Court, at least impliedly, reached that conclusion. *U.S.D. No. 229 v. State*, 256 Kan. 232, 261-63, 885 P.2d 1170 (1994). Respectfully, I disagree with that conclusion and would adopt the rationale set forth in Justice Beier's concurring opinion, emphasizing the unique nature of Article 6, in which Kansas citizens mandate legislative action and then define the scope of the required action. See Article 6, § 1 ("The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools."); Article 6, § 6(b) ("The legislature shall make suitable provision for finance of the educational interests of the state.")

## [MONTROY 3- HAWVER APPEAL- January 3, 2005]

ERIC AND RYAN MONTROY, et al., Plaintiffs/Appellees, v. STATE OF KANSAS, et al., Defendants. KANSANS FOR THE SEPARATION OF SCHOOL AND STATE, Proposed Intervenor/Appellant.

No. 91,915

SUPREME COURT OF KANSAS

278 Kan. 765; 102 P.3d 1158; 2005 Kan. LEXIS I

January 3, 2005, Opinion Filed

**PRIOR HISTORY:** [\*\*1] Appeal from Shawnee district court; TERRY L. BULLOCK, judge. *Montroy v. State*, 275 Kan. 145, 62 P.3d 228, 2003 Kan. LEXIS 16 (2003)

**DISPOSITION:** Affirmed.

### SYLLABUS

#### BY THE COURT

1. Intervention is a matter of judicial discretion. Judicial discretion is abused only when no reasonable person would take the view adopted by the trial court.

2. The right to intervene under K.S.A. 60-224(a) depends on the concurrence of (1) a timely application, (2) a substantial interest in the subject matter, and (3) a lack of adequate representation of the intervenor's interests.

3. The requirement for "timely application" to intervene has no application under K.S.A. 60-224(a)(2) until such time as adequate representation ceases.

4. If a trial court reaches the right result, its decision will be upheld even though the trial court relied upon the wrong ground or assigned erroneous reasons for its decision.

**COUNSEL:** Alan L. Rupe, of Kutak Rock LLP, of Wichita, argued the cause, and Richard A. Olmstead, of the same firm, and John S. Robb, of Somers Robb & Robb, of Newton, were with him on the brief for appellees Eric and Ryan Montroy, et al.

Ira Dennis Hawver, of Ozawkie, [\*\*2] argued the cause, and Bret D. Landrith, of Topeka, was with him on the brief for proposed intervenor/appellant Kansans for the Separation of School and State.

**JUDGES:** The opinion of the court was delivered by ALLEGRUCCI, J. LUCKERT, J., not participating. CHRISTEL E. MARQUARDT, J., assigned.

1 REPORTER'S NOTE: Judge Marquardt, of the Kansas Court of Appeals, was appointed to hear case No. 91,915 vice Justice Luckert pursuant to the authority vested in the Supreme Court by K.S.A. 20-3002(c).

**OPINION BY:** ALLEGRUCCI

### OPINION

[\*\*1159] [\*\*765] The opinion of the court was delivered by

ALLEGRUCCI, J.: Kansans for the Separation of School and State appeals from the district court's memorandum decision and order denying its motion to intervene. An order denying an application to intervene is a final appealable order. *State ex rel. Stephan v. Kansas Dept. of Revenue*, 253 Kan. 412, Syl. P1, 856 P.2d 151 (1993).

[\*\*766] The sole issue we must decide is whether the district court abused its discretion in denying appellant's motion to intervene.

On December 18, 2003, appellant filed a motion to intervene in *Montroy v. State*, Shawnee County District Court Case No. 99-C-1738. In a memorandum [\*\*3] decision and order that was filed February 13, 2004, the trial court denied intervention. Appellant filed its notice of appeal on March 1, 2004.

Intervention is a matter of judicial discretion. *Mohr v. State Bank of Stanley*, 244 Kan. 555, 561, 770 P.2d 466 (1989). Judicial discretion is abused only when no reasonable person would take the view adopted by the trial court. *Varney Business Services, Inc. v. Pottruff*, 275 Kan. 20, 44, 59 P.3d 1003 (2002).

K.S.A. 60-224 (a) provides:

"Upon timely application anyone shall be permitted to intervene in an action: (1) When a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter substantially impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties."

Appellant sought to intervene under subsection (2), claiming an interest relating to the property or transaction that is the subject of the action. The [\*\*\*4] district court denied appellant's motion to intervene for the following reasons:

"The Kansas Supreme Court set forth three factors that must be present to allow intervention: '(1) timely application; (2) a substantial interest in the subject matter; and (3) lack of adequate representation of the intervenor's interests.' *Memorial Hospital Ass'n, Inc. v. Knutson*, 239 Kan. 663, 722 P.2d 1093[1], 239 Kan. 663, 722 P.2d 1093[1] (1986). [A] prospective party's untimely application to intervene in an action is the same as voluntarily declining to intervene. . . . ' *Davis v. Prudential Property and Casualty Ins. Co.*, 961 F. Supp. 1496 (D. Kan. 1997).

"Kansas for the Separation of School and State had ample opportunity to file a motion to intervene prior to trial in this matter. This action has been pending for nearly five years. The facts have already been heard and determined in this action. A preliminary interim order was entered by this Court on December 2, 2003. This party did not file their motion to intervene until December 18, 2003. All that remains is to determine a proper remedy. As the motion to intervene is untimely, the Court hereby denies the request.

[\*767] "Additionally, [\*\*\*5] the motion is denied because Kansas for the Separation of School and State improperly state that their members have property interests in the State of Kansas relating to the property or transaction which is the subject of the action. To the contrary, there is no property or transaction that is the subject of this matter. This Court's preliminary order contains no directive that the Legislature raise property taxes statewide. In addition, the Court's preliminary

order does not set forth an amount . . . which the Legislature must provide to adequately fund schools. The Court merely set forth the facts. Until July 1, 2004, it is up to the executive and legislative branches to devise [\*\*1160] a remedy to these constitutional deficiencies."

Appellant relies on *Moyer v. Board of County Commissioners*, 197 Kan. 23, 415 P.2d 261 (1966), for the proposition that posttrial intervention is timely. Appellant's reliance on *Moyer* is misplaced. *Moyer* stands for the principle that intervention may be timely even after judgment if the party who represented the intervenor-applicant's interest at trial refuses to appeal, see 197 Kan. 23, Syl. P.3, 415 P.2d 261, in which case the [\*\*\*6] intervenor's interest would no longer be adequately represented by an existing party. In *Hukle v. City of Kansas City*, 212 Kan. 627, Syl. P.3, 512 P.2d 457 (1973), the court held that "the requirement for 'timely application' to intervene in an action as that term is used in K.S.A. . . . 60-224(a) has no application until such time as adequate representation ceases."

In the present case, the district court made no determination about the adequacy of the representation of appellant's interest. Appellant contends that it is "without adequate representation by the state, which like the governor, politically benefits from losing this action and suddenly, in a single blow accumulating wealth, power and patronage that doubles what it has taken generations to confiscate from Kansans democratically." Appellant's argument seems to be that it opposes a tax increase to finance schools but the State of Kansas favors an increase. The legislature's rejection of all proposals for tax increases to finance schools in its last session, however, demonstrates that appellant's position is adequately represented by the State.

In *Hukle*, the court stated that the right to intervene under [\*\*\*7] K.S.A. 60-224(a) depends on the concurrence of (1) a timely application, (2) a substantial interest in the subject matter, and (3) a lack of adequate representation of the intervenor's interests. 212 [\*768] Kan. at 630-32. Without a showing of inadequate representation, there can be no concurrence of the three factors.

Here, although the trial court was silent on the issue, appellant failed to show a lack of adequate representation of its interest in the appeal. Thus, the motion to intervene was not timely.

If a trial court reaches the right result, its decision will be upheld even though the trial court relied upon the wrong ground or assigned erroneous reasons for its decision. *Bergstrom v. Noah*, 266 Kan. 847, 875-76, 974 P.2d 531 (1999).

Affirmed.

LUCKERT, J., not participating.

[MONTOY 4- June 3, 2005]

RYAN MONTOY, et al., Appellees/Cross-appellants, v. STATE OF KANSAS, et al., Appellants/Cross-appellees.

No. 92,032

SUPREME COURT OF KANSAS

279 Kan. 817; 112 P.3d 923; 2005 Kan. LEXIS 347

June 3, 2005, Supplemental Opinion Filed

**PRIOR HISTORY:** [\*\*\*1] Appeal from Shawnee district court; TERRY L. BULLOCK, judge. *Montoy v. State*, 278 Kan. 769, 102 P.3d 1160, 2005 Kan. LEXIS 2 (2005)

#### SYLLABUS

2005 House Bill 2247 is not in compliance with the January 3, 2005, opinion of this court and fails to remedy the constitutional infirmities in the Kansas School District Finance and Quality Performance Act (SDFQPA), K.S.A. 72-6405 et seq., identified in that opinion.

**COUNSEL:** Kenneth L. Weltz, of Lathrop & Gage L.C., of Overland Park, argued the cause, and Curtis L. Tideman, Ajok Ahuja, and Jeffrey R. King, of the same firm, and David W. Davies, assistant attorney general, and Phill Kline, attorney general, were with him on the briefs for appellant/cross-appellee State of Kansas.

Dan Biles, of Gates, Biles, Shields & Ryan, P.A., of Overland Park, argued the cause, and Rodney J. Bicker, of Kansas Department of Education, and Cheryl Lynn Whelan, of Lawrence, were with him on the briefs for appellants/cross-appellees Janet Waugh, Sue Gamble, John Bacon, Bill Wagnon, Connie Morris, Kathy Martin, Kenneth Willard, Carol Rupe, Iris Van Meter, Steve Abrams, and Andy Tompkins.

Alan L. Rupé, of Kutak Rock LLP, of Wichita, argued the cause, and Richard A. Olmstead, of [\*\*\*2] the same firm, and John S. Robb, of Somers Robb & Robb, of Newton, were with him on the briefs for appellees/cross-appellants.

Wm. Scott Hesse, assistant attorney general, was on the brief for defendants/cross-appellees Governor Kathleen Sebelius and State Treasurer Lynn Jenkins.

Jane L. Williams, of Seigfreid, Bingham, Levy, Selzer & Gee, of Kansas City, Missouri, was on the briefs for amicus curiae Kansas Families United for Public Education.

Patricia E. Baker and Zachary J.C. Anshutz, of Kansas Association of School Boards, of Topeka, were on the briefs for amicus curiae Kansas Association of School Boards.

David M. Schaumer and Robert M. Blarfuss, of Kansas National Education Association, of Topeka, were on the briefs for amicus curiae Kansas National Education Association.

Joseph W. Zima, of Topeka Public Schools, was on the brief for amicus curiae Unified School District No. 501, Shawnee County, Kansas.

Michael G. Norris and Melissa D. Hillman, of Norris, Keplinger & Hillman, L.L.C., of Overland Park, were on the brief for amici curiae Unified School Districts Nos. 233, 229, and 232, Johnson County, Kansas.

Aime M. Kindling, of Goodell, Stratton, [\*\*\*3] Edmonds & Palmer, L.L.P., of Topeka, was on the briefs for amicus curiae Unified School District No. 512, Shawnee Mission, Kansas.

Bernard T. Giefer, of Giefer Law LLC, of WaKeeney, was on the briefs for amici curiae Unified School District No. 208, Trego County, Kansas (WaKeeney), et al. (60 other Kansas school districts).

Thomas R. Powell and Roger M. Theis, of Hinkle Elkouri Law Firm L.L.C., of Wichita, were on the briefs for amicus curiae Unified School District No. 259, Sedgwick County, Kansas.

Janice L. Mathis, of Rainbow/PUSH Coalition, of Atlanta, Georgia, was on the brief for amicus curiae Rainbow/PUSH Coalition.

Cynthia J. Sheppard, of Weathers & Riley, of Topeka, was on the briefs for amicus curiae Kansas Action for Children.

Bob L. Corkins, of Lawrence, was on the brief for amicus curiae Kansas Taxpayers Network.

Kirk W. Lowry, of Kansas Advocacy & Protective Services, of Topeka, was on the brief for amicus curiae Kansas Advocacy & Protective Services.

Martha B. Crow, of Crow, Clothier & Associates, of Leavenworth, was on the brief for amicus curiae Martha B. Crow.

Dr. Walt Chappell, of Wichita, was on the brief for amicus curiae [\*\*\*4] Educational Management Consultants.

Tristan L. Duncan and Daniel D. Crabtree, of Stinson Morrison Hecker L.L.P., of Overland Park, were on the brief for amici curiae Individual Students in the Shawnee Mission Unified School District No. 512.

#### OPINION

##### [\*818] [\*\*925] SUPPLEMENTAL OPINION

*Per Curiam:* This case requires us to review recent school finance legislation to determine whether it complies with our January 3, 2005, opinion and brings the state's school financing formula into compliance with Article 6, § 6 of the Kansas Constitution. We hold that it does not.

#### FACTS

In our January opinion, this court reversed the district court in part and affirmed in part, agreeing that the legislature had failed to make suitable provision for finance of the public school system [\*819] and, thus, had failed to meet the burden imposed by Article 6, § 6 of the Kansas Constitution. *Montoy v. State*, 278 Kan. 769, 102 P.3d 1160 (2005) (*Montoy I*). Among other things, we held that the Kansas School District Finance and Quality Performance Act (SDFQPA), K.S.A. 72-6405 *et seq.*, as funded, failed to provide suitable finance for students in middle-sized and large [\*\*\*5] districts with a high proportion of minority and/or at-risk and special education students; some school districts were being forced to use local option budgets (LOB) to finance a constitutionally adequate education, *i.e.*, suitable education; the SDFQPA was not based upon actual costs, but rather on former spending levels and political compromise; and the failure to perform any cost analysis distorted the low-enrollment, special education, [\*\*926] vocational education, bilingual, and at-risk student weighting factors.

We further held that among the critical factors for the legislature to consider in achieving a suitable formula for financing education were "equity with which the funds are distributed and the actual costs of education, including appropriate levels of administrative costs." We provided this guidance because "the present financing formula increases disparities in funding, not based on a cost analysis, but rather on political and other factors not relevant to education." We also held that "increased funding will be required." *Montoy II*, 278 Kan. at 775.

We stayed the issuance of the mandate to allow the legislature a reasonable time to correct the constitutional [\*\*\*6] infirmity in the then existing financing formula. Rather than suspend the funding of education, we ordered that the present financing formula and funding would remain in effect until the court took further action, noting: "The legislature, by its action or lack thereof in the 2005 session, will dictate what form our final remedy, if necessary, will take." We set a deadline of April 12, 2005. *Montoy II*, 278 Kan. at 776.

The legislature timely responded by enacting 2005 House Bill 2247 on March 30, 2005, which was modified by 2005 Senate Bill 43, passed during the veto session (collectively H.B. 2247). The Governor allowed the bill to become law without her signature, and the new legislation was delivered to this court.

[\*820] On April 15, 2005, we issued an order which, among other things, directed the parties to file briefs addressing "whether the financing formula, as amended by H.B. 2247, meets the legislature's constitutional burden to 'make suitable provision for finance' of the public schools."

The parties were first directed to address 10 specific components of the financing formula. With respect to each of the components, as well as to the formula as a whole, the [\*\*\*7] parties were asked to address our special concern as to whether the actual costs of providing a suitable education was considered and whether H.B. 2247 exacerbates and/or creates funding disparities among the districts.

Second, the parties were asked to address whether additional fact-finding would be necessary, and, if so, how that fact-finding should be pursued.

Third, the parties were asked to address what remedial action should be ordered and on what timetable in the event the court concludes, without additional fact-finding, that the financing formula, as amended by H.B. 2247, is still unconstitutional.

The parties were ordered to appear before this court on May 11, 2005, to show cause why the court should or should not find that H.B. 2247 complied with our January opinion. We recognized that the burden of proof had

been on the plaintiffs to show that the SDFQPA, as it existed at the time of the filing of the action herein, was constitutionally infirm. We held that because the plaintiffs had prevailed, the burden of proof had "shifted to the defendants to show that the legislature's action has resulted in suitable provision for the financing of education as required by Article [\*\*\*8] 6, § 6."

Pursuant to our April order, the defendants, State of Kansas (State) and the Board of Education members and Commissioner of Education (Board), filed separate briefs. The plaintiffs filed a response brief. Ten *amici curiae* briefs were filed. Oral arguments were heard by this court on May 11, 2005.

We must now decide if H.B. 2247 remedies the SDFQPA infirmities identified in our January opinion and thus makes suitable provision for financing of education as mandated by Article 6, § 6 [\*821] of the Kansas Constitution. To do that, we first need to identify the changes H.B. 2247 makes in the SDFQPA.

H.B. 2247 modifies the school finance system in several ways. First, it alters the Base State Aid Per Pupil (BSAPP) and several of the weightings and other factors that affect the formula. It increases bilingual and at-risk weightings; it eliminates correlation weighting; it provides for phased-in increases in funding of special education excess costs at a statutorily prescribed level; and it provides for increases in general state aid [\*\*927] based on the Consumer Price Index-Urban (CIP-U). It does not substantively change the low-enrollment weighting provision as it existed at the time [\*\*\*9] of the January opinion.

Second, it provides certain districts the authority to raise additional revenue through local ad valorem taxes upon taxable tangible property within the district. Specifically, it provides a phased-in increase in the LOB cap. Before H.B. 2247 was enacted, a school-district could enact a LOB that was as much as 25 percent of its state financial aid. K.S.A. 72-6433(a)(1)(A)-(D); K.S.A. 72-6444. H.B. 2247 makes incremental increases in this cap of 27 percent in the 2005-06 school year, 29 percent in 2006-07, and 30 percent in 2007-08. H.B. 2247 also authorizes districts with high housing costs to levy additional ad valorem taxes upon the taxable tangible property within the district. The rationale for this provision is to allow districts to pay enhanced teacher salaries. In addition, districts with extraordinary declining enrollment may apply to the Board of Tax Appeals (BOTA) for permission to levy an ad valorem tax on the taxable tangible property of the district in an amount authorized by BOTA.

Third, H.B. 2247 makes several nonformula changes. It provides for statutorily mandated areas of instruction; establishes [\*\*\*10] an 11-member "2010 Commis-

sion" to provide legislative oversight of the school finance system; and provides for a study by 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."

[\*822] Fourth, H.B. 2247 limits all new local capital outlay mill levies to eight mills. SDFQPA originally capped the capital outlay level at four mills, but the cap was completely removed in 1999.

Fifth, certain changes to H.B. 2247 made by S.B. 43 are slated to become effective July 1, 2005, while other provisions became law upon publication in the Kansas Register. See S.B. 43, secs. 27, 28.

The estimated grand total for H.B. 2247's fiscal impact is approximately \$ 142<sup>1</sup> million in additional state funding for the 2005-06 school year.

1 This total increase of \$ 142 million includes a \$ 7.35 million increase provided by 2005 H.B. 2059, which created a second enrollment count date for students who are dependents of active military personnel. The parties do not take issue with the provisions of H.B. 2059. Our discussion of the funding and provisions in H.B. 2247 collectively refers to H.B. 2247, S.B. 43, and H.B. 2059.

#### [\*\*\*11] DISCUSSION AND ANALYSIS

Overall, the State claims that the constitutionality of the school financing formula as amended by H.B. 2247 is not properly before this court. In its view, this case can address only the *former* financing formula, which no longer exists. Regarding the important issue of consideration of actual costs, the State contends that the legislature did consider such costs to the extent possible. At oral arguments, the State repeatedly claimed that our focus should be limited to whether the legislature had authority to pass school finance legislation, suggesting any further intervention by this court would offend the separation of powers doctrine and the carefully calibrated system of checks and balances among our three branches of government.

In the alternative, the State generally argues that if the financing formula's constitutionality remains at issue, H.B. 2247 should enjoy a presumption of constitutionality and the burden of proof should be upon the plaintiffs to demonstrate otherwise. Moreover, if the court should determine that further fact-finding is necessary on the constitutional issue, the case should be remanded for further proceedings, with the [\*\*\*12] present legislation remaining in effect until [\*823] the remand produces another district court ruling. Finally, as another alterna-

tive, the State argues that if this court holds the legislation unconstitutional, without remand, then our only authority is to strike it in toto. In that event, the State contends, the legislature would have to enact new legislation, because this court has no authority to impose an interim funding plan.

[\*\*928] In contrast, the Board argues that the issue before us is whether the State complied with our January opinion. It generally disagrees that the legislation fully meets the legislature's constitutional obligation. It also argues that H.B. 2247's modifications to the financing formula were not based upon the actual costs of providing a suitable education. However, because the legislation commissions a cost study, the Board asserts this court should uphold the legislation as an adequate interim first step in a multi-year remedial response. It urges us to hold that the changes made by H.B. 2247 are sufficient pending the results of the cost study, i.e., an installment on the first remedy year toward what may very well be a much larger obligation based on the evidence [\*\*\*13] in this case.

The Board strongly disagrees, however, with the legislation's provisions allowing increased funding authority based solely on local ad valorem property taxes, because it believes these provisions exacerbate funding inequities based on district wealth. It asks that these provisions be stricken, with the remainder of H.B. 2247 taking effect to enable school districts to plan for the rapidly approaching school year with the benefit of increased state aid. The Board also specifically disagrees with the parameters of the legislature's proposed cost study and expresses concerns that merely studying how much money has been spent over the years on a broken school financing system will be of little assistance. As a result, it argues that additional fact-finding will be necessary to determine the future costs of providing a suitable education.

The plaintiffs argue the increases in funding "fall grossly short of what is actually necessary to provide a constitutionally suitable education." They agree with the Board that actual costs were not considered and allege that the legislation was the result of political compromise and that the majority of the legislature believed it could [\*\*\*14] provide without raising taxes. They also agree with the Board [\*\*824] that the three provisions dependent on local ad valorem property taxes compound the formula's unjustified funding disparities.

The plaintiffs further argue that additional fact-finding is unnecessary. They ask us to (1) declare the legislation unconstitutional; (2) direct the Board to design a temporary school funding plan that incorporates recommendations from the 2001 Augenblick & Myers Study (A&M study), and direct the State to implement

the plan, on a temporary basis, by July 1, 2005; (3) direct the State to enact constitutional legislation for funding public education; and (4) retain jurisdiction to ensure our orders are followed.

With this overview of the parties' arguments in mind, we turn to consideration of more specific contentions.

In support of its argument that the financing formula, as amended by H.B. 2247, is no longer properly before us, the State relies on *Knowles v. State Board of Education*, 219 Kan. 271, 547 P.2d 699 (1976). It characterizes *Knowles* as "indistinguishable" from the situation before us. In fact, the State's reliance on *Knowles* is misplaced because *Knowles* [\*\*\*15] was before this court in an entirely different procedural posture.

In *Knowles*, the district court struck down the 1973 School District Equalization Act as unconstitutional. Because the legislature was in session when the judgment was entered, the district court withheld issuing a remedy in order to give the legislature time to correct "the inequities." The legislature amended the 1973 School District Equalization Act effective July 1, 1975. The district court took judicial notice of the new bill, declined to hear new evidence, dissolved the injunction, and dismissed the case. The district court held that because the legislature enacted new legislation, the law as it existed on the date of the decision no longer was in effect. Thus any determination concerning the constitutionality of the old law was moot, and any issue of the constitutionality of the new legislation was an entirely new matter that must be litigated in a new action. *Knowles*, 219 Kan. at 274.

The *Knowles* plaintiffs appealed the order dissolving the injunction and dismissing the case. This court found the new legislation had not rendered the case moot and reversed and remanded the matter to [\*\*\*16] the district court for additional fact-finding on the [\*\*\*29] [\*\*825] changes made to the formula. This court rejected the plaintiffs' request that it rule on the constitutionality of the new legislation, stating that the facts and figures necessary to demonstrate plaintiffs' claims as to the new legislation were not part of the record before the court. *Knowles*, 219 Kan. at 278.

In *Knowles*, this court did not review the 1973 Act in the first instance; nor did it reach an independent conclusion as to the constitutionality of that Act. In contrast, in the instant case, not only was the issue of the constitutionality of the SDFQPA before this court pursuant to our appellate jurisdiction, but also we evaluated the district court's findings of fact to determine if they were supported by substantial competent evidence and determined the school financing formula was unconstitutional. In addition, the statutory amendments at issue in

*Knowles* were made in response to the district court's declaratory judgment issued while it still had jurisdiction over the case. Here, H.B. 2247 arose as a remedy in response to a specific order of this court while we retained jurisdiction. Due to these [\*\*\*17] differences, the following statement in *Knowles* actually supports our continuing review at this juncture:

"The right of persons to challenge the constitutional effect of a law upon their persons or property should not be aborted every time the law is amended by the legislature. In some instances amendments occur almost annually with minimal impact upon the overall effect of the law. It is entirely possible that the 1976 legislature will again amend this Act.

....

"The nature of this controversy is such that the rights of the parties continue to be affected by the law. It is an ongoing controversy which can be adjudicated in the present action as well, if not better, than in a new action filed." *Knowles*, 219 Kan. at 279-80.

In short, this court's retained jurisdiction allows a review to determine if there has been compliance with our opinion.

The State's next argument — that if the provisions of H.B. 2247 are properly before us, we must presume that the new statute is constitutional — has already been rejected. (Order, 4/15/05.) While this presumption normally applies to initial review of statutes, in this case we have already determined the financing [\*\*\*18] formula does not comply with Article 6, § 6. H.B. 2247 was passed because [\*\*826] this court ordered remedial action. The State now presents its remedy for our determination of whether it complies with our order.

The Ohio Supreme Court faced the same argument after the Ohio Legislature passed school finance legislation in response to the court's ruling that the system was unconstitutional. It also rejected the argument, stating:

"The legislature has the power to draft legislation, and the court has the power to determine whether that legislation complies with the Constitution. However, while it is for the General Assembly to legislate a remedy, courts do possess the authority to enforce their orders, since the power to declare a particular law or en-

actment unconstitutional must include the power to require a revision of that enactment, to ensure that it is then constitutional. If it did not, then the power to find a particular Act unconstitutional would be a nullity. As a result there would be no enforceable remedy. A remedy that is never enforced is truly not a remedy." (Emphasis added.) *DeRolph v. State*, 89 Ohio St. 3d 1, 12, 2000 Ohio 437, 728 N.E.2d 993 (2000).

Typically [\*\*\*19] a party asserting compliance with a court decision ordering remedial action bears the burden of establishing that compliance, and our April 15 order made the allocation of that burden clear in this case. See also *DeRolph v. State*, 83 Ohio St. 3d 1212, 1212, 1998 Ohio 301, 699 N.E.2d 518 (1998) (state must meet burden by preponderance of evidence standard).

We also reject the State's related argument that the doctrine of separation of powers limits our review to the issue of whether the legislature had the authority to pass such legislation. Any language in *U.S.D. No. 229 v. State*, 256 Kan. 232, 236-38, 885 P.2d 1170 (1994), to this effect is inapplicable here because of this case's remedial posture. Even now, however, we do not [\*\*930] quarrel with the legislature's authority. We simply recognize that the final decision as to the constitutionality of legislation rests exclusively with the courts. Although the balance of power may be delicate, ever since *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 2 L. Ed. 60 (1803), it has been settled that the judiciary's sworn duty includes judicial review of legislation for constitutional infirmity. We are not at liberty [\*\*\*20] to abdicate our own constitutional duty.

Again, like arguments have been raised in other state courts. Other state courts consistently reaffirm their authority, indeed their duty, to engage in judicial review and, when necessary, compel [\*\*827] the legislative and executive branches to conform their actions to that which the constitution requires.

For example, in *Lake View Sch. Dist. No. 25 v. Huckabee*, 351 Ark. 31, 54-55, 91 S.W.3d 472 (2002), the court reviewed legislation passed after its 1994 determination that the Arkansas school financing system violated the education provisions of that state's constitution. The Arkansas Supreme Court stated:

"This court's refusal to review school funding under our state constitution would be a complete abrogation of our judicial responsibility and would work a severe

disservice to the people of this state. We refuse to close our eyes or turn a deaf ear to claims of a dereliction of duty in the field of education. As Justice Hugo Black once sagely advised: *'The judiciary was made independent because it has . . . the primary responsibility and duty of giving force and effect to constitutional liberties and limitations upon the [\*\*\*21] executive and legislative branches.'* Hugo L. Black, *The Bill of Rights*, 35 N.Y.U.L. Rev. 865, 870 (1960).

....

"The Supreme Court of Kentucky has emphasized the need for judicial review in school-funding matters. The language of that court summarizes our position on the matter, both eloquently and forcefully, and, we adopt it:

"Before proceeding . . . to a definition of "efficient" we must address a point made by the appellants with respect to our authority to enter this fray and to "stick our judicial noses" into what is argued to be strictly the General Assembly's business.

' . . . [In this case] we are asked—based solely on the evidence in the record before us—if the present system of common schools in Kentucky is "efficient" in the constitutional sense. It is our sworn duty to decide such questions when they are before us by applying the constitution. The duty of the judiciary in Kentucky was so determined when the citizens of Kentucky enacted the social compact called the constitution and in it provided for the existence of a third equal branch of government, the judiciary.

' . . . To avoid deciding the case because of "legislative discretion, [\*\*\*22] " "legislative function," etc., would be a denigration of our own constitutional duty. To allow the General Assembly (or, in point of fact, the Executive) to decide whether its actions are constitutional is literally unthinkable.

The judiciary has the ultimate power, and the duty, to apply, interpret, define, and construe all words, phrases, sentences and sections of the Kentucky Constitution

as necessitated by the controversies before it. It is *solely* the function of the judiciary to do so. This duty must be exercised even when such action services as a check on the activities of another branch of government or when the court's view of the constitution is contrary to that of other branches, or even that of the public." (Emphasis added.)

[\*828] Almost 60 years ago the Kansas Supreme Court addressed the separation of powers issue in the non-school finance case of *Berentz v. Comm'rs of Coffeyville*, 159 Kan. 58, 152 P.2d 53 (1944). There the appellants challenged a pension act on the grounds it violated Article 2, § 17 of the Kansas Constitution. Finding the challenge meritorious, this court noted:

"This court has always approached consideration of questions [\*\*\*23] challenging the constitutionality of statutes with a disposition [\*\*931] to determine them in such manner as to sustain the validity of the enactment in question. It has repeatedly recognized, as we do now, the rule that *it is the duty of the court to uphold a law whenever such action is possible. In so doing it has not, however, lost sight of the fact that constitutions are the work not of legislatures or of courts, but of the people, and when in its calm and deliberate judgment, free from the influences frequently responsible for legislative enactments, it determines rights guaranteed by its provisions have been encroached upon it has, with equal consistency, recognized its duty and obligation to declare those enactments in contravention of constitutional provisions.*" (Emphasis added.) 159 Kan. at 62-63.

Our holding in *Berentz* is consistent with decisions in other states when a challenge has been made to the constitutionality of school finance systems and a separation of powers issue has arisen during the remedial phase. We agree with the conclusions drawn by one commentator reviewing those cases:

"Judicial monitoring in the remedial phase can help check political [\*\*\*24] process defects and ensure that meaningful relief effectuates the court's decision.

"Thus, when these defects lead to a continued constitutional violation, judicial action is entirely consistent with separation of powers principles and the judicial role. Although state constitutions may commit educational matters to the legislative and executive branches, if these branches fail to fulfill such duties in a constitutional manner, the Court too must accept its continuing constitutional responsibility . . . for overview . . . of compliance with the constitutional imperative.' Moreover, unlike federal courts, state courts need not be constrained by federalism issues of comity or state sovereignty when exercising remedial power over a state legislature, for state courts operate within the system of a single sovereign.

"Nor should doubts about the court's equitable power to spur legislative action or to reject deficient legislation impede judicious over-sight. An active judicial role in monitoring remedy formulation is well-rooted in the courts' equitable powers. As long as such power is exercised only after legislative noncompliance, it is entirely appropriate." (Emphasis added.) [\*\*\*25] Note, "Unfulfilled [\*\*829] Promise: School Finance Remedies and State Courts," 104 Harv. L. Rev. 1072, 1087-88 (1991).

We now turn to this court's specific concerns about whether the actual costs of providing a constitutionally adequate education were considered as to each of the formula components and the statutory formula as a whole, and whether any unjustified funding disparities have been exacerbated rather than ameliorated by H.B. 2247. In this determination we will be guided, in large part, by the A&M study, despite the State's criticism of it and our knowledge that, at best, its conclusions are dated. We do so for several reasons.

First, the A&M study is competent evidence admitted at trial and is part of the record in this appeal. See *Montoy II*, 278 Kan. at 774 (within the extensive record on appeal "there is substantial competent evidence, including the Augenblick & Myers study, establishing that a suitable education, as that term is defined by the legislature, is not being provided").

Second, the legislature itself commissioned the study to determine the actual costs to suitably and equi-

tably fund public school systems; it also maintained the [\*\*\*26] overall authority to shape the contours of the study and to correct any A&M actions that deviated from its directions during the process. (See K.S.A. 60-460[h]). As we stated in *Montoy II*:

"The legislature directed that a professional evaluation be performed to determine the costs of a suitable education for Kansas school children. In authorizing the study, the legislature defined 'suitable education.' K.S.A. 2003 Supp. 46-1225(e). The Legislative Education Planning Committee (LEPC), to whom the task of overseeing the study was delegated, determined which performance measures would be utilized in determining if Kansas' school children were receiving a suitable [\*\*932] education. The evaluation, performed by Augenblick & Myers, utilized the criteria established by the LEPC, and, in part, examined whether the current financing formula and funding levels were adequate for schools to meet accreditation standards and performance criteria. The study concluded that both the formula and funding levels were inadequate to provide what the legislature had defined as a suitable education." *Montoy II*, 278 Kan. at 773-74.

[\*\*27] Third, the A&M study is the only analysis resembling a cost study before this court or the legislature.

[\*830] Fourth, both the Board and the State Department of Education recommended that the A&M study recommendations be adopted at the time the study was completed and sent to the legislature.

With the A&M study as background, we next examine the provisions of H.B. 2247 in light of the two guiding considerations set forth in our January opinion: (1) actual costs of providing a constitutionally adequate education and (2) funding equity.

#### BASE STATE AID PER PUPIL

BSAPP is the foundation upon which school district funding is built, as state financial aid to schools is determined by multiplying BSAPP by each district's "weighted enrollment." See K.S.A. 72-6410(b). When the SDFQPA was first implemented in 1992, BSAPP was set at \$ 3,600. It remained at that level until 1995, when it was increased by \$ 26 to \$ 3,626. Small increases were funded each year thereafter until the 2002-03 school year. During the years of increases, the amounts



ranged from an additional \$ 22 to \$ 50 per student. From 2002 until 2005, the statute allowed for a BSAPP of \$ 3,890; however, [\*\*\*28] only \$ 3,863 was funded. Over the span of time from when the SDFQPA was implemented in 1992 until 2005, the legislature increased the BSAPP only a total of \$ 263. As the plaintiffs point out, if the BSAPP had been increased to keep up with inflation, in 2001 alone the increase would have been \$ 557. The A&M study recommended increasing the base to \$ 4,650 in 2001, resulting in \$ 623.3 million in additional funding (in 2001 dollars).

H.B. 2247 increases the BSAPP from \$ 3,890 to \$ 4,222. Only \$ 115 of the \$ 359 increase is "new" money; the balance was achieved by eliminating the correlation weighting and shifting those dollars to BSAPP. The \$ 115 increase translates to \$ 63.3 million in additional funding flowing into the financing formula for the 2005-06 school year.

The State argues the legislature considered actual costs in deciding upon the increase.

The plaintiffs point out that the legislature had the A&M study recommendations, as well as the results of a 2005 survey conducted by Deputy Commissioner of Education Dale Dennis for the Senate Education Committee. The survey, which requested cost information [\*\*\*831] from selected school districts, showed the BSAPP should be \$ 6,057. The [\*\*\*29] plaintiffs argue that the legislature ignored the A&M and Dennis figures, instead looking at historical expenditures and arbitrarily choosing a BSAPP level based on political compromises and what it believed it could afford without raising taxes.

The Board contends that the increase in the BSAPP, coupled with increases in the at-risk and bilingual weightings, provide a substantial increase in funding for those middle-sized and large districts with a high proportion of such students. By implication, this is an argument that the BSAPP increase helps equalize the funding disparity suffered by those districts.

The plaintiffs, on the other hand, claim that increasing the BSAPP only exacerbates the inequities in the system because the formula was not adjusted to make distorted weights, such as the low-enrollment weight, correspond to actual costs. For example, for every \$ 1 of base funding that middle-sized or large districts receive, some low-enrollment districts receive \$ 2.14. The plaintiffs assert Dr. Bruce Baker's testimony at trial and his earlier report described this effect.

At a minimum, the increased BSAPP provided for in H.B. 2247 substantially varies from any cost information [\*\*\*30] in the record and [\*\*\*33] from any recommendation of the Board or the State Department of Education.

#### AT-RISK

H.B. 2247 increases funding for at-risk students from .10 of the BSAPP to .145. This increased weighting, when applied to the higher BSAPP, results in an increase of \$ 26 million targeted to at-risk students. The A&M study recommended a weight of .20 for districts with 200 or fewer students, .52 for districts with 1,000 students, .59 for districts with 10,000 students, and .60 for districts with 30,000 students, resulting in a range of \$ 1,491 to \$ 2,790 per student (in 2001 dollars).

Both the State and the Board contend the increased funding for at-risk students is significant. The Board argues that, pending performance of a new cost study, H.B. 2247 should be viewed as a good faith effort toward legislative compliance with our January 3, [\*\*\*832] 2005, opinion. The plaintiffs, on the other hand, contend that the increased funding level remains significantly lower than that recommended by the State's own expert witness in 1991, *before* the SDFQPA was enacted. That expert, Dr. Allan Odden, recommended a .25 minimum weight to provide an extra \$ 1,000 for each eligible at-risk [\*\*\*31] student.

Neither the State nor the Board contend that actual costs of educating at-risk students were considered.

#### BILINGUAL

H.B. 2247 increases the weighting for bilingual programs from .2 to .395 for the 2005-06 school year and thereafter. When applied to the higher BSAPP, the result is an \$ 11 million increase in state aid. The Board computes the effects of these changes to be an additional \$ 1,668 per bilingual student, a 115.7 percent increase. A&M recommended that the bilingual weighting increase be based on student enrollment and that it range from .15 to .97, providing \$ 1,118 to \$ 4,510 per bilingual student.

The plaintiffs point out that this weighting is limited to "contact hours," usually a maximum of two hours per day for each student. This means the \$ 1,668 amount must be reduced by 2/3, to \$ 556 per actual bilingual student.

The State contends that it considered the actual costs of providing a suitable education for bilingual students. That contention is based solely on the House Select Committee on School Financing's reliance on historical data showing what school districts had already been spending under the financing formula we have held to be unconstitutional. [\*\*\*32] The Board makes no argument as to the weighting's relationship to actual costs; it simply repeats that it regards the change in the weighting as a good faith effort toward compliance.

Although the increase in this weighting is significant, it still differs substantially from the cost information in the record.

#### SPECIAL EDUCATION

H.B. 2247 provides for a multi-year phased-in increase in state reimbursement for special education excess costs from 85 percent [\*\*\*833] in the 2005-06 school year to 88 percent in 2006-07 and 91 percent in 2007-08 and thereafter. According to the evidence at trial, the State had been funding only 85 percent of the excess costs of special education. For fiscal year 2005, however, only 81.7 percent of the average excess costs of special education were funded. Reimbursement at 85 percent thus results in a total funding increase of \$ 17.7 million for the upcoming school year.

The plaintiffs contend that anything less than 100 percent reimbursement for a district's special education costs is a failure to fund the actual costs of a suitable education. The State and the Board both disagree, contending less than 100 percent reimbursement furthers the State's policy [\*\*\*833] of discouraging school districts from over-identifying students as eligible for special education money.

The defendants have failed to point to any evidence that any district has ever over-identified students; and, when asked at oral arguments, the State's counsel responded that he was not aware of any district that had intentionally inflated its number of such students to maximize reimbursement. Furthermore, the A&M study recommended a [\*\*\*934] range, based on student enrollment, of weights from .90 to 1.50, resulting in a nearly \$ 102.9 million (in 2001 dollars) increase in funding – a stark contrast to the \$ 17.7 million provided by H.B. 2247.

#### LOCAL OPTION BUDGET

H.B. 2247 provides a phased-in increase in the LOB cap from the current 25 percent to 27 percent in the 2005-06 school year, 29 percent in the 2006-07 school year, and 30 percent in the 2007-08 school year and thereafter.

The plaintiffs argue local districts have been forced to use the LOB to cover the inadequacies of state funding. They also argue the use of the LOB increases disparities and exacerbates inequities.

The Board takes issue with the legislature's failure to provide for equalization for the new level of LOB [\*\*\*834] authority above 25 percent for the 2005-06 school year only. The absence of equalization means the dollars for the optional increases must come entirely

[\*\*\*834] from each district's property tax base, which can worsen wealth-based disparities.

The State argues that the LOB acts as a counterweight to low-enrollment weighting, at-risk weighting, and perhaps even bilingual weighting, because the middle-sized and large districts expected to benefit from the increased LOB "receive little, if any, of these weightings."

This argument fails because increasing the LOB does not address inadequate funding of middle-sized and large districts that have high concentrations of bilingual, at-risk, minority, and special education students, high pupil-to-teacher ratios, and high dropout rates, but also have low median family incomes and low assessed property valuation. For example, the Emporia school district demonstrates that size of enrollment does not necessarily correlate with high property valuations or low numbers of students who are more costly to educate.

The original intent and purpose of the LOB was to allow individual districts to levy additional property taxes to fund enhancements to the constitutionally [\*\*\*35] adequate education provided and financed under the legislative financing formula. The evidence before the trial court demonstrated that the inadequacy of the formula and its funding had forced some districts to use the LOB to fund the State's obligation to provide a constitutionally adequate education rather than enhancements. See *Montoy II*, 278 Kan. at 774. H.B. 2247 does nothing to discourage this practice.

We also agree with the plaintiffs and the Board that, in fact, the legislation's increase in the LOB cap exacerbates the wealth-based disparities between districts. Districts with high assessed property values can reach the maximum LOB revenues of the "district prescribed percentage of the amount of state financial aid determined for the district in the school year" (K.S.A. 72-6433[a][1], amended by S.B. 43, sec. 17) with far less tax effort than those districts with lower assessed property values and lower median family incomes. Thus, the wealthier districts will be able to generate more funds for elements of a constitutionally adequate education that the State has failed to fund.

#### [\*\*\*835] COST-OF-LIVING WEIGHTING

H.B. 2247 authorizes [\*\*\*36] a new local property tax levy for cost-of-living weighting. As originally enacted, the purpose of this weighting was to "finance teacher salary enhancements." H.B. 2247, sec. 19. In S.B. 43, sec. 12, the legislature removed this limiting provision and no purpose for the additional funding is now stated in the law. This weighting is available in those districts where the average appraised value of a single-family residence exceeds 125 percent of the state

average, as long as the district has already adopted the maximum LOB. This is estimated to amount to a total funding increase of \$ 24.6 million for the 17 districts that would currently qualify.

This provision, the State asserts, is necessary to allow districts with high housing costs to recruit and retain high-quality teachers and is based on the actual costs of providing an education in those 17 districts that would qualify.

[\*\*935] Counsel for the State could not substantiate, when asked at oral arguments, its rationale that those 17 districts pay higher salaries or would pay higher salaries to teachers or that higher education costs are linked to housing prices. Further, as the plaintiffs noted, the evidence at trial demonstrated that [\*\*37] it is the districts with high-poverty, high at-risk student populations that need additional help in attracting and retaining good teachers.

Furthermore, we note that this weighting, like the increase in the LOB cap, demonstrates the State is not meeting its obligation to provide suitable financing. Also, as with the other property-tax based provisions of H.B. 2247 there is a potentially disequalizing effect. Moreover, since the original reason given for the enhancement, teacher salary increases, has been removed from the legislation, the funds generated can be used for any purpose.

#### LOW-ENROLLMENT WEIGHTING

Low-enrollment weighting provides a sliding scale of adjustments for districts with fewer than 1,750 students; as district enrollment decreases past that number, the size of the adjustment increases. In other words, smaller school districts receive more favorable treatment based on the premise that they require additional [\*\*836] funding to balance economies of scale at work for larger districts.

H.B. 2247 did not substantively change the low-enrollment weighting; it remains a significant component of the financing formula. Extrapolating from State Department of Education data, [\*\*38] the plaintiffs argue that total state spending on the low-enrollment weighting in 2003-04 was \$ 226,189,852. In comparison, total state spending in 2003-04 on at-risk students was \$ 47,123,964 and on bilingual students was \$ 8,352,964. The plaintiffs also note that application of the various weighting factors results in a large disparity in per pupil aid, ranging in 2002-03 from \$ 16,968 to \$ 5,655, and this disparity is largely caused by the low-enrollment factor.

Because of the significant impact of low-enrollment weighting on the financing formula, in our January opin-

ion and April order we sought cost justifications for it. In response to questions from the court at oral arguments, counsel for the State could not provide any cost-based reason for using the 1,750 enrollment figure or for the weight's percentage. This absence of support is particularly troubling when we consider the disparity this low-enrollment weighting may produce. H.B. 2247 has the potential to worsen this inequity because it eliminates correlation weighting for districts with 1,750 enrollment or more. The funds allocated for correlation weighting were transferred to the BSAPP; this gives low-enrollment districts [\*\*39] even more of the funds that previously were devoted to balancing the disparities in per pupil funding caused by the low-enrollment weighting.

#### EXTRAORDINARY DECLINING ENROLLMENT

In addition to the declining enrollment provision of K.S.A. 2004 Supp. 72-6407(e)(2), H.B. 2247, as amended by S.B. 43, created two provisions concerning extraordinary declining enrollment. First, H.B. 2247 authorizes a district with "extraordinary declining enrollment," defined as declining enrollment over 3 years at a rate of 15 percent or 150 pupils per year, to apply to the Board of Tax Appeals (BOTA) for permission to levy an additional property tax if it has already adopted the maximum LOB. See H.B. 2247, sec. 29, repealed and replaced by S.B. 43, sec. 13. Currently only four [\*\*837] districts potentially would qualify for this provision. We will refer to this provision as the EDE-BOTA provision.

Second, H.B. 2247 requires districts entitled to equalizing supplemental capital improvements state aid on their bonds to seek approval from the Joint Committee on State Building Construction (JCSBC) prior to issuing new bonds if the district has had an "extraordinary declining enrollment." [\*\*40] " defined for purposes of this section as declining enrollment over 3 years at a rate of 5 percent or 50 pupils per year. If approval is denied, the district can still issue the bonds, but it does not receive any state aid on the bonds. See H.B. 2247, sec. 28, repealed and replaced [\*\*936] by S.B. 43, sec. 14. We will refer to this provision as the EDE-JCSBC provision.

The State asserts that these provisions, which are intended to help districts absorb lost revenue from declining enrollments, ensure consideration of actual costs because districts seeking to access authority for this additional local tax levy must document need before BOTA or JCSBC.

The Board contends it is difficult to assess the financial impact of these provisions because the money available under them is potentially unlimited, subject to each district's willingness to tap into its property tax base, and, when the EDE-BOTA provision applies, BOTA's ap-

proval. The Board urges us to sever these provisions pending appropriate cost analysis.

The plaintiffs contend these provisions are not based upon cost and exacerbate funding inequities in two ways. First, the plaintiffs point to the EDE-JCSBC provision which allows issuance [\*\*41] of bonds to construct new facilities but if permission is denied the district would not receive any state aid on the bonds. Plaintiffs contend that because wealthy districts with extraordinary declining enrollment such as Shawnee Mission receive no equalizing supplemental capital improvements state aid on their bonds, the new provision penalizes only districts with low property valuation and declining enrollment.

Second, the plaintiffs contend that these provisions exacerbate funding inequities because the extraordinary declining enrollment weight is added into the definition of a district's "adjusted enrollment" and thus adds to the base upon which the LOB is computed. [\*\*838] The effect of this is to provide 127 percent of any revenues lost from extraordinary declining enrollment. This effect is further compounded for those districts, like Shawnee Mission, that also benefit from the cost-of-living weight, which is also included in the "adjusted enrollment."

These provisions have the potential to be extremely disequalizing because they are unlimited and have been designed to benefit a very small number of school districts.

#### CAPITAL OUTLAY

In support of this provision of H.B. 2247, [\*\*42] the State relies upon an affidavit of Representative Mike O'Neal. The affidavit states the legislature was mindful that this court had noted the repeal of the capital outlay cap in its January opinion. The affidavit also states the decision to reimpose the cap at 8 mills was made after the legislature reviewed data from the Department of Education and heard from various districts. The Board does not offer any information as to whether actual costs were considered with respect to this provision.

The plaintiffs do not specifically address the extent to which actual costs were considered in imposing the new cap on capital outlay. The plaintiffs argue that, although H.B. 2247 reimposes a cap on the capital outlay authority, it still is disequalizing because it grandfathered those districts with a higher capital outlay resolution in place for up to 4 more years.

The State argues, without elaboration, that the 8 mill cap reflects the legislature's attempt to improve wealth equalization. The Board encourages the court to view this change favorably, despite the local property tax basis of this factor.

Because the provision is based on local property tax authority, the amount of revenue a [\*\*43] 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.

#### FINANCING FORMULA AS A WHOLE

With regard to the financing formula as a whole, the parties [\*\*839] basically restate the same arguments they made regarding the formula's components. The State claims that the increased funding provided by H.B. 2247 alleviates this court's constitutional concerns. The Board disagrees, but it considers the increased funding a good faith initial effort toward compliance and an installment on the first remedy year toward what may very well be a much larger obligation based on the evidence in this case. The plaintiffs argue [\*\*937] the increases in funding "fall grossly short of what is actually necessary to provide a constitutionally suitable education." The State contends that overall it considered, to the extent possible, actual costs, including the A&M study. The plaintiffs respond that actual costs were not considered; rather the financing formula as amended by H.B. 2247 is merely a product of political compromise and the legislative majority's [\*\*44] unwillingness to consider raising taxes to increase funding of schools. The Board argues H.B. 2247 does not fund actual costs and has many inequities.

We agree with the Board that although H.B. 2247 does provide a significant funding increase, it falls short of providing constitutionally adequate funding for public education. It is clear that the legislature did not consider what it costs to provide a constitutionally adequate education, nor the inequities created and worsened by H.B. 2247. At oral arguments, counsel for the State could not identify any cost basis or study to support the amount of funding provided by H.B. 2247, its constellation of weightings and other provisions, or their relationships to one another.

Particularly, we share the plaintiffs' and Board's concern that H.B. 2247's increased dependence on local property taxes, as decided by each school district, exacerbates disparities based on district wealth. We fully acknowledge that once the legislature has provided suitable funding for the state school system, there may be nothing in the constitution that prevents the legislature from allowing school districts to raise additional funds for enhancements to the constitutionally [\*\*45] adequate education already provided. At least to the extent that funding remains constitutionally equalized, local assessments for this purpose may be permissible. Clearly, however, such assessments are not acceptable as a substitute for [\*\*840] the state funding the legislature is

obligated to provide under Article 6, § 6. That should pre-exist the local tax initiatives.

As of this time, the legislature has failed to provide suitable funding for a constitutionally adequate education. 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 [\*\*\*46] provisions cannot be allowed to exacerbate inequities while we wait for the legislature to perform its constitutional duty.

We conclude that, on the record before us, a continuing lack of constitutionally adequate funding together with the inequity-producing local property tax measures mean the school financing formula, as altered by H.B. 2247, still falls short of the standard set by Article 6, § 6 of the Kansas Constitution.

#### COST STUDY

As we prepare to consider an appropriate remedy and the mechanisms necessary to assure that future school financing will meet the requirements of the constitution, we agree with all parties that a determination of the reasonable and actual costs of providing a constitutionally adequate education is critical. H.B. 2247 provides for a Legislative Post Audit "cost analysis study."

Section 3 of the legislation reads in relevant part:

"(a) In order to assist the legislature in the gathering of information which is necessary for the legislature's consideration when meeting its constitutional duties to: (1) Provide for intellectual, educational, vocational and scientific improvement in public schools established and maintained by the state; and [\*\*\*47] (2) make suitable provision for the finance of educational interests of the state, the division of post audit shall conduct a professional cost study analysis to determine the costs of [\*841] delivering the kindergarten and grades one through 12 [\*\*938] curriculum, related services and other programs

mandated by state statute in accredited schools. . . .

"(b) Any study conducted pursuant to subsection (a) shall include:

(1) A determination of the services or programs required by state statute to be provided by school districts. Such review shall include high school graduation requirements, admissions requirements established by the state board of regents pursuant to K.S.A. 76-716, and amendments thereto, state scholarship requirements established by the state board of regents and courses of instruction at various grade levels required by state statute.

(2) A study of the actual costs incurred in a sample of school districts to provide reasonable estimates of the costs of providing services and programs required by state statute to be provided by school districts for regular elementary and secondary education, including instruction, administration, support staff, supplies, [\*\*\*48] equipment and building costs.

(3) A study of the actual costs incurred in a sample of school districts to provide reasonable estimates of the costs of providing services and programs required by state statute to be provided by school districts for specialized education services including, but not limited to, special education and related services, bilingual education and at-risk programs.

(4) A study of the factors which may contribute to the variations in costs incurred by school districts of various sizes and in various regions of the state when providing services or programs required by state statute to be provided by school districts. Such study shall include the administrative costs of providing such services and programs.

(5) An analysis in a sample of districts as determined by the legislative post auditor showing such things as:

(A) The percent of the estimated cost of providing services and programs required by state statute that could have been funded by the various types of state aid the districts received in the most recently completed school year, as well as the percent funded by the district's local option budget;

(B) the percent of district funding that is spent [\*\*\*49] on instruction;

(C) the percent of district funding that is spent on central administration; and

(D) the percent of district funding that is spent on support services.

(6) A review of relevant studies that assess whether there is a correlation between amounts spent on education and student performance.

(7) A review to determine whether students who are counted as a basis for computing funding for specialized educational services are actually receiving those services.

(8) Any additional reviews or analyses the legislative post auditor considers relevant to the legislature's decisions regarding the cost of funding services or programs required by state statute to be provided by school districts.

"(d) Following the completion of such cost analysis study, the legislative post auditor shall submit a detailed report thereon to the legislature on or before the [\*842] first day of the 2006 legislative session. If additional time is needed to provide the most accurate information relating to any area of requested study, the legislative post auditor shall so report to the legislature, explaining the reasons for the need for additional time and providing a reasonable time frame for [\*\*\*50] completion of that aspect of the study. In that event, the legislative post auditor shall submit a report on that portion of the study which has been completed before the start of the 2006 legislative session and the balance of such report shall be submitted within the time frame established by the legislative post auditor when requesting additional time." H.B. 2247, sec. 3.

The plaintiffs and the Board contend that the H.B. 2247 study is designed merely to determine the amounts of historical expenditures under the system and that the legislature will then equate those expenditures to reasonable and actual costs of a future system [\*\*939] we should find constitutional. This characterization is not entirely correct.

Although the language of the statute is not completely clear, it can be read to require post audit, among other things, to study historical costs in a sample of districts and then extrapolate from the collected data a reasonable estimate of the future cost of providing services and programs "required by state statute." Estimating future rea-

sonable and actual costs based on historical expenditures can be acceptable if post audit ensures that its examination of historical expenditures [\*\*\*51] corrects for the recognized inadequacy of those expenditures and ensures that a reliable method of extrapolation is adopted. Post audit must incorporate those components into its study, and its report to the legislature must demonstrate how the incorporation was accomplished.

It also appears that the study contemplated by H.B. 2247 is deficient because it will examine only what it costs for education "inputs" — the cost of delivering kindergarten through grade 12 curriculum, related services, and other programs "mandated by state statute in accredited schools." It does not appear to demand consideration of the costs of "outputs" — achievement of measurable standards of student proficiency. As the Board pointed out in its brief, nowhere in H.B. 2247 is there specific reference to K.S.A. 72-6439(a) or (c), which provided the criteria used by this court in our January 2005 opinion to evaluate whether the school financing formula provided a constitutionally adequate education. [\*843] H.B. 2247 also does not mention educational standards adopted by the Board pursuant to its constitutional responsibilities under Article 6, § 2(a) or in fulfilling its statutory directives. [\*\*\*52] Without consideration of outputs, any study conducted by post audit is doomed to be incomplete. Such outputs are necessary elements of a constitutionally adequate education and must be funded by the ultimate financing formula adopted by the legislature. See *Montoy II*, 278 Kan. at 773 (quoting K.S.A. 72-6439) (constitutionally suitable education is one in which "schools meet the accreditation requirements and [students are] achieving an 'improvement in performance that reflects high academic standards and is measurable.>"; see also Kan. Const., Art. 6, § 1 (legislature shall provide for intellectual, educational, vocational, and scientific improvement). The post audit study must incorporate the consideration of outputs and Board statutory and regulatory standards, in addition to statutorily mandated elements of kindergarten through grade 12 education. Further, post audit's report to the legislature must demonstrate how this consideration was accomplished.

The study parameters in H.B. 2247 do provide for analysis of the percentages of sample school district spending on instruction, central administration, and support services. They [\*\*\*53] also specifically provide for exploration of several components of the current financing formula. We endorse these provisions with the exception that all administrative costs, not just costs of central administration, must be analyzed. All of this information should assist post audit and, eventually, the legislature and this court in evaluating the reasonableness or appropriateness of cost estimates. Suitable finance of a constitutionally adequate education does not necessarily

include every item each school district or student wants; its focus must be on needs and the appropriate costs thereof.

#### REMEDY

In light of the legislature's unsatisfactory response to our January opinion we are again faced with the need to order remedial action. See *Montoy II*, 278 Kan. at 775 ("The legislature, by its action or lack thereof in the 2005 session, will dictate what form our remedy, if necessary, will take."). We are guided not only by our interpretation [\*844] of Article 6, § 6, but also by the present realities and common sense. Time is running out for the school districts to prepare their budgets, staff their classrooms and offices, and begin the 2005-06 school year. [\*\*\*54] School districts need to know what funding will be available as soon as possible.

[\*\*940] The legislature has known for some time that increased funding of the financing formula would be necessary. In July 2002, the Kansas Department of Education prepared a computation of the cost of implementing the recommendations in the A&M study. Calculated in 2001 dollars the total cost of the increase would have been \$ 725,669,901 for each school year. Additionally, the Department adjusted that number because of changes in LOB funding and applied a 2 percent inflation factor for each of the school years of 2001-02, 2002-03, and 2003-04. The resulting number was an increase in costs of approximately \$ 853 million. As noted, the A&M study was commissioned by the legislature, monitored by the legislature's committees, paid for by the legislature with tax dollars, and received by the legislature. Although the State claims it considered the A&M study, it in fact chose to impugn its design and ignore its recommendations. It can no longer do so.

This case is extraordinary, but the imperative remains that we decide it on the record before us. The A&M study, and the testimony supporting it, appear in the record [\*\*\*55] in this case. The State cites no cost study or evidence to rebut the A&M study, instead offering conclusory affidavits from legislative leaders. Thus the A&M study is the only analysis resembling a legitimate cost study before us. Accordingly, at this point in time, we accept it as a valid basis to determine the cost of a constitutionally adequate public education in kindergarten through the 12th grade. The alternative is to await yet another study, which itself may be found legislatively or judicially unacceptable, and the school children of Kansas would be forced to further await a suitable education. We note that the present litigation was filed in 1999.

The initial attractiveness of the Board's suggestion that we accept H.B. 2247 as an interim step toward a full

remedy pales in light of the compelling arguments of immediate need made by the plaintiffs and amici curiae. They remind us that we cannot continue to [\*845] ask current Kansas students to "be patient." The time for their education is now. As the North Carolina Supreme Court eloquently stated:

"The children . . . are our state's most valuable renewable resource. If inordinate numbers of them are wrongfully being denied [\*\*\*56] their constitutional right to the opportunity for a sound basic education, our state courts cannot risk further and continued damage because the perfect civil action has proved elusive. We note that the instant case commenced ten years ago. If in the end it yields a clearly demonstrated constitutional violation, ten classes of students as of the time of this opinion will have already passed through our state's school system without benefit of relief. We cannot similarly imperil even one more class unnecessarily." *Hoke Cty Bd. of Educ. v. State*, 358 N.C. 605, 616, 599 S.E.2d 365 (2004).

As set forth earlier in this opinion, the Legislative Division of Post Audit has been commissioned to conduct a comprehensive and extensive cost study to be presented to the 2005-06 legislature. With such additional information available, the legislature should be provided with the cost information necessary to make policy choices establishing a suitable system of financing of Kansas public schools.

We conclude, however, that additional funding must be made available for the 2005-06 school year to assist in meeting the school districts' immediate needs. We are mindful of the Board's [\*\*\*57] argument that there are limits on the amount the system can absorb efficiently and effectively at this point in the budget process. We further conclude, after careful consideration, that at least one-third of the \$ 853 million amount reported to the Board in July of 2002 (A&M study's cost adjusted for inflation) shall be funded for the 2005-06 school year.

Specifically, no later than July 1, 2005, for the 2005-06 school year, the legislature shall implement a minimum increase of \$ 285 million above the funding level for the 2004-05 school year, which includes the \$ 142 million presently contemplated in H.B. 2247. In deference to the cost study analysis mandated by the legislature in H.B. 2247, the implementation beyond the 2005-06 school year will be contingent upon the results of the study directed by H.B. 2247 and this opinion.

[\*\*941] [\*846] Further, if (1) the post audit study is not completed or timely submitted for the legislature to consider and act upon it during the 2006 session, (2) the post audit study is judicially or legislatively determined not to be a valid cost study, or (3) legislation is not enacted which is based upon actual and necessary costs of providing a suitable system [\*\*\*58] of finance and which equitably distributes the funding, we will consider, among other remedies, ordering that, at a minimum, the remaining two-thirds (\$ 568 million) in increased funding based upon the A&M study be implemented for the 2006-07 school year.

Clearly, the legislature's obligation will not end there; the costs of education continue to change and constant monitoring and funding adjustments are necessary. H.B. 2247's provisions regarding establishment of the 2010 Commission and mandating annual increases based upon the Consumer Price Index may satisfy these demands, but the legislature may seek other means to assure that Kansas school children, now and in the future, receive a constitutionally adequate education.

In addition, on the rationale previously expressed, the new funding authorized by H.B. 2247's provisions regarding the increased LOB authority over 25 percent, the cost-of-living weighting, and both extraordinary declining enrollment provisions are stayed. The remainder of H.B. 2247, as amended by the legislature in compliance with this opinion, shall remain in effect for the 2005-06 school year.

We readily acknowledge that our present remedy is far from perfect; [\*\*\*59] indeed, we acknowledge that it is merely a balancing of several factors. Among those factors are:

- (1) The ever-present need for Kansas school children to receive a constitutionally adequate education. *Montoy II*, 278 Kan. at 773.
- (2) The role of this court as defined in the Kansas Constitution. See *Berentz v. Comm'rs of Coffeyville*, 159 Kan. 58, 152 P.2d 53 (1944).
- (3) The need for the legislature to bring its school finance legislation into constitutional compliance, with acknowledgment of the unique difficulties inherent in the legislative process.

[\*847] (4) The press of time caused by the rapidly approaching school year.

Accordingly, we retain jurisdiction of this appeal. If necessary, further action will be taken by this court as is deemed advisable to ensure compliance with this opinion.

[MONTOY 5- July 28, 2006]

RYAN MONTOY, et al., Appellees/Cross-appellants, v. STATE OF KANSAS, et al.,  
Appellants/Cross-appellees.

No. 92,032

SUPREME COURT OF KANSAS

282 Kan. 9; 138 P.3d 755; 2006 Kan. LEXIS 479

July 28, 2006, Opinion Filed

**SUBSEQUENT HISTORY:** US Supreme Court certiorari denied by *Bergman v. Kansas*, 127 S. Ct. 730, 166 L. Ed. 2d 562, 2006 U.S. LEXIS 9262 (U.S., 2006)

**PRIOR HISTORY:** [\*\*\*1] Appeal from Shawnee district court; **TERRY L. BULLOCK**, judge. *Montoy v. State*, 278 Kan. 769, 102 P.3d 1160, 2005 Kan. LEXIS 2 (2005)

**DISPOSITION:** Appeal dismissed and remanded with directions.

**COUNSEL:** Alok Ahuja, of Lathrop & Gage L.C., of Overland Park, and Stephen R. McAllister, special assistant attorney general, argued the cause, and Jeffrey R. King, of Lathrop & Gage L.C., of Overland Park, David W. Davies, assistant attorney general, and Phill Kline, attorney general, were with Alok Ahuja on the briefs for appellant/cross-appellee State of Kansas.

Dan Biles, of Gates, Biles, Shields & Ryan, P.A., of Overland Park, argued the cause, and Rodney J. Bieker, of Kansas Department of Education, was with him on the briefs for appellants/cross-appellees Janet Waugh, Sue Gamble, John Bacon, Bill Wagnon, Connie Morris, Kathy Martin, Kenneth Willard, Carol Rupe, Iris Van Meter, Steve Abrams, and Bob Corkins.

Alan L. Rupe, of Kutak Rock LLP, of Wichita, argued the cause, and Richard A. Olmstead, of the same firm, and John S. Robb, of Somers Robb & Robb, of Newton, were with him on the brief for appellees/cross-appellants.

Patricia E. Baker and David C. Cunningham, of Kansas Association of School Boards, of Topeka, were on the

brief for amicus curiae Kansas Association [\*\*\*2] of School Boards.

Lara M. Owens and Mark R. Thompson, of Seigfried, Bingham, Levy, Selzer & Gee, P.C., of Kansas City, Missouri, were on the brief for amicus curiae Kansas Families United for Public Education.

David M. Schauner and Robert M. Blaufuss, of Kansas National Education Association, of Topeka, were on the brief for amicus curiae Kansas National Education Association.

Stephen R. McAllister and Todd N. Thompson, of Thompson, Ramsdell & Qualseth, P.A., of Lawrence, were on the brief for amicus curiae Legislative Coordinating Council.

Bernard T. Giefer, of Giefer Law LLC, of WaKeeney, was on the brief for amicus curiae Unified School District No. 208, Trego County, Kansas (WaKeeney), et al. (126 other Kansas school districts).

Bradley R. Finkeldei and Peter C. Curran, of Stevens & Brand, L.L.P., of Lawrence, were on the brief for amicus curiae Unified School District No. 229 (Blue Valley School District).

Thomas R. Powell and Roger M. Theis, of Hinkle Elkouri Law Firm L.L.C., of Wichita, were on the brief for amicus curiae Unified School District No. 259, Sedgwick County, Kansas.

Anne M. Kindling, of Goodell, Stratton, Edmonds & Palmer, L.L. [\*\*\*3] P., of Topeka, was on the brief for amicus curiae Unified School District No. 512, Shawnee Mission, Kansas.

JUDGES: NUSS, J., not participating. ROSEN J., concurring. BEIER, J., concurring in part and dissenting in part. LUCKERT, J., joins in the foregoing concurring and dissenting opinion.

#### OPINION

[\*10] [\*\*757] *Per Curiam*: This is the fifth time this case has been before this court since the district court *sua sponte* dismissed the case on November 21, 2001. In that initial appeal by the plaintiffs, we reversed the district court and remanded the case for further proceedings in *Montoy v. State*, 275 Kan. 145, 62 P.3d 228 (2003) (*Montoy I*). On remand, the district court held that the Kansas School District Finance and Quality Performance Act (SDFQPA), K.S.A. 72-6405 *et seq.*, was unconstitutional. The defendants appealed, and on January 3, 2005, this court affirmed the district court in part, concluding that the legislature had failed to make suitable provision for the finance of the public schools as required by Article 6, § 6 of the Kansas Constitution. *Montoy v. State*, 278 Kan. 769, 120 P.3d 1160 (2005) (*Montoy II*). We [\*\*\*4] stayed the issuance of the mandate to allow the legislature a reasonable time to correct the constitutional infirmity in the school finance formula and set a deadline of April 12, 2005, for that to be accomplished.

Although we held that increased funding would be required, we did not dictate the manner in which the legislature should amend the financing formula to bring it into constitutional compliance, noting, as did the district court, that "there are literally hundreds of ways" the financing formula can be altered to comply with Art. 6, § 6." 278 Kan. at 775. However, we did make it clear that the actual costs of providing a constitutionally suitable education and the equity with which the funds are distributed are critical factors for the legislature to consider in crafting a suitable formula for financing public education. 278 Kan. at 775.

The legislature responded by enacting changes to the school finance formula on March 30, 2005. (2005 H.B. 2247 [L. 2005, ch. 152], modified by 2005 S.B. 43 [L. 2005, ch. 194] [collectively referred to as H.B. 2247].) See *Montoy v. State*, 279 Kan. 817, 819, [\*11] 112 P.3d 923 (2005) ( [\*\*\*5] *Montoy III*). H.B. 2247 provided a funding increase of approximately \$ 142 million for the 2005-06 school year.

The changes made by H.B. 2247 included modifications to the weighting components of the finance formula and changes to the authority of certain districts to raise revenue through local ad valorem property taxes. H.B. 2247 modified the funding formula by increasing the Base State Aid Per Pupil (BSAPP), bilingual, and at-risk weightings; phasing in increases in special

education funding; eliminating the correlation weighting (while retaining the low enrollment weighting); and providing for annual adjustments to general state aid funding levels in accordance with the Consumer Price Index-Urban (CPI-U).

With respect to local revenue generating provisions, H.B. 2247 provided for incremental increases in the 25 percent cap on local option budgets (LOB) over the following 3 years to 30 percent in the 2007-08 school year; authorized districts with high housing costs to levy a "cost-of-living" ad valorem tax to pay enhanced teacher salaries; and authorized [\*\*758] districts with extraordinary declining enrollment to apply to the Board of Tax Appeals (BOTA) for permission to levy [\*\*\*6] an additional ad valorem tax.

H.B. 2247 also provided for a cost study to be performed by 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." 279 Kan. at 821.

After the new legislation became law, this court issued an order to show cause directing the parties to address whether the amendments to the financing formula met the legislature's constitutional obligation to "make suitable provision for financing" of the public schools. 279 Kan. at 820. The parties were directed to address whether the actual costs of providing a suitable education were considered with respect to each component of the formula, as well as the formula as a whole, "and whether H.B. 2247 exacerbates and/or creates funding disparities among the districts." 279 Kan. at 820.

After an expedited briefing and argument schedule, on June 3, 2005, this court held that the changes made by H.B. 2247 failed [\*12] to bring the state's school financing formula into compliance with Article 6, § 6 of the Kansas Constitution. 279 Kan. at 840. [\*\*\*7] This court considered each component of the formula, the new local ad valorem tax authorizations, and the overall funding provided by the changes as a whole and held that although H.B. 2247 provided a significant funding increase, it still failed to provide constitutionally suitable funding for public education because the changes were not based on considerations of the actual costs of providing a constitutionally adequate education and exacerbated existing funding inequities. 279 Kan. at 839-40.

Specifically, this court found that the increases in the BSAPP, at-risk weighting, bilingual weighting, and special education funding all varied substantially from the cost information in the record, and that the State

had failed to provide any cost basis to support the amount of funding provided. 279 Kan. at 831-33, 839. Further, this court noted that the low enrollment weighting was not altered, and although we had specifically sought cost justifications for this significant funding component, none was provided. 279 Kan. at 836.

Moreover, this court found certain components of the amended formula exacerbated unjustified inequities in the distribution [\*\*\*8] of funding. For example, we found that the funding disparity caused by the low enrollment weighting was exacerbated by the elimination of the correlation weighting for middle-sized and large districts. By rolling those funds into the BSAPP, low enrollment districts were given "even more of the funds that previously were devoted to balancing the disparities in per pupil funding caused by the low-enrollment weighting." 279 Kan. at 836.

We also found that "H.B. 2247's increased dependence on local property taxes, as decided by each school district, exacerbate[d] disparities based on district wealth." 279 Kan. at 839.

We held that the new cost-of-living property tax provision was not based on any evidence that there was any link between high housing costs and higher education costs or that the 17 districts that would benefit from the provision pay higher teacher salaries. We noted that the evidence at trial demonstrated the opposite: that the districts with high-poverty, high at-risk student populations [\*13] are the ones that need help attracting and retaining teachers. 279 Kan. at 835.

This court also held that H.B. 2247's two extraordinary [\*\*\*9] declining enrollment provisions were potentially "extremely disqualifying because they are unlimited and have been designed to benefit a very small number of school districts." 279 Kan. at 838.

With respect to the increase in the LOB cap, this court found that the failure to provide for equalizing state aid for the new level of LOB authority worsened wealth-based disparities between districts, because districts with high assessed property values can generate maximum LOB revenues with far less [\*\*759] tax effort than districts with lower assessed property values and median family incomes. 279 Kan. at 834.

Moreover, this court found it significant that H.B. 2247 did not attempt to correct the problem identified in *Montoy II*, namely, that unconstitutional underfunding has forced some districts to "use the LOB to fund the State's obligation to provide a constitutionally adequate

education rather than enhancements," as the LOB was originally intended. 279 Kan. at 834.

This court also concluded that the Legislative Division of Post Audit (LPA) cost study provided for by H.B. 2247 was insufficient to determine the actual and necessary costs [\*\*\*10] of providing a constitutionally suitable education because it would examine only the cost of "inputs"-the curriculum, programs, and related services required by law, and would not consider the costs of "outputs"-the cost of achieving measurable standards of proficiency. 279 Kan. at 842-43. Accordingly, the court required the cost study to incorporate the costs of outputs in addition to the statutorily mandated elements of a K-12 education. 279 Kan. at 843.

Because time was running out for school districts to prepare for the 2005-06 school year, there was no evidence of the actual costs of a suitable education other than the Augenblick & Myers (A&M) study, and the litigation had been pending since 1999, this court accepted the A&M study "as a valid basis to determine the cost of a constitutionally adequate public education" and ordered the legislature to implement for the 2005-06 school year a minimum funding increase of \$ 285 million above the 2004-05 funding level, which [\*14] included the \$ 142 million provided by H.B. 2247. 279 Kan. at 844-45. The \$ 285 million increase represented one-third of the \$ 853 million estimated cost of implementing [\*\*\*11] A&M's recommendations.

Deferring to the cost study analysis to be performed by LPA, this court held that implementation of the remaining two-thirds of the A&M recommendation would be contingent upon the results of the LPA study. However, absent compliance, this court stated we would consider ordering an increase in funding of the remaining \$ 568 million for the 2006-07 school year, in addition to other remedies. 279 Kan. at 846.

This court also ordered a stay on the increased LOB cap, the cost-of-living weighting, and both extraordinary declining enrollment provisions, due to their potential to exacerbate inequities in funding. 279 Kan. at 846. We retained jurisdiction, stating that further action, if necessary "will be taken by this court as is deemed advisable to ensure compliance with this opinion." 279 Kan. at 847.

The governor then called the legislature into special session. See Governor's Proclamation of June 9, 2005. By July 2, 2005, the legislature had failed to comply with this court's June 3, 2005, opinion, so we issued an order directing the parties to appear on July 8, 2005, and show cause "why this Court should not

[\*\*\*12] enter an ORDER enjoining the expenditure and distribution of any funds for the operation of Kansas schools pending the Legislature's compliance with this Court's June ruling regarding minimum funding increases for the 2005-06 school year." *Montoy*, Order of July 2, 2005.

Thereafter, on July 6, 2005, the legislature enacted S.B. 3 (L. 2005 Special Session, ch. 2), which provided a funding increase of \$ 147 million over the \$ 142 million provided by H.B. 2247.

With respect to the various components of the formula, S.B. 3 increased the BSAPP by another \$ 35 to \$ 4,257; increased the at-risk weighting from .145 to .193; increased funding for special education by raising the excess cost reimbursement from 88 percent in 2006-07 to 92 percent; lowered the enrollment cut-off for the low enrollment weighting from 1,725 students to 1,662; restored the correlation weighting with a threshold of 1,622 students; eliminated the cap on LOB equalizing supplemental state aid and increased access to LOB equalization for districts with lower property [\*\*\*15] valuations by raising the AVPP entitlement from the 75th percentile to the 81.2 percentile; replaced the extraordinary declining enrollment [\*\*\*13] (EDE)-BOTA provision with a similar declining enrollment provision that applies more [\*\*\*760] broadly to any district with a decline in enrollment from the previous year; and provided for matching state aid for districts with lower property valuations.

S.B. 3 also amended the cost study provision to require the LPA to conduct two cost studies: One would study the cost of inputs, and the other would estimate the cost of meeting student performance outcome standards adopted by the State Board of Education (Board). See K.S.A. 2005 Supp. 46-1131.

The parties appeared before the court on July 8, 2005. The issue before the court at the July 8 proceeding was whether the new legislation complied with this court's June 3, 2005, order for a minimum funding increase. At that hearing, all parties agreed that S.B. 3 complied with the court's June 3, 2005, order.

On July 8, 2005, this court held: "The legislature, by enacting S.B. 3, has complied with our June 3 opinion regarding the minimum funding increase" for the 2005-06 school year, and we approved the school finance formula, as amended by H.B. 2247 and S.B. 3, "for interim purposes." *Montoy*, Order of July 8, 2005. Further, [\*\*\*14] because S.B. 3 increased LOB equalization and provided increased access to such equalization, this court lifted the stay on the provision increasing the LOB authority. Order of July 8, 2005. The stay on the EDE-BOTA provision was lifted as well, because S.B. 3 replaced it with a new provision designed

to benefit a larger number of districts. The stays on the cost-of-living weighting and the EDE-Joint Committee on State Building Construction (JCSBC) provisions, however, were continued.

This court retained jurisdiction "to review further legislative action which may modify, repeal, or make permanent the temporary solution contained in S.B. 3." Order of July 8, 2005.

On January 9, 2006, LPA completed and submitted to the legislature the cost study report commissioned by H.B. 2247/S.B. 3. As pointed out by the State in its argument before this court, the legislature referred to this report throughout its 2006 session and sought further input and explanation from LPA during the session.

[\*16] Thereafter, the legislature enacted changes to the school finance formula in S. B. 549 (L. 2006, ch. 197), which was signed by the governor on May 19, 2006.

The plaintiffs then filed [\*\*\*15] a motion for a show cause order and briefing schedule, and on May 22, 2006, this court ordered the parties to brief and argue the issue whether S.B. 549 satisfies our court's prior orders.

Rather than modifying the provisions of S.B. 3/H.B. 2247, the legislature materially and fundamentally changed the way K-12 is funded in this state.

S.B. 549 adopted a 3-year funding scheme for K-12. It also alters the formula components by creating two additional at-risk weightings: the high-density at-risk weighting which provides additional at-risk funding for districts with high percentages of at-risk students; and the nonproficient at-risk weighting, which provides \$ 10 million in additional funding in 2006-07 for students who are not proficient in reading or math, but are not classified as at-risk (eligible for the federal free lunch program).

An additional fundamental change occurred in providing flexibility to local districts to spend money received for at-risk, preschool at-risk, and bilingual education programs interchangeably. More significant are the changes that S.B. 549 made in the LOB.

The school finance formula provided a feature designed to equalize the ability [\*\*\*16] of districts with lower property wealth to raise money through the use of the LOB. The formula was designed so that districts with an assessed valuation per pupil (AVPP) below the 75th percentile would receive supplemental aid in an amount designed to bring them up to par with the district at the 75th percentile of AVPP. Under this formula, districts with an AVPP above the 75th percentile

would not receive supplemental state aid. K.S.A. 72-6434.

The legislature has increased equalization in two ways. First, it increased the LOB equalization threshold from the 75th percentile to the 81.2 percentile of AVPP. K.S.A. 2005 Supp. 72-6434(a). [\*\*\*761] Accordingly, districts with an assessed valuation per pupil below the 81.2 percentile would receive supplemental aid on the LOBs [\*\*\*17] in an amount designed to bring those districts up to par with the districts at the 81.2 percentile of AVPP.

Second, the 25 percent LOB cap on supplemental general state aid was eliminated. See S.B. 3, sec. 12(b). In S.B. 549, the LOB authority was increased to 30 percent for the 2006-07 school year and 31 percent for 2007-08 and thereafter. An election would be required [\*\*\*17] to adopt an LOB in excess of 31 percent. S.B. 549 did not change the AVPP threshold and did not impose a limit on equalization supplemental aid.

S.B. 549 further requires that such supplemental state aid be used to meet accreditation requirements, provide programs required by law, and improve student performance. S.B. 549, sec. 20(e)(1). The 3-year cumulative total of such aid under S.B. 549 is \$ 74 million. Added to H.B. 2247/S.B. 3's increase of \$ 47.7 million, the estimated increase since *Montoy II* is \$ 121.7 million.

Under the prior structure, LOB state aid funding has never been considered part of the foundation level of funding provided by the State for a district's basic operating expenses. However, S.B. 549 now requires that supplemental state aid be applied to meet basic educational requirements, essentially making LOB state aid part of the foundation level of funding.

Further, the 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. *Montoy III*, 279 Kan. at 834 (citing [\*\*\*18] *Montoy II*, 278 Kan. at 774). S.B. 549, however, now provides that school districts are required to use LOB state aid moneys to fund basic educational expenses.

The plaintiffs point out that these changes to the LOB state aid do not provide new money and are nothing more than a "money remaining scheme." Regardless of whether LOB state aid is new money, the point is that these changes to the equalizing state aid provisions of the LOB component of the formula fundamentally alter the structure of the funding system.

In addition, S.B. 549 increases the BSAPP from \$ 4,257 to \$ 4,316 in 2006-07; to \$ 4,374 in 2007-08; and

to \$ 4,433 in 2008-09. That amounts to an increase of \$ 101.25 million over the 3 years, and [\*18] \$ 183.75 million since January 3, 2005. The low enrollment weighting adjustment was lowered to 1,637 pupils in 2006-07 and 1,622 pupils in 2007-08 and 2008-09. The high enrollment weighting (formerly the correlation weighting) threshold was lowered to correspond to the changes in the low enrollment weighting, resulting in \$ 18.5 million over the 3-year period.

At-risk weighting was increased to 0.278 for 2006-07, 0.378 for 2007-08, and 0.456 for 2008-09, resulting [\*\*\*19] in an estimated 3-year cumulative increase of \$ 152.55 million. The 3-year total for high-density at-risk is \$ 29.6 million. Bilingual weighting remained unchanged at .395 (based upon the number of student contact hours in a bilingual program). Special education excess costs reimbursement is set at 92 percent, totaling an estimated \$ 80.3 million over 3 years, and \$ 111.5 million since January 3, 2005. S.B. 549 provides an estimated total funding increase of \$ 466.2 million. The total increase in funding since January 3, 2005, is an estimated \$ 755.6 million.

S.B. 549 leaves intact the cost-of-living weighting, which is a new local property tax levy intended to allow districts with higher regional costs to raise additional revenue, purportedly to fund higher teacher salaries, although the requirement that funds be used for that purpose was removed from the statute. See 279 Kan. at 835. While we stayed the effect of this provision last year due to concerns about wealth-based disparities, nevertheless, this new component alters the funding formula.

We begin our analysis by addressing the State's first argument that (1) the school finance formula challenged by the [\*\*\*20] plaintiffs no longer exists, and thus, the case is moot, and (2) this court cannot engage in the fact [\*\*\*762] finding necessary to determine the constitutionality of S.B. 549. The first argument was raised in *Montoy III*, and we rejected it because this case was and continues to be in the remedial stages, or to be more precise, the compliance stage. It continues to have no merit, and we again reject it.

As to the State's second part of the argument, we agree that this court is an appellate court and not a fact-finding court. The constitutionality of S.B. 549 is not before this court. It is new legislation and, if challenged, its constitutionality must be litigated in a new [\*19] action filed in the district court. We have already made the determination that the school finance formula which was before this court in *Montoy II* was unconstitutional. The school finance system we review today is not the system we reviewed in *Montoy II* or *Montoy III*. The sole issue now before this court is whether the

legislation passed in 2005 and S.B. 549 comply with the previous orders of this court. If they do then our inquiry ends and this case must be dismissed. A constitutional challenge of S. [\*\*\*21] B. 549 must wait for another day.

The State argues alternatively that the legislature has been highly responsive to the court's orders in enacting the 2005 legislation and S.B. 549 and, therefore, the appeal should be dismissed. It points out that the 2005 legislation and S.B. 549 together provide annual increased funding by the 2008-09 school year of \$ 755.6 million over that provided in 2004-05. The State further asserts the manner in which the funds are to be distributed is directly responsive to the concerns expressed by the court in its prior orders regarding at-risk students, special education students, and middle- and large-sized districts. The State also urges the court to lift the stay on the cost-of-living weighting.

Although noting it has some concerns with S.B. 549, the State Board of Education contends that S.B. 549, in conjunction with the changes made by the 2005 legislation, makes "suitable provision for finance" of the public schools as required by Article 6, § 6 of the Kansas Constitution, as construed by this court, and requests the court to release jurisdiction of the case.

The plaintiffs contend that S.B. 549 fails to comply with this court's prior [\*\*\*22] orders and fails to make suitable provision for finance of the public schools as required by Article 6, § 6 of the Kansas Constitution. The plaintiffs contend the funding increases and formula components of S.B. 549 are not based on the actual and necessary costs of providing a suitable system of finance of public education and do not distribute funding equitably, exacerbating existing constitutional deficiencies.

Specifically, the plaintiffs contend that S.B. 549's funding for the 2006-07 school year is not based on actual and necessary costs because the funding it provides under the components of the formula [\*\*\*20] is significantly less than the funding increase LPA concluded to be the actual and necessary costs of meeting the mandated performance standards for 2006-07. As a remedy, the plaintiffs request that we order the legislature to implement the LPA Cost Study Analysis outcomes based recommendations for the 2006-07 school year.

The State contends that in determining whether S.B. 549 complies with this court's orders, it would be inappropriate for the court to rely on the LPA Cost Study Analysis as evidence of actual costs because it is not part of the record on appeal, [\*\*\*23] and the validity of its conclusions have not been subjected to ex-

pert analysis and judicially determined through operation of the fact-finding process.

The plaintiffs contend the LPA Cost Study Analysis is part of the legislative history of S.B. 549 and, therefore, may properly be considered by the court. They argue that this court may accept the LPA Cost Study Analysis as substantial competent evidence of the actual and necessary costs of achieving the State Board's mandated proficiency standards because it was designed and funded by the legislature, performed by its employees, subject to its direction, and presented to the legislature.

First, we reject the State's contention that we may not consider the LPA Cost Study Analysis in determining whether the legislature complied with our orders. Although the LPA Cost Study Analysis is not [\*\*\*763] evidence in the record on appeal, it is part of the legislative history of S.B. 549. *Cf., Urban Renewal Agency v. Decker*, 197 Kan. 157, 160, 415 P.2d 373 (1966) (historical background, legislative proceedings, and changes in a statute during course of enactment may be considered by the court in determining legislative intent).

[\*\*\*24] The LPA Cost Study Analysis was commissioned by the legislature in order to assist in determining the actual costs of providing a suitable funding system. The legislature dictated the parameters of the study, the study was conducted by its employees, subject to the legislature's direction and oversight, the study was presented to the legislature early in the 2006 session, and there was an ongoing dialogue between the legislature and LPA concerning the study during the course of the legislative session. See Memorandum [\*\*\*21] of April 21, 2006 from LPA to all legislators. See also K.S.A. 2005 Supp. 46-1131 (commissioning LPA to conduct the Cost Study Analysis, setting the parameters of the study, and directing LPA to submit its report to the legislature by a date certain or request additional time); K.S.A. 46-1101 (legislative post audit committee comprised of five senators and five members of the house of representatives); K.S.A. 46-1102 (LPA headed by the post auditor, who is appointed by the legislative post audit committee); and K.S.A. 46-1103 (establishing LPA, and providing that [\*\*\*25] its employees are under the direct supervision of the post auditor in accordance with the policies adopted by the legislative post audit committee).

Accordingly, we may consider the LPA cost study as part of the legislative history of S.B. 549 in determining legislative intent as it is relevant to the question whether the legislature has complied with our orders in this case. That does not mean, however, that we may consider the findings and conclusions in the report as

substantial competent evidence of the actual and necessary costs of providing a suitable education.

The cost study has not been subjected to the fact-finding processes of litigation through which the parties were permitted to examine the validity and accuracy of the study, including the methodology and policy decisions supporting the study, the qualifications of the persons participating in the study, the assumptions underlying the study's conclusions, and the veracity of the underlying data. Although such inquiry is vital to determining the validity of the study's conclusions and the degree of weight to accord the study if offered at trial in the district court, this is an extraordinary appeal and the legislature [\*\*\*26] had the opportunity to analyze the methodology and policy decisions of the LPA Cost Study Analysis, and thus to accept or reject its findings as a factor in determining what is suitable finance for the Kansas school system.

There is no question that the legislature has substantially responded to our concerns that the funding formula failed to provide adequate funding for students in middle-sized and large districts with a high proportion of minority and/or at-risk and special education [\*\*\*22] students and that the special education, bilingual, and at-risk student weighting factors were distorted by the lack of any actual cost basis.

S.B. 549 and the 2005 amendments together provide an estimated annual increased funding by the 2008-09 school year of \$ 755.6 million over that provided in 2004-05. Of that total, \$ 246 million—almost one-third—is directed to at-risk students: \$ 206.5 million in new funding by 2008-09 has been provided through increases in the at-risk weighting from .10 to .456 by 2008-09; \$ 29.6 million in additional at-risk funding is directed to districts with high percentages of at-risk students; and \$ 10 million is provided to students who, though not classified [\*\*\*27] as "at-risk" under the free lunch eligibility criteria, nevertheless are not proficient in math or reading, based on statewide proficiency assessments.

Bilingual funding has been increased from 2 to .395, adding \$ 11 million in new funding as of 2005-06. Further, and significantly, the new legislation provides districts with the ability to use at-risk and bilingual funding interchangeably, giving districts with these students greater flexibility to use those funds to meet their needs.

[\*\*\*764] Special education excess cost reimbursement has been increased from 85 percent at the time of *Montoy II* to 92 percent, and provides by 2008-09 an additional \$ 111.5 million in new funding.

The legislature also responded to our concerns about the equitable distribution of funding. 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.

[\*\*\*28] Our concerns about the low enrollment weighting were addressed by reducing its relative significance in the funding formula by increasing funding to middle- and large-sized districts with high percentages of special needs students. The legislature has substantially increased the at-risk weighting, including the new high-density weighting designed to provide additional funding to middle- and large-sized districts with high percentages of at-risk students. [\*\*\*23] S.B. 549 and the 2005 amendments together have provided non-low enrollment districts with an additional \$ 47 million in new funding through the high enrollment weighting (formerly the correlation weighting), while reducing entitlement to the low enrollment weighting by lowering the cut-off from 1,725 pupils to 1,622 by 2007-08. In addition, we note that by restoring and increasing the high enrollment weighting, the legislature was directly responsive to our concern in *Montoy III* that the elimination of the correlation weighting exacerbated the disparities caused by the low enrollment weighting.

Further, the legislature responded to our concerns about wealth-based disparities inherent in the LOB by increasing the equalizing [\*\*\*29] LOB state aid A VPP percentile.

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.

The legislature has responded to this concern. The legislature has undertaken the responsibility to consider actual costs in providing a suitable system of school finance by commissioning the LPA to conduct an extensive cost study, creating the 2010 Commission to conduct extensive monitoring and oversight of the school finance system, and creating the School District Audit Team within LPA to conduct annual performance audits and monitor school district funding as directed by the 2010 Commission. In addition, the new legislation contains numerous provisions designed to improve reporting of costs, expenditures, and needs.



These new components provide the fundamental framework for a cost-based funding scheme in which the legislature will be regularly provided with the relevant, accurate information necessary to meet its constitutional obligation to [\*\*\*30] provide and maintain a suitable system of financing of Kansas public schools.

We also find that the LPA Cost Study Analysis was considered by the legislature in making the decisions that underlie the formula changes in S.B. 549 and, thus, the legislature was responsive to our prior orders to consider actual costs. We note the plaintiffs' contention [\*24] that because S.B. 549 does not provide funding at the levels recommended by LPA's cost study, it was not based on actual costs and, therefore, fails to provide constitutionally suitable funding. However, implicit in that argument is the conclusion that the LPA Cost Study Analysis is credible evidence of the actual costs of education. As discussed above, we cannot reach that conclusion.

Nonetheless, as we stated in *Montoy II*: "It is clear increased funding will be required; however, increased funding may not in and of itself make the financing formula constitutionally suitable." 728 Kan. 775. Further, in *Montoy III* we said:

"As set forth earlier in this opinion, the Legislative Division of Post Audit has been commissioned to conduct a comprehensive [\*\*765] and extensive cost study to be presented to the 2005-06 legislature. [\*\*\*31] With such additional information available, the legislature should be provided with the cost information necessary to make policy choices establishing a suitable system of financing of Kansas public schools.

"We conclude, however, that additional funding must be made available for the 2005-06 school year to assist in meeting the school districts' immediate needs. We are mindful of the Board's argument that there are limits on the amount the system can absorb efficiently and effectively at this point in the budget process." 279 Kan. at 845.

The legislature is not bound to adopt, as suitable funding, the "actual costs" as determined by the A&M and LPA studies. On the other hand, the legislature cannot ignore the LPA study as it did the A&M study. In commissioning the cost study, the legislature clearly stated in H.B. 2247, Section 3:

"(a) In order to assist the legislature in the gathering of information which is necessary for the legislature's consideration when meeting its constitutional duties to: (1) Provide for intellectual, educational, vocational and scientific improvement in public schools established and maintained by the state; and (2) make suitable

[\*\*\*32] provision for the finance of educational interests of the state, the division of post audit shall conduct a professional cost study analysis 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." 279 Kan. at 840-41.

We are mindful of the fact that the funding of public education is extraordinarily complex, just as we are mindful of the realities of the legislative process. We conclude that the legislature's efforts in 2005 and in 2006 S.B. 549 constitute substantial compliance with [\*25] our prior orders, through which it will have provided by 2008-09 at least 755.6 million additional dollars to the education of the State's most precious asset-our children.

The determination that the funding system failed to provide for suitable funding of the public schools as required by Article 6, § 6 of the Kansas Constitution was the culmination of an extensive 8-day bench trial of this case before the district court, with testimony generating over 1300 pages of transcripts, and over 300 exhibits consisting of thousands of pages, a large number of which [\*\*\*33] were spreadsheets and other documents showing the financial operation and impact of the funding formula for school districts statewide. All of this evidence pertained to the issue at hand-whether the school funding formula as it existed at that particular time was constitutional. Our opinion affirming the district court's determination on that issue was made on the basis of that extensive record.

As previously noted, in response to our orders, the legislature has amended the school finance formula three times. The most recent changes made in S.B. 549 have now so fundamentally altered the school funding formula that the school finance formula that was at issue in this case no longer exists. It has been replaced with a fundamentally different funding scheme for which there are no facts and figures in the record from which we could determine how it will operate over the next 3 years.

We recognize that we could remand this case to the district court to allow the plaintiffs to amend their pleading to challenge the new funding formula. However, we decline to do so, electing instead to end this litigation. We do so for two reasons.

First, we note the point made by the Chief [\*\*\*34] Justice of the Ohio Supreme Court in *DeRolph v. State*:

"A review of sixteen other state Supreme Court decisions that have declared their systems for funding public education unconstitutional reveals that a majority of those decisions remanded the case to a trial court.

However, it is those states that have had the most difficulty producing a final plan that met the Supreme Court's opinion of constitutionality. For example, in New Jersey the issue has been through the courts for a period of twenty years and is now again pending in the New Jersey Supreme Court. Similar experiences, though not as dramatic, have occurred in [\*\*766] Arizona, Arkansas, California, New Hampshire and Texas. In each of these states, either the final public school funding plan is not yet approved by the [\*26] Supreme Court of the state after several years of litigation after remand or the plan has been approved only after several years of litigation." *DeRolph v. State*, 78 Ohio St. 3d 419, 421-422, 1997 Ohio 87, 678 N.E.2d 886, 888 (Ohio 1997) (Moyer, C.J., concurring in part and dissenting in part) (disagreeing with the majority's decision to remand the case to the district court pending legislative compliance [\*\*\*35] so the trial court could hear evidence concerning the remedy after it is enacted and determine any new legislation's constitutionality).

See also *Abbott v. Burke*, 119 N.J. 287, 575 A.2d 359 (1990) (*Abbott II*) (Public School Education Act held unconstitutional); *Abbott v. Burke*, 136 N.J. 444, 643 A.2d 575 (1994) (*Abbott III*) (court ordered legislature to enact constitutional system and retained jurisdiction); *Abbott v. Burke*, 149 N.J. 145, 199-200, 693 A.2d 417 (1997) (*Abbott IV*) (thereafter, court ordered interim increased funding and remanded the case to district court for hearings on the special needs of urban students and to determine the costs of funding those needs); *Abbott v. Burke*, 153 N.J. 480, 710 A.2d 450 (1998) (*Abbott V*) (on appeal from district court decision after extensive hearings, court ordered specific, detailed, comprehensive reform plan); *DeRolph v. State*, 78 Ohio St. 3d 193, 213, 1997 Ohio 84, 677 N.E.2d 733 (1997) (*DeRolph I*) (remanded to district court pending legislative compliance); *DeRolph v. State*, 89 Ohio St. 3d 1, 36-38, 2000 Ohio 437, 728 N.E.2d 993 (2000) [\*\*\*36] (*DeRolph II*) (on appeal after extensive proceedings in trial court, court allowed the State more time to continue to refine system, set out areas of concern to address, and retained jurisdiction).

Second, S.B. 549 is a 3-year plan; thus, it may take some time before the full financial impact of this new legislation is known, a factor which would be important in any consideration of whether it provides constitutionally suitable funding. Indeed, as the Board's attorney pointed out at oral argument, we do not even know at this time how districts used the funding increase provided by the 2005 amendments.

The previous orders of this court affirming the judgment of the district court in part and reversing in part are re affirmed in this opinion. We lift the stays

imposed on the cost-of-living weighting and the extraordinary declining enrollment-Joint Committee on State Building Construction Provision. We dismiss this appeal and [\*27] remand to the district court with directions to dismiss the pending case.

NUSS, J., not participating.

CONCUR BY: ROSEN ; ; BEIER (In Part); (In Part); LUCKERT

#### CONCUR

ROSEN J., concurring: Every child in Kansas has a fundamental right to an education guaranteed by [\*\*\*37] the Kansas Constitution. I, therefore, agree with the concurrences to *Montoy v. State*, 278 Kan. 769, 120 P.3d 1160 (2005) (*Montoy II*), previously filed by Justices Beier, Davis, and Luckert. In addition to their thorough constitutional analysis, I note that every child is mandated to attend school. K.S.A. 2005 Supp. 72-1111. Our legislature has required all Kansans with control over or charge of a child to send that child to school. K.S.A. 2005 Supp. 72-1111. This requirement upon parents and guardians for the compulsory education of their children is paralleled by the requirement upon the legislature to provide that same constitutionally mandated education. Likewise, the citizens of Kansas through our state constitution have imposed a duty on the legislature to "make suitable provision for finance of the educational interests of the state." Kan. Const., Art. 6, § 6(b). It is our duty, as the arbiters and champions of the Kansas Constitution, to enforce each child's fundamental right to an education. Any analysis of the issues in this case must necessarily begin with an understanding of this right and the duties [\*\*\*38] associated with that right.

Further, I concur with the majority's conclusion that S.B. 549 (L. 2006, ch. 187) complies with this court's prior orders and order to dismiss this case. I write separately to express my disagreement with the majority's analysis for concluding that S.B. 549 complies with this court's prior orders; to express my [\*\*767] concern with including equalizing local option budget (LOB) state aid as part of the State's funding obligation; and to note my disagreement with the dissent remanding this case to the district court.

I disagree with the majority's analysis for concluding that S.B. 549 (L. 2006, ch. 187) complies with this court's prior orders. Although the majority opinion highlights the increase in funding for various categories of students, the analysis provides no linkage between those increases and the actual costs as determined by the Division of Legislative Post Audit (LPA) study or the Augenblick & Myers (A&M) study. I recognize

that the legislature has appropriated [\*28] substantially more money to the State's school system. However, this court did not simply order the legislature to appropriate substantially more money.

In *Montoy II*, this court [\*\*\*39] required the legislature to consider the "(1) actual costs of providing a constitutionally adequate education and (2) funding equity" to fulfill its constitutional duty for making a "suitable provision for finance of the educational interests of the state." 278 Kan. at 775. The *Montoy III* court further ordered that the cost study commissioned by the legislature to be performed by the LPA incorporate consideration of the costs of outputs in addition to inputs. 279 Kan. at 843.

LPA completed a study in January 2006, estimating the costs for providing an education based on four different models, including three inputs-based models, distinguished by class size, and one outputs (or outcomes)-based model. Although the results of the LPA study may be considered as part of the legislative history for determining legislative intent, I agree with the majority's analysis that we cannot consider the study as evidence because it has not been subjected to the fact-finding process of litigation. Nevertheless, the completion of the LPA cost study substantially complies with our order in *Montoy III*.

According to the LPA study, the costs of educating Kansas [\*\*\*40] children using an outcomes-based model requires an additional \$ 399 million in state funding for the 2006-07 school year. The legislature thereafter enacted S.B. 549, which provides a 3-year plan for increasing school funding by approximately \$ 466.2 million. In the first year of the plan, 2006-07, the legislature increased school funding by \$ 194.5 million. In the second year of the plan, 2007-08, the increase is \$ 149 million, and in the third year of the plan, 2008-09, the increase is another \$ 122.7 million.

The plaintiffs argue that the legislature has fallen well short of the \$ 399 million in additional funding necessary to meet the outcomes-based model costs for the 2006-07 school year. The State and the Kansas Board of Education (Board), on the other hand, argue that S.B. 549 substantially complies with this court's order to consider the actual costs of education because it was based on the results of LPA's cost study. To support their argument, the [\*29] State and the Board assert that the overall state funding provided for 2006-07 will exceed the \$ 399 million increase recommended in the LPA study. However, their argument depends on the inclusion of equalizing LOB state aid [\*\*\*41] as part of the State's funding obligation in accordance with section 20 of S.B. 549. Because LPA did not include equalizing LOB state aid as part of the State's

funding for basic operating costs when it calculated the amount of increased funding needed for the outcomes-based education model, the State and the Board argue that the \$ 399 million figure must be reduced by the amount of equalizing LOB state aid.

According to the State and the Board, in 2005-06, the State provided \$ 222 million in equalizing LOB state aid. The State argues that after deducting the \$ 222 million from LPA's recommended increase of \$ 399 million, the total funding increase would be reduced to approximately \$ 180 million. Because S.B. 549 provides \$ 194.5 million in new funding for the 2006-07 school year, the State and the Board assert that the legislature has exceeded LPA's recommended funding increase.

Upon closer scrutiny of the State's figures, it appears the State's calculation fails to account for approximately \$ 38 million. This is [\*\*768] because LPA's \$ 399 million figure does not include the approximately \$ 38 million in additional equalizing LOB state aid that would be required if LPA's funding [\*\*\*42] recommendation were adopted. The new funding provided by S.B. 549, however, does include that \$ 38 million increase. Nevertheless, this discrepancy is not significant enough to alter my analysis. If LPA's \$ 399 million figure is adjusted to include an additional \$ 38 million in increased LOB state aid funding, and \$ 222 million is deducted from that, LPA's recommendation, as adjusted, would be \$ 215 million.

When that figure is compared with the \$ 194.5 million funding increase provided by S.B. 549 for 2006-07, there is substantial compliance with LPA's recommended funding increase for the outcomes-based model. Accordingly, I conclude that the State has substantially complied with this court's order to consider the "actual costs of providing a constitutionally adequate education." *Montoy III*, 279 Kan. at 830.

[\*30] In addition to requiring the State to consider the actual costs for providing a constitutional education, this court required the funding to be equitably distributed. *Montoy II*, 278 Kan. at 775. I find that the legislature has been responsive to our order to provide for equitable distribution of funding in two significant ways. Our equity [\*\*\*43] concerns included disparate funding between the low enrollment districts and the middle- and large-sized districts with high percentages of special needs students. I agree with the majority that the significant increases in funding directed to the middle- and large-sized districts has reduced the relative significance of the low enrollment weighting in the formula. The legislature has also responded to our concerns about LOB inequities due to property value disparities by raising the assessed valuation per pupil

(AVPP) from the 75th percentile to the 81.2 percentile for equalizing LOB state aid. K.S.A. 2005 Supp. 72-6434(a).

However, I have some concern with the new provisions of S.B. 549 that include equalizing LOB state aid as part of the State's funding toward meeting its constitutional requirement to suitably fund public education. My concern centers on the fact that in order to receive LOB state aid, districts have to impose a local property tax levy by enacting an LOB. Essentially, the State is arguing that allowing local districts to levy property taxes as a condition for receiving equalizing LOB state aid is synonymous with providing state funding. [\*\*\*44] However, because the LOB is optional and some school boards or taxpayers may reject a local tax to support their school district, children in districts in which base level funding is inadequate and in which an LOB is not adopted, or is not adopted at the full cap, may not have the funds necessary for a constitutionally adequate education. In other words, if equalizing LOB state aid would be necessary to fund a district's basic educational costs, and a district or its voters choose not to adopt LOB funding in full or in part, the legislature has not met its constitutional duty to those children in that district. Counting equalizing LOB state aid as part of the State's foundation funding in essence shifts the legislature's constitutional responsibility to the local school districts. While the legislature may constitutionally allow local districts to choose to provide extras beyond the minimum constitutionally [\*\*31] adequate education, *Montoy III*, 279 Kan. at 839, it cannot allow districts to choose to fund less. By including equalizing LOB state aid to establish that S.B. 549 provides adequate funding, the legislature is essentially making the LOB funding mandatory in those [\*\*\*45] districts where a constitutionally adequate education is not provided by base level state funding.

As of 2003, all but four of the Kansas school districts have opted into the LOB funding, and many were at the maximum cap as it then existed. Because there is such a high level of participation in the LOB funding, my concern about the equalizing LOB state aid does not alter my conclusion that S.B. 549 substantially complies with our order to consider actual costs and equitably distribute the State's education funding. However, so 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 [\*\*769] 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 [\*\*\*46] 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.

The inclusion of equalizing LOB state aid in S.B. 549 provides an essential financial log in keeping afloat the raft of adequate funding for the education of Kansas children. However, if local communities at some future time decide to remove that log, the delicate raft will have a difficult time remaining afloat, and, again, the constitutional right of all Kansas children to a suitably funded education could soon find itself imperiled.

[\*32] I further note my disagreement with the dissenting position that this case should be remanded for factfinding. Although I agree that the LPA study cannot be considered as evidence, I reject the conclusion that we cannot evaluate the legislature's compliance with this court's prior orders without remanding the matter. Following the dissent's analysis, we could only evaluate the legislature's [\*\*\*47] compliance with this court's prior orders if the legislature had followed the A&M study because it was the only cost study in evidence. If this court had intended to require adherence to the A&M study, it should not have deferred further consideration pending the completion of the new cost study, as it did in *Montoy III*.

In rejecting the dissenting position, it is important to note that I am not accepting the LPA study as a model for a constitutionally adequate education. The A&M study estimated the costs for an educational model based on certain inputs and outcomes. The LPA study, on the other hand, estimated the costs for completely different educational models, either based on inputs or outcomes, but not a combination of the two. Without evidence and expert opinions regarding the adequacy of each LPA educational model, this court cannot conclude that the LPA model would provide a constitutionally adequate education. If we were to require such evidence before making a decision, we would find ourselves trying to hit a moving target unless each new cost study estimated the costs for exactly the same educational model. However, the decisions in this case demonstrate that the [\*\*\*48] model for a constitutionally adequate education has not been a stationary, definable concept.

In *Montoy I*, this court ruled that accreditation standards may not be an adequate model. 275 Kan. at 155. In *Montoy II*, the court reiterated that accreditation standards may not always be adequate and then relied on the legislature's own definition of "suitable education" in K.S.A. 46-1225(e) (statute authorizing A&M study) to conclude that the standard was not being met. 278 Kan. at 774-75. In *Montoy III*, this court adopted the educational model from the A&M study as a constitutionally adequate education. *Montoy III*, 279 Kan. at 844. However, the *Montoy III* court also interjected another educational model by requiring the legislature to estimate the costs for achieving the outputs as necessary [\*33] elements of a constitutionally adequate education. The *Montoy III* court also defined a constitutionally adequate education in accordance with K.S.A. 72-6439, the statute that requires the Kansas Board of Education to adopt an accreditation system based upon an improvement in performance.

["\*\*49] As long as the target model for a constitutionally adequate education continues to move, the litigation in this case could continue in perpetuity. Each new cost study based on a new model would require factual testing at the district court before this court could determine whether the amended legislation is constitutional. Such a process would extend into an indefinite future, and the children of Kansas need a resolution of this matter now. Therefore, based on my analysis that the ["\*\*770] legislature has substantially complied with this court's prior orders, I concur with the result of the majority opinion dismissing this case.

DISSENT BY: BEIER

DISSENT

BEIER, J., concurring in part and dissenting in part: I concur with much in the majority's opinion, including its implicit decision not to interfere with immediate implementation of 2006 S. B. 549 (L. 2006, ch. 197). Implementation must proceed, pending further order of this court. As we have previously observed, time is of the essence. Kansas school administrators, employees, and students need to plan for the coming school year and those that follow, with the assurance that the state funds promised by the legislature and ["\*\*50] governor by way of S.B. 549 will actually be forthcoming.

I respectfully dissent from the majority's decision to dismiss this action, leaving for another day in a future lawsuit the determination of whether S.B. 549 meets the standard of Article 6, § 6 of the Kansas Constitution. That issue is alive in this action. Constitutionality has always been and remains squarely presented. Further, our earlier opinions and orders in this case

consistently and correctly equated compliance with this court's directives to adherence to the legislature's constitutional mandate. I am not willing to divorce these concepts now. If the State has demonstrated compliance with our directives, the legislature has corrected the constitutional deficiencies in the Kansas design for school finance. The converse would also be true: If the State has not demonstrated compliance with our directives, the legislature has not corrected the constitutional ["\*34] deficiencies in the school finance design. Logically and legally, if we meant what we have said, one cannot be satisfied without the other.

Reduced to its essence, our June 3, 2005, Supplemental Opinion had two components. The first dealt with the need for ["\*\*51] increased funding in the 2005-06 school year. That component is moot. The second component dealt with constitutionality of Kansas' school finance design beyond the 2005-06 school year. With regard to that component, we said:

"[I]f (1) the post audit study is not completed or timely submitted for the legislature to consider and act upon it during the 2006 session, (2) the post audit study is judicially or legislatively determined not to be a valid cost study, or (3) legislation is not enacted which is based upon actual and necessary costs of providing a suitable system of finance and which equitably distributes the funding, we will consider, among other remedies, ordering that, at a minimum, the remaining two-thirds (\$ 568 million) in increased funding based upon the [Augenblick and Myers] (A&M) study be implemented for the 2006-07 school year." *Montoy v. State*, 279 Kan. 817, 846, 112 P.3d 923 (2005).

The problem facing the parties and this court now is that, on the appellate record before us, we cannot know the status of (2) or (3) above. The soundness of the methodology and conclusions of the Legislative Division of Post Audit (LPA) cost study have not ["\*\*52] been tested by a typical adversary process. No evidence has been admitted on the ways in which the members of the legislature considered actual and necessary costs or equity. Without testimony and documentary evidence in the record to evaluate on these matters, this court simply cannot conclude the State has carried the burden placed upon it last year to demonstrate that the legislature's actions brought Kansas' school finance system into compliance with the state constitution. The appropriate way to respond is not to throw the plaintiffs out of court. It is to retain jurisdiction, acknowledge the factual deficiencies of the record, and remand to the district court for further proceedings focused on the constitutionality of the finance system, as altered by S.B. 549.

The district court proceedings could include any necessary substitution or realignment of parties, amendment of pleadings, appropriate discovery, and, finally, trial. Such a trial would, among ["\*35] other things, test the methodology and conclusions of the LPA study and the soundness of legislators' consideration of it in their crafting of S.B. 549. It would also give us a record on the actual ["\*\*771] adequacy and equity effects ["\*\*53] of S.B. 549, including the redesignation of local option budget equalization aid, a redesignation never mentioned by any party in 2005 but upon which the State now wishes us to rely heavily to dismiss this case. Such a trial, and the careful study of the district court, also could illuminate whether a need for further remedial action persists, and, if so, what form it should take.

There is no question that the legislature has made substantial efforts to improve the adequacy and equity of our school finance system. The political realities of the legislative process make perfection unattainable, and no amount of money committed to public education will ever solve all of the problems of Kansas' urban poor or of its rural communities losing population. Still, because I am unwilling to graft a "good enough for government work" phrase onto Article 6, § 6 of our state constitution, I would permit this case to continue in the district court, where it may be finally resolved or prepared for further, much better informed review by myself and my colleagues.

LUCKERT, J., joins in the foregoing concurring and dissenting opinion.



Base State Aid Per Pupil = \$4433

FY 2009 Legal Max

UNID	154	11	14	16	18	19	20	21	22
UNID	Agency	Counting Agency	Code	Agency	Counting Agency	Code	Agency	Counting Agency	Code
UNID	Agency	Counting Agency	Code	Agency	Counting Agency	Code	Agency	Counting Agency	Code
UNID	Agency	Counting Agency	Code	Agency	Counting Agency	Code	Agency	Counting Agency	Code
UNID	Agency	Counting Agency	Code	Agency	Counting Agency	Code	Agency	Counting Agency	Code
101	15	15	15	15	15	15	15	15	15
102	15	15	15	15	15	15	15	15	15
103	15	15	15	15	15	15	15	15	15
104	15	15	15	15	15	15	15	15	15
105	15	15	15	15	15	15	15	15	15
106	15	15	15	15	15	15	15	15	15
107	15	15	15	15	15	15	15	15	15
108	15	15	15	15	15	15	15	15	15
109	15	15	15	15	15	15	15	15	15
110	15	15	15	15	15	15	15	15	15
111	15	15	15	15	15	15	15	15	15
112	15	15	15	15	15	15	15	15	15
113	15	15	15	15	15	15	15	15	15
114	15	15	15	15	15	15	15	15	15
115	15	15	15	15	15	15	15	15	15
116	15	15	15	15	15	15	15	15	15
117	15	15	15	15	15	15	15	15	15
118	15	15	15	15	15	15	15	15	15
119	15	15	15	15	15	15	15	15	15
120	15	15	15	15	15	15	15	15	15
121	15	15	15	15	15	15	15	15	15
122	15	15	15	15	15	15	15	15	15
123	15	15	15	15	15	15	15	15	15
124	15	15	15	15	15	15	15	15	15
125	15	15	15	15	15	15	15	15	15
126	15	15	15	15	15	15	15	15	15
127	15	15	15	15	15	15	15	15	15
128	15	15	15	15	15	15	15	15	15
129	15	15	15	15	15	15	15	15	15
130	15	15	15	15	15	15	15	15	15
131	15	15	15	15	15	15	15	15	15
132	15	15	15	15	15	15	15	15	15
133	15	15	15	15	15	15	15	15	15
134	15	15	15	15	15	15	15	15	15
135	15	15	15	15	15	15	15	15	15
136	15	15	15	15	15	15	15	15	15
137	15	15	15	15	15	15	15	15	15
138	15	15	15	15	15	15	15	15	15
139	15	15	15	15	15	15	15	15	15
140	15	15	15	15	15	15	15	15	15
141	15	15	15	15	15	15	15	15	15
142	15	15	15	15	15	15	15	15	15
143	15	15	15	15	15	15	15	15	15
144	15	15	15	15	15	15	15	15	15
145	15	15	15	15	15	15	15	15	15
146	15	15	15	15	15	15	15	15	15
147	15	15	15	15	15	15	15	15	15
148	15	15	15	15	15	15	15	15	15
149	15	15	15	15	15	15	15	15	15
150	15	15	15	15	15	15	15	15	15

Base State Aid Per Pupil = \$4433

FY 2009 Legal Max

Table with columns: 100, 20, 30, 40, 50, 60, 70, 80, 90, 100, 110, 120, 130, 140, 150, 160, 170, 180, 190, 200, 210, 220, 230, 240, 250, 260, 270, 280, 290, 300, 310, 320, 330, 340, 350, 360, 370, 380, 390, 400, 410, 420, 430, 440, 450, 460, 470, 480, 490, 500, 510, 520, 530, 540, 550, 560, 570, 580, 590, 600, 610, 620, 630, 640, 650, 660, 670, 680, 690, 700, 710, 720, 730, 740, 750, 760, 770, 780, 790, 800, 810, 820, 830, 840, 850, 860, 870, 880, 890, 900, 910, 920, 930, 940, 950, 960, 970, 980, 990, 1000. Each cell contains numerical data for various school districts.







Base State Aid Per Pupil = \$4433 FY 2009 Legal Max

100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	2008-2009																			
																					121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140
100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140



Base State Aid Per Pupil = \$4433 FY 2009 Legal Max

100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200
140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200																																								



Base State Aid Per Pupil = \$4433 FY 2009 Legal Max

SD#	Name	2008		2009		2010		2011		2012		2013		2014		2015		2016		2017		2018		2019		2020		2021		2022									
		Local	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local	State						
440	Wagon	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7		
441	Wagon	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7		
442	Wagon	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7		
443	Wagon	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7	14.2	29.7

Base State Aid Per Pupil = \$4433 FY 2009 Legal Max

USD	2008-09			2008-09			2008-09			2008-09			2008-09			2008-09			2008-09			2008-09								
	State	Local	FTE	State	Local	FTE	State	Local	FTE	State	Local	FTE	State	Local	FTE	State	Local	FTE	State	Local	FTE	State	Local	FTE						
USD 201	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000		
...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	
GRAND TOTAL	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000

Base State Aid Per Pupil = \$4433 FY 2009 Legal Max

USD	14				15				16				17				18				19				20				21			
	Trans Weighted FTE	Auxiliary Weighted FTE	Declining Weighting FTE	Coed of Living Weighted FTE	Spec Ed S1 Adj FTE	Spec Ed Weighting FTE	Sub Total WMT FTE	Sub Total WMT FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE	Total Weighted FTE			
	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0				
	227.708					290.4		1,911.8		2,281.4	1 A		8,792,400		10,036,190		10,294,972		10,036,190													
	421,887					95.8		809.3		895.3	2 A		3,589,970		3,982,880		4,044,368		4,044,368													
	637,257					133.3		892.3		1,025.6	11 A		3,959,480		4,094,388		4,264,466		4,264,466													
	1,454,058					328.4		2,114.8		2,443.2	4 A	R	5,246,840		10,829,480		10,829,480		10,829,480													
	226,108					91.4		615.7		707.1	11 A		2,872,080		3,199,240		3,577,431		3,199,240													
	764,175					158.7		1,048.1		1,206.8	12 A	BP	1,367,840		2,137,120		2,137,120		2,137,120													
	319,096					71.8		452.8		524.6	11 A		1,148,320		2,263,280		2,315,768		2,263,280													
	149,200					33.8		217.2		251.0	8 A		1,308,880		1,456,240		1,542,811		1,456,240													
	620.8					46.8		293.8		340.6	4 A		143,800,920		171,564,360		171,564,360		171,564,360													
TOTAL	21,821.2	2,750.4	483.8	1,220.1	3,468.4	470,489,654	95,546.6	634,240.7	728,616.1	720,862.3			2,792,749,830		3,213,256,473		3,246,306,537		3,213,256,473													

Base State Aid Per Pupil = \$4,012      FY 2010 Legal Max

USO No.	2008-2010		2008-09		2009-10		2010-11		2011-12		2012-13		2013-14		2014-15		2015-16		2016-17		2017-18		2018-19	
	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll	FTE Enroll
151	500.3	541.0	507.0	542.0	547.0	588.0	588.0	588.0	588.0	588.0	588.0	588.0	588.0	588.0	588.0	588.0	588.0	588.0	588.0	588.0	588.0	588.0	588.0	588.0
152	481.3	532.0	534.0	579.0	584.0	624.0	624.0	624.0	624.0	624.0	624.0	624.0	624.0	624.0	624.0	624.0	624.0	624.0	624.0	624.0	624.0	624.0	624.0	624.0
153	142.0	145.0	151.0	157.0	160.0	165.0	165.0	165.0	165.0	165.0	165.0	165.0	165.0	165.0	165.0	165.0	165.0	165.0	165.0	165.0	165.0	165.0	165.0	165.0
154	246.0	261.0	267.0	273.0	278.0	284.0	284.0	284.0	284.0	284.0	284.0	284.0	284.0	284.0	284.0	284.0	284.0	284.0	284.0	284.0	284.0	284.0	284.0	284.0
155	171.0	187.0	194.0	201.0	206.0	212.0	212.0	212.0	212.0	212.0	212.0	212.0	212.0	212.0	212.0	212.0	212.0	212.0	212.0	212.0	212.0	212.0	212.0	212.0
156	210.0	227.0	234.0	241.0	246.0	252.0	252.0	252.0	252.0	252.0	252.0	252.0	252.0	252.0	252.0	252.0	252.0	252.0	252.0	252.0	252.0	252.0	252.0	252.0
157	307.0	324.0	331.0	338.0	343.0	349.0	349.0	349.0	349.0	349.0	349.0	349.0	349.0	349.0	349.0	349.0	349.0	349.0	349.0	349.0	349.0	349.0	349.0	349.0
158	116.0	123.0	126.0	129.0	131.0	134.0	134.0	134.0	134.0	134.0	134.0	134.0	134.0	134.0	134.0	134.0	134.0	134.0	134.0	134.0	134.0	134.0	134.0	134.0
159	416.0	477.0	508.0	569.0	574.0	635.0	635.0	635.0	635.0	635.0	635.0	635.0	635.0	635.0	635.0	635.0	635.0	635.0	635.0	635.0	635.0	635.0	635.0	635.0
160	275.0	304.0	311.0	318.0	323.0	329.0	329.0	329.0	329.0	329.0	329.0	329.0	329.0	329.0	329.0	329.0	329.0	329.0	329.0	329.0	329.0	329.0	329.0	329.0
161	158.0	175.0	182.0	189.0	194.0	200.0	200.0	200.0	200.0	200.0	200.0	200.0	200.0	200.0	200.0	200.0	200.0	200.0	200.0	200.0	200.0	200.0	200.0	200.0
162	137.0	148.0	155.0	162.0	167.0	173.0	173.0	173.0	173.0	173.0	173.0	173.0	173.0	173.0	173.0	173.0	173.0	173.0	173.0	173.0	173.0	173.0	173.0	173.0
163	234.0	251.0	258.0	265.0	270.0	276.0	276.0	276.0	276.0	276.0	276.0	276.0	276.0	276.0	276.0	276.0	276.0	276.0	276.0	276.0	276.0	276.0	276.0	276.0
164	83.0	88.0	91.0	96.0	99.0	104.0	104.0	104.0	104.0	104.0	104.0	104.0	104.0	104.0	104.0	104.0	104.0	104.0	104.0	104.0	104.0	104.0	104.0	104.0
165	238.0	255.0	262.0	269.0	274.0	280.0	280.0	280.0	280.0	280.0	280.0	280.0	280.0	280.0	280.0	280.0	280.0	280.0	280.0	280.0	280.0	280.0	280.0	280.0
166	40.0	43.0	45.0	48.0	50.0	53.0	53.0	53.0	53.0	53.0	53.0	53.0	53.0	53.0	53.0	53.0	53.0	53.0	53.0	53.0	53.0	53.0	53.0	53.0
167	207.0	224.0	231.0	238.0	243.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0
168	207.0	224.0	231.0	238.0	243.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0
169	207.0	224.0	231.0	238.0	243.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0
170	207.0	224.0	231.0	238.0	243.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0	249.0





Base State Aid Per Pupil = \$4,012 FY 2010 Legal Max

Table with columns for USID, State, County, School District, and various financial and enrollment metrics for 2008-09 and 2009-10. The table lists numerous school districts across Ohio and provides detailed financial data for each.







Base State Aid Per Pupil = \$4,012 FY 2010 Legal Max

LSD	SCHOOL DISTRICT	LOCAL REVENUE	STATE AID	TOTAL	2009			2010			2011			2012			2013			2014			FTE	STAFF	SALARY	OTHER
					LOCAL REVENUE	STATE AID	TOTAL	LOCAL REVENUE	STATE AID	TOTAL	LOCAL REVENUE	STATE AID	TOTAL	LOCAL REVENUE	STATE AID	TOTAL	LOCAL REVENUE	STATE AID	TOTAL							
01	Alameda	125.0	30.0	155.0	135.0	35.0	170.0	145.0	37.5	182.5	155.0	39.4	194.4	165.0	41.8	206.8	175.0	44.2	219.2	185.0	46.6	231.6	195.0	49.0	244.0	
02	Alameda	130.0	32.5	162.5	140.0	35.0	175.0	150.0	37.5	187.5	160.0	40.0	200.0	170.0	42.5	212.5	180.0	45.0	225.0	190.0	47.5	237.5	200.0	50.0	250.0	
03	Alameda	135.0	35.0	170.0	145.0	37.5	182.5	155.0	39.4	194.4	165.0	41.8	206.8	175.0	44.2	219.2	185.0	46.6	231.6	195.0	49.0	244.0	200.0	50.0	250.0	
04	Alameda	140.0	37.5	177.5	150.0	39.4	189.4	160.0	41.8	201.8	170.0	44.2	214.2	180.0	46.6	226.6	190.0	49.0	239.0	200.0	51.4	251.4	210.0	53.8	264.2	
05	Alameda	145.0	40.0	185.0	155.0	41.8	196.8	165.0	44.2	209.2	175.0	46.6	221.6	185.0	49.0	234.0	195.0	51.4	246.4	205.0	53.8	258.8	215.0	56.2	271.2	
06	Alameda	150.0	42.5	192.5	160.0	44.2	204.2	170.0	46.6	216.6	180.0	49.0	229.0	190.0	51.4	241.4	200.0	53.8	253.8	210.0	56.2	266.2	220.0	58.6	278.6	
07	Alameda	155.0	45.0	200.0	165.0	46.6	211.6	175.0	49.0	224.0	185.0	51.4	236.4	195.0	53.8	248.8	205.0	56.2	261.2	215.0	58.6	273.6	225.0	61.0	284.6	
08	Alameda	160.0	47.5	207.5	170.0	49.0	219.0	180.0	51.4	231.4	195.0	53.8	248.8	205.0	56.2	261.2	215.0	58.6	273.6	225.0	61.0	284.6	230.0	63.4	297.0	
09	Alameda	165.0	50.0	215.0	175.0	51.4	226.4	185.0	53.8	238.8	195.0	56.2	251.2	205.0	58.6	263.6	215.0	61.0	284.6	225.0	63.4	297.0	235.0	65.8	309.4	
10	Alameda	170.0	52.5	222.5	180.0	53.8	233.8	190.0	56.2	246.2	205.0	58.6	263.6	215.0	61.0	284.6	225.0	63.4	297.0	235.0	65.8	309.4	240.0	68.2	321.8	
11	Alameda	175.0	55.0	230.0	185.0	56.2	241.2	195.0	58.6	253.6	210.0	61.0	291.0	220.0	63.4	303.4	230.0	65.8	315.8	240.0	68.2	328.2	245.0	70.6	334.2	
12	Alameda	180.0	57.5	237.5	190.0	58.6	248.6	200.0	61.0	261.0	215.0	63.4	298.4	225.0	65.8	310.8	235.0	68.2	322.8	245.0	70.6	335.6	250.0	73.0	348.0	
13	Alameda	185.0	60.0	245.0	195.0	61.0	256.0	205.0	63.4	268.4	220.0	65.8	305.8	230.0	68.2	318.2	240.0	70.6	330.6	250.0	73.0	343.0	255.0	75.4	355.4	
14	Alameda	190.0	62.5	252.5	200.0	63.4	263.4	210.0	65.8	275.8	225.0	68.2	315.2	235.0	70.6	325.6	245.0	73.0	340.6	255.0	75.4	350.4	260.0	77.8	362.8	
15	Alameda	195.0	65.0	260.0	205.0	65.8	270.8	215.0	68.2	283.2	230.0	70.6	322.6	240.0	73.0	332.6	250.0	75.4	350.6	260.0	77.8	358.6	265.0	80.2	370.2	
16	Alameda	200.0	67.5	267.5	210.0	68.2	278.2	220.0	70.6	290.6	235.0	73.0	329.6	245.0	75.4	339.6	255.0	77.8	357.6	265.0	80.2	366.6	270.0	82.6	379.0	
17	Alameda	205.0	70.0	275.0	215.0	70.6	285.6	225.0	73.0	298.0	240.0	75.4	336.4	250.0	77.8	346.6	260.0	80.2	364.6	270.0	82.6	372.6	275.0	85.0	387.0	
18	Alameda	210.0	72.5	282.5	220.0	73.0	293.0	230.0	75.4	305.4	245.0	77.8	343.2	255.0	80.2	353.2	265.0	82.6	371.6	275.0	85.0	380.0	280.0	87.4	394.4	
19	Alameda	215.0	75.0	290.0	225.0	75.4	300.4	235.0	77.8	312.2	250.0	80.2	350.2	260.0	82.6	360.2	270.0	85.0	380.0	280.0	87.4	388.4	285.0	89.8	401.8	
20	Alameda	220.0	77.5	297.5	230.0	77.8	307.8	240.0	80.2	319.2	255.0	82.6	357.2	265.0	85.0	367.2	275.0	87.4	389.4	285.0	89.8	396.4	290.0	92.2	414.2	
21	Alameda	225.0	80.0	305.0	235.0	80.2	315.2	245.0	82.6	326.2	260.0	85.0	364.0	270.0	87.4	374.0	280.0	89.8	398.6	290.0	92.2	402.6	295.0	94.6	426.6	
22	Alameda	230.0	82.5	312.5	240.0	82.6	322.6	250.0	85.0	333.0	265.0	87.4	370.6	275.0	89.8	381.0	285.0	92.2	407.8	295.0	94.6	409.6	300.0	97.0	439.0	
23	Alameda	235.0	85.0	320.0	245.0	85.0	330.0	255.0	87.4	340.0	270.0	89.8	377.0	280.0	92.2	388.0	290.0	94.6	416.6	300.0	97.0	417.0	305.0	99.4	451.4	
24	Alameda	240.0	87.5	327.5	250.0	87.4	337.4	260.0	89.8	347.0	275.0	92.2	383.6	285.0	94.6	395.0	295.0	97.0	425.0	305.0	99.4	424.4	310.0	101.8	463.8	
25	Alameda	245.0	90.0	335.0	255.0	89.8	344.8	265.0	92.2	354.0	280.0	94.6	390.0	290.0	97.0	402.0	300.0	99.4	434.0	310.0	101.8	431.8	315.0	104.2	476.2	
26	Alameda	250.0	92.5	342.5	260.0	92.2	351.8	270.0	94.6	361.0	285.0	97.0	396.6	295.0	99.4	409.0	305.0	101.8	443.0	315.0	104.2	439.2	320.0	106.6	488.6	
27	Alameda	255.0	95.0	350.0	265.0	94.6	359.0	275.0	97.0	368.0	290.0	99.4	403.0	300.0	101.8	416.0	310.0	104.2	452.0	320.0	106.6	446.6	325.0	109.0	501.0	
28	Alameda	260.0	97.5	357.5	270.0	97.0	366.0	280.0	99.4	375.0	295.0	101.8	409.6	305.0	104.2	423.0	315.0	106.6	461.0	325.0	109.0	454.0	330.0	111.4	513.4	
29	Alameda	265.0	100.0	365.0	275.0	99.4	373.0	285.0	101.8	382.0	300.0	104.2	416.0	310.0	106.6	430.0	320.0	109.0	470.0	330.0	111.4	461.4	335.0	113.8	525.8	
30	Alameda	270.0	102.5	372.5	280.0	101.8	380.0	290.0	104.2	389.0	305.0	106.6	422.6	315.0	109.0	437.0	325.0	111.4	479.0	335.0	113.8	468.4	340.0	116.2	538.2	
31	Alameda	275.0	105.0	380.0	285.0	104.2	387.0	295.0	106.6	396.0	310.0	109.0	429.0	320.0	111.4	444.0	330.0	113.8	488.0	340.0	116.2	475.4	345.0	118.6	550.6	
32	Alameda	280.0	107.5	387.5	290.0	106.6	394.0	300.0	109.0	403.0	315.0	111.4	435.6	325.0	113.8	451.0	335.0	116.2	497.0	345.0	118.6	482.6	350.0	121.0	563.0	
33	Alameda	285.0	110.0	395.0	295.0	109.0	401.0	305.0	111.4	410.0	320.0	113.8	442.0	330.0	116.2	458.0	340.0	118.6	506.0	350.0	121.0	490.0	355.0	123.4	575.4	
34	Alameda	290.0	112.5	402.5	300.0	111.4	408.0	310.0	113.8	417.0	325.0	116.2	448.6	335.0	118.6	465.0	345.0	121.0	515.0	355.0	123.4	497.4	360.0	125.8	587.8	
35	Alameda	295.0	115.0	410.0	305.0	113.8	415.0	315.0	116.2	424.0	330.0	118.6	455.0	340.0	121.0	472.0	350.0	123.4	524.0	360.0	125.8	504.4	365.0	128.2	599.8	
36	Alameda	300.0	117.5	417.5	310.0	116.2	422.0	320.0	118.6	431.0	335.0	121.0	461.6	345.0	123.4	479.0	355.0	125.8	533.0	365.0	128.2	511.4	370.0	130.6	612.2	
37	Alameda	305.0	120.0	425.0	315.0	118.6	429.0	325.0	121.0	438.0	340.0	123.4	468.0	350.0	125.8	486.0	360.0	128.2	542.0	370.0	130.6	518.6	375.0	133.0	624.6	
38	Alameda	310.0	122.5	432.5	320.0	121.0	436.0	330.0	123.4	445.0	345.0	125.8	474.6	355.0	128.2	493.0	365.0	130.6	551.0	375.0	133.0	525.6	380.0	135.4	637.0	
39	Alameda	315.0	125.0	440.0	325.0	123.4	443.0	335.0	125.8	452.0	350.0	128.2	481.0	360.0	130.6	500.0	370.0	133.0	560.0	380.0	135.4	532.6	385.0	137.8	649.4	
40	Alameda	320.0	127.5	447.5	330.0	125.8	450.0	340.0	128.2	459.0	355.0	130.6	487.6	365.0	133.0	507.0	375.0	135.4	569.0	385.0	137.8	540.2	390.0	140.2	661.8	
41	Alameda	325.0	130.0	455.0	335.0	128.2	457.0	345.0	130.6	466.0	360.0	133.0	494.0	370.0	135.4	514.0	380.0	137.8	578.0	390.0	140.2	547.2	395.0	142.6	674.2	
42	Alameda	330.0	132.5	462.5	340.0	130.6	464.0	350.0	133.0	473.0	365.0	135.4	500.6	375.0	137.8	521.0	385.0	140.2	587.0	395.0	142.6	554.2	400.0	145.0	686.6	
43	Alameda	335.0	135.0	470.0	345.0	133.0	471.0	355.0	135.4	480.0	370.0	137.8	507.0	380.0	140.2	528.0	390.0	142.6	596.0	400.0	145.0	561.2	405.0	147.4	699.0	
44	Alameda	340.0	137.5	477.5	350.0	135.4	478.0	360.0	137.8	487.0	375.0	140.2	513.6	385.0	142.6	535.0	395.0	145.0	605.0	405.0	147.4	568.2	410.0	149.8	711.4	
45	Alameda	345.0	140.0	485.0	355.0	137.8	485.0	365.0	140.2	494.0	380.0	142.6	520.0	390.0	145.0	542.0	400.0	147.4	614.0	410.0	149.8	575.2	415.0	152.2	723.8	
46	Alameda	350.0	142.5	492.5	360.0	140.2	492.0	370.0	142.6	501.0	385.0	145.0	526.6	395.0	147.4	549.0	405.0	150.0	623.0	415.0	152.2	582.2	420.0	154.6	736.2	
47	Alameda	355.0	145.0	500.0	365.0	142.6	499.0	375.0	145.0	508.0	390.0	147.4	533.0	400.0	150.0	556.0	410.0	152.2	632.0	420.0	154.6	589.2	425.0	157.0	748.6	
48	Alameda	360.0	147.5																							

Base State Aid Per Pupil = \$4,012 FY 2010 Legal Max

LEI	LEI#	NAME	LEVEL	LOCAL	STATE	FEDERAL	OTHER	TOTAL	PER PUPIL	LEI	LEI#	NAME	LEVEL	LOCAL	STATE	FEDERAL	OTHER	TOTAL	PER PUPIL	LEI	LEI#	NAME	LEVEL	LOCAL	STATE	FEDERAL	OTHER	TOTAL	PER PUPIL	
4030	31	UM	II																											
4031	32	UM	II																											
4032	33	UM	II																											
4033	34	UM	II																											
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4097	98	UM	II																											
4098	99	UM	II																											
4099	100	UM	II																											

Base State Aid Per Pupil = \$4,012 FY 2010 Legal Max

USD	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	TOTAL																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
SDS	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	TOTAL																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
010015	6400	7742	13104	20164	30240	41592	52272	63360	74880	86832	99216	112032	125280	138960	153072	167616	182592	198000	213840	230112	246816	263952	281520	299520	317952	336816	356112	375840	396000	416592	437616	459072	480960	503280	526032	549216	572832	596880	621360	646272	671616	697392	723600	750240	777312	804816	832752	861120	890016	919440	949392	979872	1010880	1042416	1074480	1107072	1140192	1173840	1208016	1242720	1278000	1313856	1350288	1387296	1424880	1463040	1501776	1541088	1580984	1621464	1662528	1704176	1746408	1789224	1832624	1876608	1921176	1966428	2012364	2058984	2106288	2154276	2202948	2252304	2302344	2353068	2404476	2456568	2509344	2562804	2616948	2671776	2727288	2783484	2840364	2897936	2956200	3015156	3074804	3135144	3196176	3257904	3320328	3383448	3447264	3511776	3576984	3642892	3709500	3776808	3844816	3913524	3982932	4053040	4123848	4195356	4267564	4340372	4413780	4487788	4562400	4637616	4713436	4789860	4866888	4944520	5022756	5101496	5180840	5260788	5341340	5422496	5504256	5586620	5669588	5753160	5837336	5922116	6007500	6093488	6180080	6267276	6355076	6443480	6532488	6622000	6712116	6802836	6894160	6986088	7078620	7171756	7265496	7359840	7454788	7550340	7646496	7743256	7840620	7938588	8037160	8136336	8236116	8336500	8437488	8539080	8641276	8744076	8847480	8951488	9056000	9161116	9266836	9373160	9480088	9587620	9695756	9804496	9913840	10003728	10094160	10185192	10276824	10369056	10461888	10555320	10649360	10744000	10839240	10935080	11031520	11128560	11226200	11324440	11423280	11522720	11622760	11723400	11824640	11926480	12028920	12131960	12235600	12339840	12444680	12550120	12656160	12762800	12870040	12977880	13086320	13195360	13305000	13415240	13526080	13637520	13749560	13862200	13975440	14089280	14203720	14318760	14434400	14550640	14667480	14784920	14902960	15021600	15140840	15260680	15381120	15502160	15623800	15746040	15868880	15992320	16116360	16241000	16366240	16492080	16618520	16745560	16873200	17001440	17130280	17259720	17389760	17520400	17651640	17783480	17915920	18048960	18182600	18316840	18451680	18587120	18723160	18859800	19000040	19140880	19282320	19424360	19567000	19710240	19854080	20000000	20147000	20295000	20444000	20594000	20745000	20897000	21049000	21202000	21356000	21511000	21667000	21824000	21982000	22141000	22301000	22462000	22624000	22787000	22951000	23116000	23282000	23449000	23617000	23786000	23956000	24127000	24300000	24474000	24650000	24827000	25005000	25184000	25364000	25545000	25727000	25910000	26094000	26279000	26465000	26652000	26840000	27029000	27219000	27410000	27602000	27795000	27989000	28184000	28380000	28577000	28775000	28974000	29174000	29375000	29577000	29780000	29984000	30189000	30395000	30602000	30810000	31019000	31229000	31440000	31652000	31865000	32079000	32294000	32510000	32727000	32945000	33164000	33384000	33605000	33827000	34050000	34274000	34500000	34727000	34955000	35184000	35414000	35645000	35877000	36110000	36344000	36580000	36817000	37055000	37294000	37534000	37775000	38017000	38260000	38504000	38750000	39000000	39252000	39505000	39760000	40016000	40273000	40531000	40790000	41051000	41313000	41576000	41840000	42105000	42371000	42638000	42906000	43175000	43445000	43716000	43988000	44261000	44535000	44810000	45086000	45363000	45641000	45920000	46200000	46481000	46763000	47046000	47330000	47615000	47901000	48188000	48476000	48765000	49055000	49346000	49638000	49931000	50225000	50520000	50816000	51113000	51411000	51710000	52010000	52311000	52613000	52916000	53220000	53525000	53831000	54138000	54446000	54755000	55065000	55376000	55688000	56001000	56315000	56630000	56946000	57263000	57581000	57900000	58220000	58541000	58863000	59186000	59510000	59835000	60161000	60488000	60816000	61145000	61475000	61806000	62138000	62471000	62805000	63140000	63476000	63813000	64151000	64490000	64830000	65171000	65513000	65856000	66200000	66545000	66891000	67238000	67586000	67935000	68285000	68636000	68988000	69341000	69695000	70050000	70406000	70763000	71121000	71480000	71840000	72201000	72563000	72926000	73290000	73655000	74021000	74388000	74756000	75125000	75495000	75866000	76238000	76611000	76985000	77360000	77736000	78113000	78491000	78870000	79250000	79631000	80013000	80396000	80780000	81165000	81551000	81938000	82326000	82715000	83105000	83496000	83888000	84281000	84675000	85070000	85466000	85863000	86261000	86660000	87060000	87461000	87863000	88266000	88670000	89075000	89481000	89888000	90296000	90705000	91115000	91526000	91938000	92351000	92765000	93180000	93596000	94013000	94431000	94850000	95270000	95691000	96113000	96536000	96960000	97385000	97811000	98238000	98666000	99095000	99525000	99956000	100388000	100821000	101255000	101690000	102126000	102563000	103001000	103440000	103880000	104321000	104763000	105206000	105650000	106095000	106541000	106988000	107436000	107885000	108335000	108786000	109238000	109691000	110145000	110600000	111056000	111513000	111971000	112430000	112890000	113351000	113813000	114276000	114740000	115205000	115671000	116138000	11660600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Base State Aid Per Pupil = \$4,012

FY 2010 Legal Max

1001	1002	1003	1004	1005	1006	1007	1008	1009	1010	1011	1012	1013	1014	1015	1016	1017	1018	1019	1020	1021	1022	1023	1024	1025	1026	1027	1028	1029	1030	1031	1032	1033	1034	1035	1036	1037	1038	1039	1040	1041	1042	1043	1044	1045	1046	1047	1048	1049	1050	1051	1052	1053	1054	1055	1056	1057	1058	1059	1060	1061	1062	1063	1064	1065	1066	1067	1068	1069	1070	1071	1072	1073	1074	1075	1076	1077	1078	1079	1080	1081	1082	1083	1084	1085	1086	1087	1088	1089	1090	1091	1092	1093	1094	1095	1096	1097	1098	1099	1100																																																																																																																																																																																																																																																													
448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544	545	546	547	548	549	550	551	552	553	554	555	556	557	558	559	560	561	562	563	564	565	566	567	568	569	570	571	572	573	574	575	576	577	578	579	580	581	582	583	584	585	586	587	588	589	590	591	592	593	594	595	596	597	598	599	600	601	602	603	604	605	606	607	608	609	610	611	612	613	614	615	616	617	618	619	620	621	622	623	624	625	626	627	628	629	630	631	632	633	634	635	636	637	638	639	640	641	642	643	644	645	646	647	648	649	650	651	652	653	654	655	656	657	658	659	660	661	662	663	664	665	666	667	668	669	670	671	672	673	674	675	676	677	678	679	680	681	682	683	684	685	686	687	688	689	690	691	692	693	694	695	696	697	698	699	700	701	702	703	704	705	706	707	708	709	710	711	712	713	714	715	716	717	718	719	720	721	722	723	724	725	726	727	728	729	730	731	732	733	734	735	736	737	738	739	740	741	742	743	744	745	746	747	748	749	750	751	752	753	754	755	756	757	758	759	760	761	762	763	764	765	766	767	768	769	770	771	772	773	774	775	776	777	778	779	780	781	782	783	784	785	786	787	788	789	790	791	792	793	794	795	796	797	798	799	800

Base State Aid Per Pupil = \$3,937

FY 2011 Legal Max

LEA	County	02/09/11	02/09/12	02/09/13	02/09/14	02/09/15	02/09/16	02/09/17	02/09/18	02/09/19	02/09/20	02/09/21	02/09/22	02/09/23	02/09/24	02/09/25	02/09/26	02/09/27	02/09/28	02/09/29	02/09/30	02/09/31	02/10/01	02/10/02	02/10/03	02/10/04	02/10/05	02/10/06	02/10/07	02/10/08	02/10/09	02/10/10	02/10/11	02/10/12	02/10/13	02/10/14	02/10/15	02/10/16	02/10/17	02/10/18	02/10/19	02/10/20	02/10/21	02/10/22	02/10/23	02/10/24	02/10/25	02/10/26	02/10/27	02/10/28	02/10/29	02/10/30	02/10/31	03/01/01	03/01/02	03/01/03	03/01/04	03/01/05	03/01/06	03/01/07	03/01/08	03/01/09	03/01/10	03/01/11	03/01/12	03/01/13	03/01/14	03/01/15	03/01/16	03/01/17	03/01/18	03/01/19	03/01/20	03/01/21	03/01/22	03/01/23	03/01/24	03/01/25	03/01/26	03/01/27	03/01/28	03/01/29	03/01/30	03/01/31																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																									
1001	Alameda County	5487	5581	5675	5769	5863	5957	6051	6145	6239	6333	6427	6521	6615	6709	6803	6897	6991	7085	7179	7273	7367	7461	7555	7649	7743	7837	7931	8025	8119	8213	8307	8401	8495	8589	8683	8777	8871	8965	9059	9153	9247	9341	9435	9529	9623	9717	9811	9905	9999	10093	10187	10281	10375	10469	10563	10657	10751	10845	10939	11033	11127	11221	11315	11409	11503	11597	11691	11785	11879	11973	12067	12161	12255	12349	12443	12537	12631	12725	12819	12913	13007	13101	13195	13289	13383	13477	13571	13665	13759	13853	13947	14041	14135	14229	14323	14417	14511	14605	14699	14793	14887	14981	15075	15169	15263	15357	15451	15545	15639	15733	15827	15921	16015	16109	16203	16297	16391	16485	16579	16673	16767	16861	16955	17049	17143	17237	17331	17425	17519	17613	17707	17801	17895	17989	18083	18177	18271	18365	18459	18553	18647	18741	18835	18929	19023	19117	19211	19305	19399	19493	19587	19681	19775	19869	19963	20057	20151	20245	20339	20433	20527	20621	20715	20809	20903	21000	21094	21188	21282	21376	21470	21564	21658	21752	21846	21940	22034	22128	22222	22316	22410	22504	22598	22692	22786	22880	22974	23068	23162	23256	23350	23444	23538	23632	23726	23820	23914	24008	24102	24196	24290	24384	24478	24572	24666	24760	24854	24948	25042	25136	25230	25324	25418	25512	25606	25700	25794	25888	25982	26076	26170	26264	26358	26452	26546	26640	26734	26828	26922	27016	27110	27204	27298	27392	27486	27580	27674	27768	27862	27956	28050	28144	28238	28332	28426	28520	28614	28708	28802	28896	28990	29084	29178	29272	29366	29460	29554	29648	29742	29836	29930	30024	30118	30212	30306	30400	30494	30588	30682	30776	30870	30964	31058	31152	31246	31340	31434	31528	31622	31716	31810	31904	32000	32094	32188	32282	32376	32470	32564	32658	32752	32846	32940	33034	33128	33222	33316	33410	33504	33598	33692	33786	33880	33974	34068	34162	34256	34350	34444	34538	34632	34726	34820	34914	35008	35102	35196	35290	35384	35478	35572	35666	35760	35854	35948	36042	36136	36230	36324	36418	36512	36606	36700	36794	36888	36982	37076	37170	37264	37358	37452	37546	37640	37734	37828	37922	38016	38110	38204	38298	38392	38486	38580	38674	38768	38862	38956	39050	39144	39238	39332	39426	39520	39614	39708	39802	39896	39990	40084	40178	40272	40366	40460	40554	40648	40742	40836	40930	41024	41118	41212	41306	41400	41494	41588	41682	41776	41870	41964	42058	42152	42246	42340	42434	42528	42622	42716	42810	42904	43000	43094	43188	43282	43376	43470	43564	43658	43752	43846	43940	44034	44128	44222	44316	44410	44504	44598	44692	44786	44880	44974	45068	45162	45256	45350	45444	45538	45632	45726	45820	45914	46008	46102	46196	46290	46384	46478	46572	46666	46760	46854	46948	47042	47136	47230	47324	47418	47512	47606	47700	47794	47888	47982	48076	48170	48264	48358	48452	48546	48640	48734	48828	48922	49016	49110	49204	49298	49392	49486	49580	49674	49768	49862	49956	50050	50144	50238	50332	50426	50520	50614	50708	50802	50896	50990	51084	51178	51272	51366	51460	51554	51648	51742	51836	51930	52024	52118	52212	52306	52400	52494	52588	52682	52776	52870	52964	53058	53152	53246	53340	53434	53528	53622	53716	53810	53904	54000	54094	54188	54282	54376	54470	54564	54658	54752	54846	54940	55034	55128	55222	55316	55410	55504	55598	55692	55786	55880	55974	56068	56162	56256	56350	56444	56538	56632	56726	56820	56914	57008	57102	57196	57290	57384	57478	57572	57666	57760	57854	57948	58042	58136	58230	58324	58418	58512	58606	58700	58794	58888	58982	59076	59170	59264	59358	59452	59546	59640	59734	59828	59922	60016	60110	60204	60298	60392	60486	60580	60674	60768	60862	60956	61050	61144	61238	61332	61426	61520	61614	61708	61802	61896	61990	62084	62178	62272	62366	62460	62554	62648	62742	62836	62930	63024	63118	63212	63306	63400	63494	63588	63682	63776	63870	63964	64058	64152	64246	64340	64434	64528	64622	64716	64810	64904	65000	65094	65188	65282	65376	65470	65564	65658	65752	65846	65940	66034	66128	66222	66316	66410	66504	66598	66692	66786	66880	66974	67068	67162	67256	67350	67444	67538	67632	67726	67820	67914	68008	68102	68196	68290	68384	68478	68572	68666	68760	68854	68948	69042	69136	69230	69324	69418	69512	69606	69700	69794	69888	69982	70076	70170	70264	70358	70452	70546	70640	70734	70828	70922	71016	71110	71204	71298	71392	71486	71580	71674	71768	71862	71956	72050	72144	72238	72332	72426	72520	72614	72708	72802	72896	72990	73084	73178	73272	73366	73460	73554	73648	73742	73836	73930	74024	74118	74212	74306	74400	74494	74588	74682	74776	74870	74964	75058	75152	75246	75340	75434	75528	75622	75716	75810	75904	76000	76094	76188	76282	76376	76470	76564	76658	76752	76846	76940	77034	77128	77222	77316	77410	77504	77598	77692	77786	77880	77974	78068	78162	78256	78350	78444	78538	78632	78726	78820	78914	79008	79102	79196	79290	79384	79478	79572	79666	79760	79854	79948	80042	80136	80230	80324	80418	80512	80606	80700	80794	80888	80982	81076	81170	81264	81358	81452	81546	81640	81734	81828	81922	82016	82110	82204	82298	82392	82486	82580	82674	82768	82862	82956	83050	83144	83238	83332	83426	83520	83614	83708	83802	83896	83990	84084	84178	84272	84366	84460	84554	84648	84742	84836	84930	85024	85118	85212	85306	85400	85494	85588	85682	85776	85870	85964	86058	86152	86246	86340	86434	86528	86622	86716	86810	86904	87000	87094	87188	87282	87376	87470	87564	87658	87752	87846	87940	88034	88128	88222	88316	88410	88504	88598	88692	88786	88880	88974	89068	89162	89256	89350	89444	89538	89632	89726	89820	89914	90008	90102	90196	90290	90384	90478	90572	90666	90760	90854	90948	91042	91136	91230	91324	91418	91512	91606	91700	91794	91888	91982	92076	92170	92264	92358	92452	92546	92640	92734	92828	92922	93016	93110	93204	93298	93392	93486	93580	93674	93768	93862	93956	94050	94144	94238	94332	94426	94520	94614	94708	94802	94896	94990	95084	95178	95272	95366	95460	95554	95648	95742	95836	95930	96024	96118	96212	96306	96400	96494	96588	96682	96776	96870	96964	97058	97152	97246	97340	97434	97528	97622	97716	97810	97904	98000	98094	98188	98282	98376	98470	98564	98658	98752	98846	98940	99034	99128	99222	99316	99410	99504	99598	99692	99

Base State Aid Per Pupil = \$3,937

FY 2011 Legal Max

USD #	Col 12(a)	Col 13	Col 14	Col 15	Col 16	Col 17	Col 18	Col 18(a)	Col 19	2010-11 Subtotal FTE (no Spec Ed)	2010-11 Total Weighted FTE (no Spec Ed)	2010-11 Total Weighted FTE (including Spec Ed)	2010-11 General Fund (no Debt)	2010-11 General Fund (including Debt)	2010-11 Budget Total	2009-10 Time Audit	2009-10 Annual Audit	2009-10 Adjusted Total	2010-11 General Fund	2009 SBA4	2010-11 Max Authorized	2010-11 Computed	2010-11 Legal
01	7.17	0.0	0.0	0.0	0.0	0.0	478,271	17.18	0.0	1,015.3	1,021.12	1,021.12	4,977,501	4,977,501	4,977,501	-	-	4,977,501	4,977,501	0.00%	4,847,767	970,000	5,817,767
02	36.4	0.0	0.0	0.0	3.4	0.0	479,914	118.9	1,119.8	1,233.72	2	4,305,251	4,887,877	5,049,102	4,887,877	-	-	4,887,877	4,475,848	30.00%	5,000,465	500,332	5,500,797
03	18.8	0.0	0.0	0.0	0.0	0.0	157,818	42.1	334.4	323.3	3	1,512,566	1,410,440	1,508,111	1,410,440	-	-	1,410,440	1,868,717	30.00%	2,368,735	836,866	3,205,601
04	34.3	0.0	0.0	0.0	0.0	0.0	143,990	38.8	547.8	544.3	4	2,197,082	2,361,177	2,497,200	2,361,177	-	-	2,361,177	2,922,444	30.00%	3,844,631	1,068,733	4,913,364
05	26.0	0.0	0.0	0.0	0.0	0.0	109,725	27.9	383.2	371.1	8	1,608,568	1,618,501	1,675,910	1,618,501	-	-	1,618,501	1,850,056	30.00%	2,500,000	544,222	3,044,222
07	11.3	0.0	0.0	0.0	0.0	0.0	338,407	86.0	531.8	517.12	4	3,110,769	3,223,361	3,349,381	3,223,361	-	-	3,223,361	3,649,361	30.00%	4,839,839	832,500	5,672,339
08	50.0	0.0	0.0	0.0	0.0	0.0	494,671	129.5	663.1	616.7	5	2,728,722	3,156,592	3,299,369	3,156,592	-	-	3,156,592	3,629,843	30.00%	5,088,263	1,088,118	6,176,381
09	54.4	0.0	0.0	0.0	0.0	0.0	624,178	133.1	822.1	798.2	1	3,719,978	3,799,992	3,861,149	3,799,992	-	-	3,799,992	4,303,956	30.00%	5,639,842	1,220,000	6,859,842
10	48.8	0.0	0.0	0.0	0.0	0.0	265,015	97.3	421.1	418.4	5	2,792,245	2,907,815	3,032,868	2,907,815	-	-	2,907,815	3,350,771	30.00%	4,358,467	299,797	4,658,264
11	33.1	0.0	0.0	0.0	0.0	0.0	369,298	84.0	658.9	752.8	9	3,650,738	4,009,817	4,250,811	4,009,817	-	-	4,009,817	4,618,128	30.00%	6,194,938	328,238	6,523,176
12	97.3	0.0	0.0	0.0	0.0	0.0	800,098	183.2	1,659.0	1,508.2	4	4,908,027	5,601,185	5,601,185	5,601,185	-	-	5,601,185	6,358,266	30.00%	8,000,000	1,400,000	9,400,000
13	114.3	0.0	0.0	0.0	0.0	0.0	1,014,789	257.7	1,722.3	1,860.0	1	7,838,611	8,868,016	9,710,453	8,868,016	-	-	8,868,016	9,836,222	30.00%	12,921,467	2,993,797	15,915,264
14	18.8	0.0	0.0	0.0	0.0	0.0	449,434	185.0	1,927.1	1,262.1	10	4,295,824	6,656,458	6,656,458	6,656,458	-	-	6,656,458	7,981,458	30.00%	10,962,500	1,000,000	11,962,500
200	21.9	0.0	0.0	0.0	0.0	0.0	123,878	31.5	435.2	468.7	8	1,713,362	1,807,388	1,934,186	1,807,388	-	-	1,807,388	2,026,003	30.00%	2,828,258	641,813	3,470,071
201	10.8	0.0	0.0	0.0	0.0	0.0	244,539	74.1	556.6	873.1	11	2,305,468	2,850,736	2,878,974	2,850,736	-1,047	-1,047	2,849,689	27,899,214	30.00%	3,369,764	3,337,960	6,707,724
202	15.4	0.0	0.0	0.0	0.0	0.0	131,939	33.0	2,187.0	2,500.1	12	8,101,411	9,979,866	10,166,000	9,979,866	-261	-261	9,979,605	10,990,701	30.00%	12,594,228	2,613,627	15,207,855
204	126.1	0.0	0.0	0.0	0.0	0.0	2,047,698	500.1	3,074.0	3,694.1	10	12,102,308	14,118,972	14,412,308	14,118,972	-	-	14,118,972	16,641,462	30.00%	19,603,000	4,958,538	24,561,538
205	65.3	0.0	0.0	0.0	0.0	0.0	660,379	165.0	3,073.0	1,287.1	4	3,568,869	4,207,818	4,327,518	4,207,818	-	-	4,207,818	4,700,168	30.00%	5,426,000	1,478,668	6,904,668
206	79.7	0.0	0.0	0.0	0.0	0.0	668,296	144.5	802.8	1,047.1	4	3,953,338	4,122,455	4,294,368	4,122,455	-	-	4,122,455	4,532,834	30.00%	5,369,885	735,033	6,104,918
207	60.0	0.0	0.0	0.0	0.0	0.0	1,217,910	309.4	2,363.7	2,916.1	10	6,313,781	10,531,889	11,229,187	10,531,889	-	-	10,531,889	11,728,148	30.00%	13,816,424	3,095,276	16,911,700
208	34.4	0.0	0.0	0.0	0.0	0.0	492,720	124.7	873.8	788.9	9	2,692,754	3,163,268	3,315,716	3,163,268	-	-	3,163,268	3,492,820	30.00%	4,043,664	880,392	4,924,056
209	14.4	0.0	0.0	0.0	0.0	0.0	87,929	24.7	462.8	545.3	3	1,807,922	1,984,567	2,022,019	1,984,567	-516	-516	1,984,051	2,144,464	31.00%	2,834,474	850,410	3,684,884
210	51.8	0.0	0.0	0.0	0.0	0.0	529,537	134.5	1,648.8	1,783.2	2	6,811,226	7,020,852	7,171,049	7,020,852	-	-	7,020,852	7,907,418	30.00%	9,077,423	2,076,565	11,153,988
211	49.8	0.0	0.0	0.0	0.0	0.0	904,817	264.5	1,383.3	1,424.0	4	4,718,847	5,523,784	5,686,716	5,523,784	-	-	5,523,784	6,060,908	30.00%	7,042,972	1,519,164	8,562,136
212	27.0	0.0	0.0	0.0	0.0	0.0	218,044	58.4	443.8	459.0	4	1,748,453	1,984,567	2,022,019	1,984,567	-	-	1,984,567	2,115,578	30.00%	2,538,243	552,665	3,090,908
214	69.7	0.0	0.0	0.0	0.0	0.0	790,115	200.7	2,302.2	2,509.9	11	8,991,300	9,661,476	10,166,929	9,661,476	-	-	9,661,476	11,203,914	30.00%	13,309,274	3,645,290	16,954,564
215	39.3	0.0	0.0	0.0	0.0	0.0	329,314	83.7	1,022.5	1,188.2	4	4,340,243	4,670,069	4,781,949	4,670,069	-	-	4,670,069	5,283,854	30.00%	6,005,948	1,335,884	7,341,832
216	9.7	0.0	0.0	0.0	0.0	0.0	135,214	34.4	589.0	624.1	12	2,118,880	2,495,285	2,492,544	2,495,285	-	-	2,495,285	2,818,769	30.00%	3,490,769	672,487	4,163,256
217	17.7	0.0	0.0	0.0	0.0	0.0	118,713	30.2	428.3	468.2	2	1,688,217	1,805,116	1,867,560	1,805,116	-	-	1,805,116	2,044,894	30.00%	2,488,498	683,382	3,171,880
218	13.1	0.0	0.0	0.0	28.1	1.9	229,919	61.5	1,306.9	1,368.0	11	5,143,881	5,644,996	6,000,748	5,644,996	-	-	5,644,996	6,176,011	30.00%	7,000,421	1,355,424	8,355,845
219	21.0	0.0	0.0	0.0	0.0	0.0	175,292	44.5	491.5	529.2	1	1,498,457	1,588,657	1,648,643	1,588,657	-	-	1,588,657	1,746,198	30.00%	2,103,200	514,599	2,617,799
220	24.8	0.0	0.0	0.0	0.0	0.0	117,518	38.4	430.8	468.2	10	1,888,000	1,844,246	1,843,411	1,844,246	-	-	1,844,246	2,103,984	30.00%	2,511,930	667,684	3,179,614
221	40.1	0.0	0.0	0.0	0.0	0.0	411,864	104.8	650.8	719.8	8	2,264,217	2,796,025	2,836,995	2,796,025	-	-	2,796,025	3,111,184	30.00%	3,535,530	834,410	4,369,940
222	48.5	0.0	0.0	0.0	0.0	0.0	266,405	75.0	509.0	624.9	3	3,184,955	3,400,387	3,545,805	3,400,387	-	-	3,400,387	3,801,401	30.00%	4,409,072	1,007,665	5,416,737
223	12.8	0.0	0.0	0.0	0.0	0.0	109,750	27.1	399.2	380.0	10	1,411,110	1,520,860	1,634,068	1,520,860	-	-	1,520,860	1,745,171	30.00%	2,238,538	517,667	2,756,205
224	31.2	0.0	0.0	0.0	0.0	0.0	326,361	86.7	716.5	863.1	12	3,044,905	3,400,387	3,545,805	3,400,387	-	-	3,400,387	3,844,686	30.00%	4,451,408	1,051,722	5,503,130
227	97.7	0.0	0.0	0.0	0.0	0.0	177,299	45.0	494.1	459.1	3	1,845,717	2,122,437	2,122,437	2,122,437	-	-	2,122,437	2,412,784	30.00%	2,919,523	797,039	3,716,562
228	12.9	0.0	0.0	0.0	0.0	0.0	74,520	19.2	186.0	182.0	3	603,544	728,136	844,126	728,136	-	-	728,136	825,079	30.00%	964,924	236,795	1,201,719
229	648.8	3,216.9	0.0	1,836.7	1.0	15,966,295	431.3	27,940.0	32,203.3	3	110,023,492	127,000,001	127,000,001	127,000,001	-	-	127,000,001	143,815,219	31.00%	168,868,000	41,053,219	209,921,219	
230	137.1	158.8	0.0	0.0	1,185.7	0.0	1,812,499	409.8	3,022.7	4,201.1	4	18,681,807	21,388,597	22,282,826	21,388,597	-	-	21,388,597	24,101,689	30.00%	28,151,298	3,749,689	31,900,987
231	172.4	0.0	0.0	0.0	0.0	0.0	4,892,287	1,141.0	5,725.1	6,868.2	2	22,838,119	27,031,866	27,862,439	27,031,866	-	-	27,031,866	30,903,469	30.00%	36,130,474	5,126,605	41,257,079













Base State Aid Per Pupil = \$3,937

FY 2011 Legal Max

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Col 12(a)	Col 13	Col 14	Col 15	Col 16	Col 17	Col 18	Col 18(a)	Col 19	Col 20	Col 20(a)	Col 20(b)	Col 20(c)	Col 20(d)	Col 20(e)	Col 21	Col 21(a)	Col 21(b)	Col 21(c)	Col 21(d)							
Transp Weighted FTE	Auxiliary Weighted FTE	Declining Enroll Weighted FTE	Coal of Living Weighted FTE	Virtual Weighted FTE	RMS Weighted FTE	FY 11 Base Ed State Aid FTE	Spoo Ed Weighted FTE	2010-11 Subtotal Weighted FTE (Less Spoo Ed)	2010-11 Total Weighted FTE	2010-11 Total Enrollment	2010-11 Total Average Daily Attendance	2010-11 General Fund (Less Spoo Ed)	2010-11 General Fund (Before Additions)	2010-11 General Fund (Actual)	Budget Law Violation	2009-10 Total Actual	2009-10 Vocational Assist Act	2009-10 Total Reduction	2010-11 Adjusted Legal Budget	2010-11 General Fund	2010-11 Max Computed LOG	2010-11 Author. Planes	2010-11 LOG	2010-11 Adopted LOG	2010-11 Legal LOG	
430	80.0	0.0	0.0	0.0	0.0	22	0.0	1,017,830	2,083	1,430	1,094	7	A	6,918,121	4,742,067	0	6,918,121	2,252,186	0.00%	2,195,754	2,211,020	2,195,754	2,211,020	2,195,754	2,211,020	2,195,754
401	7.0	0.0	0.0	0.0	0.0	146,660	373	398	374	9	A	1,335,007	1,481,807	1,640,207	1,481,807	0	1,481,807	1,640,207	0.00%	1,481,807	1,640,207	1,481,807	1,640,207	1,481,807	1,640,207	
402	72.0	0.0	0.0	0.0	0.0	1,070,360	411.8	2,608	3,024	8	A	10,557,317	12,114,719	12,200,861	12,114,719	0	12,114,719	12,200,861	0.00%	12,114,719	12,200,861	12,114,719	12,200,861	12,114,719	12,200,861	
403	36.0	0.0	0.0	0.0	0.0	222,400	563	393	417	7	A	1,638,186	1,705,626	1,785,120	1,705,626	0	1,705,626	1,785,120	0.00%	1,705,626	1,785,120	1,705,626	1,785,120	1,705,626	1,785,120	
404	47.1	0.0	0.0	0.0	0.0	612,236	185.9	2,978	1,431	8	A	5,108,951	5,720,852	5,869,567	5,720,852	0	5,720,852	5,869,567	0.00%	5,720,852	5,869,567	5,720,852	5,869,567	5,720,852	5,869,567	
405	10.8	0.0	0.0	0.0	0.0	868,314	205.3	2,007	1,663	1	A	5,255,107	6,163,314	6,177,772	6,163,314	0	6,163,314	6,177,772	0.00%	6,163,314	6,177,772	6,163,314	6,177,772	6,163,314	6,177,772	
407	36.0	0.0	0.0	0.0	0.0	721,034	181.1	4,183	1,998	5	A	5,675,913	6,268,838	6,329,872	6,268,838	0	6,268,838	6,329,872	0.00%	6,268,838	6,329,872	6,268,838	6,329,872	6,268,838	6,329,872	
408	43.1	0.0	0.0	0.0	0.0	670,599	170.3	3,468	1,182	8	A	3,728,764	4,267,220	4,437,272	4,267,220	0	4,267,220	4,437,272	0.00%	4,267,220	4,437,272	4,267,220	4,437,272	4,267,220	4,437,272	
409	44.6	0.0	0.0	0.0	0.0	1,703,167	428.6	2,980	2,908	13	A	9,461,566	11,074,782	11,158,769	11,074,782	0	11,074,782	11,158,769	0.00%	11,074,782	11,158,769	11,074,782	11,158,769	11,074,782	11,158,769	
410	37.6	0.0	0.0	0.0	0.0	585,399	174.1	650	1,248	8	A	3,742,066	4,428,338	4,494,274	4,428,338	0	4,428,338	4,494,274	0.00%	4,428,338	4,494,274	4,428,338	4,494,274	4,428,338	4,494,274	
411	25.1	0.0	0.0	0.0	0.0	299,454	78.1	484	542	8	A	1,638,217	1,745,223	1,727,447	1,745,223	0	1,745,223	1,727,447	0.00%	1,745,223	1,727,447	1,745,223	1,727,447	1,745,223	1,727,447	
413	35.4	0.0	0.0	0.0	0.0	344,200	87.4	519	688	13	A	2,044,818	2,368,872	2,368,872	2,368,872	0	2,368,872	2,368,872	0.00%	2,368,872	2,368,872	2,368,872	2,368,872	2,368,872	2,368,872	
413	108.1	0.0	0.0	0.0	0.0	2,022,594	513.2	2,664	3,168	8	A	10,210,318	12,220,684	12,387,056	12,220,684	0	12,220,684	12,387,056	0.00%	12,220,684	12,387,056	12,220,684	12,387,056	12,220,684	12,387,056	
415	82.8	0.0	0.0	0.0	0.0	863,330	219.3	1,382	1,524	1	A	5,258,922	6,120,897	6,278,062	6,120,897	0	6,120,897	6,278,062	0.00%	6,120,897	6,278,062	6,120,897	6,278,062	6,120,897	6,278,062	
418	122.3	0.0	0.0	0.0	0.0	1,968,887	322.5	2,013	2,348	11	A	7,796,362	9,228,418	9,688,969	9,228,418	0	9,228,418	9,688,969	0.00%	9,228,418	9,688,969	9,228,418	9,688,969	9,228,418	9,688,969	
417	79.0	0.0	0.0	0.0	0.0	660,948	172.8	2,073	1,543	11	A	4,753,140	5,334,241	5,628,921	5,334,241	-3,224	5,334,241	5,628,921	-3,224	5,334,241	5,628,921	5,334,241	5,628,921	5,334,241	5,628,921	
418	37.8	0.0	0.0	0.0	0.0	2,258,469	569.0	2,733	3,262	7	A	10,959,569	13,257,847	13,607,288	13,257,847	0	13,257,847	13,607,288	0.00%	13,257,847	13,607,288	13,257,847	13,607,288	13,257,847	13,607,288	
419	48.1	0.0	0.0	0.0	0.0	1,111,541	284.8	3,378	1,721	5	A	2,810,231	2,991,848	3,060,254	2,991,848	0	2,991,848	3,060,254	0.00%	2,991,848	3,060,254	2,991,848	3,060,254	2,991,848	3,060,254	
420	28.0	0.0	0.0	0.0	0.0	871,148	170.8	1,627	1,233	12	A	4,183,860	4,865,202	4,969,392	4,865,202	0	4,865,202	4,969,392	0.00%	4,865,202	4,969,392	4,865,202	4,969,392	4,865,202	4,969,392	
421	36.2	0.0	0.0	0.0	0.0	444,390	113.9	742	847	13	A	2,690,545	3,335,033	3,335,033	3,335,033	0	3,335,033	3,335,033	0.00%	3,335,033	3,335,033	3,335,033	3,335,033	3,335,033	3,335,033	
421	18.1	0.0	0.0	0.0	0.0	237,209	60.2	1,084	656	9	A	1,753,540	1,960,047	2,019,547	1,960,047	0	1,960,047	2,019,547	0.00%	1,960,047	2,019,547	1,960,047	2,019,547	1,960,047	2,019,547	
421	29.1	0.0	0.0	0.0	0.0	420,605	106.8	683	799	9	A	2,728,341	3,148,813	3,207,965	3,148,813	0	3,148,813	3,207,965	0.00%	3,148,813	3,207,965	3,148,813	3,207,965	3,148,813	3,207,965	
421	18.1	0.0	0.0	0.0	0.0	262,214	66.2	148	353	12	A	1,922,911	1,451,178	1,451,178	1,451,178	0	1,451,178	1,451,178	0.00%	1,451,178	1,451,178	1,451,178	1,451,178	1,451,178	1,451,178	
426	29.3	0.0	0.0	0.0	0.0	268,465	67.8	478	1,423	4	A	1,816,981	2,142,300	2,181,961	2,142,300	0	2,142,300	2,181,961	0.00%	2,142,300	2,181,961	2,142,300	2,181,961	2,142,300	2,181,961	
426	48.3	0.0	0.0	0.0	0.0	1,875,648	501.8	4,568	4,860	5	A	11,758,223	18,163,620	19,010,782	18,163,620	0	18,163,620	19,010,782	0.00%	18,163,620	19,010,782	18,163,620	19,010,782	18,163,620	19,010,782	
429	24.9	0.0	0.0	0.0	0.0	346,442	88.0	597	888	11	A	2,697,238	2,897,238	2,781,420	2,897,238	0	2,897,238	2,781,420	0.00%	2,897,238	2,781,420	2,897,238	2,781,420	2,897,238	2,781,420	
430	58.1	0.0	0.0	0.0	0.0	721,395	183.2	1,173	1,318	8	A	4,439,881	5,109,620	5,439,881	5,109,620	0	5,109,620	5,439,881	0.00%	5,109,620	5,439,881	5,109,620	5,439,881	5,109,620	5,439,881	
431	27.1	0.0	0.0	0.0	0.0	554,404	140.8	263	1,134	10	A	4,116,681	4,699,991	4,814,400	4,699,991	0	4,699,991	4,814,400	0.00%	4,699,991	4,814,400	4,699,991	4,814,400	4,699,991	4,814,400	
432	19.2	0.0	0.0	0.0	0.0	1,178,118	298.4	451	507	3	A	1,778,118	1,968,453	2,054,174	1,968,453	0	1,968,453	2,054,174	0.00%	1,968,453	2,054,174	1,968,453	2,054,174	1,968,453	2,054,174	
434	13.7	0.0	0.0	0.0	0.0	1,031,900	263.3	1,842	1,477	3	A	6,468,128	7,468,096	7,668,334	7,468,096	0	7,468,096	7,668,334	0.00%	7,468,096	7,668,334	7,468,096	7,668,334	7,468,096	7,668,334	
435	54.2	0.0	0.0	0.0	22.4	1,203,151	305.8	1,296	1,419	8	A	5,222,458	6,069,969	6,299,628	6,069,969	0	6,069,969	6,299,628	0.00%	6,069,969	6,299,628	6,069,969	6,299,628	6,069,969	6,299,628	
436	57.9	0.0	0.0	0.0	0.0	447,250	113.8	1,364	1,478	12	A	5,370,855	6,018,059	6,338,309	6,018,059	0	6,018,059	6,338,309	0.00%	6,018,059	6,338,309	6,018,059	6,338,309	6,018,059	6,338,309	
437	18.1	0.0	0.0	0.0	0.0	5,079,682	1,268	8,951	8,256	13	A	27,278,887	32,086,344	32,700,407	32,086,344	0	32,086,344	32,700,407	0.00%	32,086,344	32,700,407	32,086,344	32,700,407	32,086,344	32,700,407	
438	42.8	0.0	0.0	0.0	0.0	301,441	99.4	333	327	10	A	2,844,648	3,029,992	3,168,243	3,029,992	0	3,029,992	3,168,243	0.00%	3,029,992	3,168,243	3,029,992	3,168,243	3,029,992	3,168,243	
438	15.1	0.0	0.0	0.0	0.0	418,458	113.1	857	970	3	A	3,374,796	3,820,871	3,883,515	3,820,871	0	3,820,871	3,883,515	0.00%	3,820,871	3,883,515	3,820,871	3,883,515	3,820,871	3,883,515	
440	68.0	0.0	0.0	0.0	0.0	838,882	161.5	1,241	1,423	7	A	4,888,098	5,222,847	5,680,810	5,222,847	0	5,222,847	5,680,810	0.00%	5,222,847	5,680,810	5,222,847	5,680,810	5,222,847	5,680,810	
442	29.0	0.0</																								



Base State Aid Per Pupil = \$3,937

FY 2011 Legal Max

Col 12(a)	Col 13	Col 14	Col 15	Col 16	Col 17	Col 18	Col 19(a)	Col 19(b)	Col 19(c)	Col 20(a)	Col 20(b)	Col 20(c)	Col 20(d)	Col 20(e)	Col 20(f)	Col 20(g)	Col 20(h)	Col 20(i)	Col 20(j)	Col 20(k)	Col 20(l)	Col 20(m)	Col 20(n)	Col 20(o)	Col 20(p)	
USD #	Transp Weighed FTE	Auxiliary Weighed FTE	Declining Eval. Weighed FTE	Cost of Living Weighed FTE	Virtual Weighed FTE	K-12 FTE	FY 11 Spec Ed State Aid	Spec Ed Weighed FTE	2010-11 Subtotal Weighed FTE (Inc Spec Ed)	2010-11 Total Weighed FTE	2010-11 State Number	2010-11 State Number	2010-11 State Number	2010-11 State Number	2010-11 State Number	2010-11 State Number	2010-11 State Number	2010-11 State Number	2010-11 State Number	2010-11 State Number	2010-11 State Number	2010-11 State Number	2010-11 State Number	2010-11 State Number	2010-11 State Number	2010-11 State Number
410	1274	0.0	0.0	0.0	0.0	2,136,294	5428	3,8952	4,4282	11	A	15,259,969	17,426,186	18,115,334	17,426,186	18,115,334	17,426,186	18,115,334	17,426,186	18,115,334	17,426,186	18,115,334	17,426,186	18,115,334	17,426,186	18,115,334
411	141	0.0	0.0	0.0	0.0	137,192	348	3224	3572	8	A	1,269,260	1,406,296	1,497,500	1,269,260	1,406,296	1,269,260	1,406,296	1,269,260	1,406,296	1,269,260	1,406,296	1,269,260	1,406,296	1,269,260	1,406,296
473	1052	0.0	0.0	1.1	0.0	807,667	2051	14620	12671	11	AM	6,639,031	6,644,115	6,657,510	6,644,115	6,657,510	6,644,115	6,657,510	6,644,115	6,657,510	6,644,115	6,657,510	6,644,115	6,657,510	6,644,115	6,657,510
474	154	0.0	0.0	0.0	0.0	159,566	405	3003	3408	8	A	1,182,261	1,341,730	1,315,314	1,182,261	1,341,730	1,182,261	1,341,730	1,182,261	1,341,730	1,182,261	1,341,730	1,182,261	1,341,730	1,182,261	1,341,730
475	2838	0.0	0.0	0.0	0.0	8,984,950	16,929	10,2749	11,2678	13	AM	40,432,261	47,112,229	47,112,229	40,432,261	47,112,229	40,432,261	47,112,229	40,432,261	47,112,229	40,432,261	47,112,229	40,432,261	47,112,229	40,432,261	47,112,229
476	17	0.0	0.0	0.0	0.0	66,961	157	3028	3221	12	A	1,222,832	1,268,687	1,403,108	1,222,832	1,268,687	1,222,832	1,268,687	1,222,832	1,268,687	1,222,832	1,268,687	1,222,832	1,268,687	1,222,832	1,268,687
477	233	0.0	0.0	0.0	0.0	150,636	382	4662	5044	3	A	1,835,479	1,965,823	2,011,316	1,835,479	1,965,823	1,835,479	1,965,823	1,835,479	1,965,823	1,835,479	1,965,823	1,835,479	1,965,823	1,835,479	1,965,823
479	268	0.0	0.0	0.0	0.0	261,222	716	4670	5386	11	A	1,836,579	2,120,469	2,342,026	1,836,579	2,120,469	1,836,579	2,120,469	1,836,579	2,120,469	1,836,579	2,120,469	1,836,579	2,120,469	1,836,579	2,120,469
480	511	0.0	0.0	0.0	0.0	2,095,117	5624	6,8448	7342	10	A	97,493,158	92,786,482	92,094,743	97,493,158	92,786,482	97,493,158	92,786,482	97,493,158	92,786,482	97,493,158	92,786,482	97,493,158	92,786,482	97,493,158	92,786,482
481	418	0.0	0.0	0.0	0.0	350,064	883	7087	7878	11	A	2,190,152	3,140,151	3,327,102	2,190,152	3,140,151	2,190,152	3,140,151	2,190,152	3,140,151	2,190,152	3,140,151	2,190,152	3,140,151	2,190,152	3,140,151
482	155	0.0	0.0	0.0	0.0	100,573	406	4062	4468	8	A	1,772,437	1,933,067	2,024,886	1,772,437	1,933,067	1,772,437	1,933,067	1,772,437	1,933,067	1,772,437	1,933,067	1,772,437	1,933,067	1,772,437	1,933,067
483	126	0.0	0.0	0.0	0.0	694,947	1982	15207	16889	1	A	5,963,566	6,481,719	6,866,879	5,963,566	6,481,719	5,963,566	6,481,719	5,963,566	6,481,719	5,963,566	6,481,719	5,963,566	6,481,719	5,963,566	6,481,719
484	671	0.0	0.0	0.0	0.0	578,088	1468	12147	13615	13	A	4,162,274	5,300,226	5,420,856	4,162,274	5,300,226	4,162,274	5,300,226	4,162,274	5,300,226	4,162,274	5,300,226	4,162,274	5,300,226	4,162,274	5,300,226
487	132	0.0	0.0	0.0	0.0	415,957	1064	8753	9817	9	AM	3,446,056	3,661,016	3,817,217	3,446,056	3,661,016	3,446,056	3,661,016	3,446,056	3,661,016	3,446,056	3,661,016	3,446,056	3,661,016	3,446,056	3,661,016
488	119	0.0	122.8	0.0	19.9	2,259,191	6049	31953	44653	11	A	15,000,036	17,739,866	18,077,851	15,000,036	17,739,866	15,000,036	17,739,866	15,000,036	17,739,866	15,000,036	17,739,866	15,000,036	17,739,866	15,000,036	17,739,866
490	735	0.0	0.0	0.0	4.7	1,639,944	3911	2,8107	3,0018	11	A	10,376,326	11,819,209	11,819,209	10,376,326	11,819,209	10,376,326	11,819,209	10,376,326	11,819,209	10,376,326	11,819,209	10,376,326	11,819,209	10,376,326	11,819,209
491	271	0.0	0.0	0.0	0.0	1,144,312	2907	2,0956	2,3857	4	A	8,566,732	9,410,317	8,566,732	8,566,732	9,410,317	8,566,732	9,410,317	8,566,732	9,410,317	8,566,732	9,410,317	8,566,732	9,410,317	8,566,732	9,410,317
492	651	0.0	0.0	12.2	0.0	2,043,177	4724	4,863	5,336	4	A	2,076,317	2,426,113	2,426,113	2,076,317	2,426,113	2,076,317	2,426,113	2,076,317	2,426,113	2,076,317	2,426,113	2,076,317	2,426,113	2,076,317	2,426,113
493	802	0.0	0.0	0.0	0.0	929,650	2282	1,6980	1,8242	8	A	6,688,026	7,514,945	7,514,945	6,688,026	7,514,945	6,688,026	7,514,945	6,688,026	7,514,945	6,688,026	7,514,945	6,688,026	7,514,945	6,688,026	7,514,945
494	363	0.0	0.0	0.0	0.0	754,461	658	9424	10,080	1	A	3,710,229	3,999,498	4,009,473	3,710,229	3,999,498	3,710,229	3,999,498	3,710,229	3,999,498	3,710,229	3,999,498	3,710,229	3,999,498	3,710,229	3,999,498
495	583	0.0	0.0	0.0	0.0	1,051,911	2662	11,823	12,875	5	A	6,307,184	6,612,180	7,122,004	6,307,184	6,612,180	6,307,184	6,612,180	6,307,184	6,612,180	6,307,184	6,612,180	6,307,184	6,612,180	6,307,184	6,612,180
496	180	0.0	11.8	0.0	4.7	192,361	336	3453	3789	10	A	1,384,879	1,627,162	1,666,006	1,384,879	1,627,162	1,384,879	1,627,162	1,384,879	1,627,162	1,384,879	1,627,162	1,384,879	1,627,162	1,384,879	1,627,162
497	291	0.0	0.0	32.8	129.9	3,754,042	24775	13,4158	15,8933	11	A	32,818,005	32,937,922	32,937,922	32,818,005	32,937,922	32,818,005	32,937,922	32,818,005	32,937,922	32,818,005	32,937,922	32,818,005	32,937,922	32,818,005	32,937,922
498	81	0.0	0.0	0.0	0.0	298,348	1012	3732	4744	2	A	2,650,346	3,048,813	3,118,925	2,650,346	3,048,813	2,650,346	3,048,813	2,650,346	3,048,813	2,650,346	3,048,813	2,650,346	3,048,813	2,650,346	3,048,813
499	54	0.0	0.0	0.0	0.0	692,307	1504	1,3425	1,4929	6	A	5,296,423	5,977,541	6,031,647	5,296,423	5,977,541	5,296,423	5,977,541	5,296,423	5,977,541	5,296,423	5,977,541	5,296,423	5,977,541	5,296,423	5,977,541
500	8028	0.0	0.0	0.0	0.0	13,683,498	34,758	30,8773	34,2629	11	A	121,563,830	126,247,367	138,142,466	121,563,830	126,247,367	121,563,830	126,247,367	121,563,830	126,247,367	121,563,830	126,247,367	121,563,830	126,247,367	121,563,830	126,247,367
501	2726	0.0	0.0	0.0	0.0	13,671,113	34,283	19,2032	22,2718	2	A	76,597,326	89,454,546	92,676,311	76,597,326	89,454,546	76,597,326	89,454,546	76,597,326	89,454,546	76,597,326	89,454,546	76,597,326	89,454,546	76,597,326	89,454,546
502	126	0.0	0.0	0.0	0.0	119,830	304	2453	2787	7	A	977,257	1,091,241	1,198,248	977,257	1,091,241	977,257	1,091,241	977,257	1,091,241	977,257	1,091,241	977,257	1,091,241	977,257	1,091,241
503	0	0.0	0.0	0.0	0.0	1,153,781	2931	1,8783	2,1714	11	A	7,394,467	8,548,802	8,892,598	7,394,467	8,548,802	7,394,467	8,548,802	7,394,467	8,548,802	7,394,467	8,548,802	7,394,467	8,548,802	7,394,467	8,548,802
504	84	0.0	0.0	0.0	0.0	365,600	882	8724	9108	11	A	3,168,819	3,566,003	3,566,003	3,168,819	3,566,003	3,168,819	3,566,003	3,168,819	3,566,003	3,168,819	3,566,003	3,168,819	3,566,003	3,168,819	3,566,003
505	152	0.0	0.0	0.0	0.0	462,106	1178	6059	6842	9	A	3,412,340	3,878,744	4,122,711	3,412,340	3,878,744	3,412,340	3,878,744	3,412,340	3,878,744	3,412,340	3,878,744	3,412,340	3,878,744	3,412,340	3,878,744
508	1993	0.0	0.0	0.0	0.0	1,360,921	3508	2,2283	2,5181	9	A	8,772,817	10,153,817	10,266,163	8,772,817	10,153,817	8,772,817	10,153,817	8,772,817	10,153,817	8,772,817	10,153,817	8,772,817	10,153,817	8,772,817	10,153,817
509	241	0.0	0.0	0.0	0.0	183,618	485	3637	4023	9	A	2,731,467	2,914,161	2,928,226	2,731,467	2,914,161	2,731,467	2,914,161	2,731,467	2,914,161	2,731,467	2,914,161	2,731,			

Base State Aid Per Pupil = \$3,780

FY 2012 Legal Max

4/4/2012	Country	Distric Name	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)				
USD #	Country	Distric Name	FTE Enroll (pro 4 yr old at-risk) 9/30/2009	FTE Enroll (ex 4 yr old at-risk) 9/30/2010	FTE Enroll (ex 4 yr old at-risk) 9/30/2011	FTE Enroll (pro 4 yr old at-risk) 9/30/2011	FTE Enroll (ex 4 yr old at-risk) 9/30/2011	FTE Enroll (pro 4 yr old at-risk) 9/30/2011	FTE Enroll (ex 4 yr old at-risk) 9/30/2011	Total Adjusted Enrollment	Virtual FTE (Info Only)	Low and High Enroll	Low	High	Vocational Contact Hrs	Vocational Weighted	Bilingual Contact Hrs	Bilingual Weighted	At-Risk	At-Risk Weighted	High At-Risk	2010-11 FTE Headcount	Non-Profound	New Facilities	New FTE	
101	Neada	Erie	972	972	972	0.0	0.0	635	635	0.0	212	212	0.0	130	10.9	15.2	1.0	200	127.7	28.0	30	1.4	17.0	42.8		
102	Gray	Cameron-Engish	549	659	654	0.0	0.0	659	654	0.0	212	212	0.0	130	10.9	15.2	1.0	200	127.7	28.0	30	1.4	17.0	42.8		
103	Cheyenne	Cheyen	137	136	136	0.0	0.0	136	136	0.0	194	194	0.0	110	9.9	15.1	0.8	69	31.0	6.8	3	1.4	0.0	0.0		
105	Lewis	Lewis County	317	300	309	0.0	0.0	309	309	0.0	148	148	0.0	61	5.1	5.4	3.4	104	47.4	0.0	24	1.1	14.4	3.9		
106	Nea	Western Platte	184	183	186	0.0	0.0	186	186	0.0	191	191	0.0	0.4	0.0	122	8.1	8.0	80	36.5	0.0	7	0.3	0.0		
107	Lewell	Rock Hill	288	283	287	0.0	0.0	293	293	0.0	147	147	0.0	127	12.1	0.0	0.0	117	53.4	0.0	13	0.6	0.0	0.0		
108	Washington	Washington Co. Schools	395	393	393	0.0	0.0	393	393	0.0	199	199	0.0	118	11.8	6.1	0.0	0.0	137	62.8	0.0	29	1.0	41.9	10.6	
109	Rockville	Monroe County	471	483	484	0.0	0.0	484	483	0.0	154	154	0.0	95	8.0	0.0	0.0	150	75.2	0.0	23	1.1	0.0	0.0		
110	Phillips	Thunder Ridge	238	247	237	0.0	0.0	237	237	0.0	154	154	0.0	48	4.0	0.0	0.0	96	43.6	5.8	15	0.7	0.0	0.0		
111	Doniphan	Doniphan West Schools	381	341	341	0.0	0.0	341	341	0.0	159	159	0.0	137	11.5	0.0	0.0	123	56.1	0.0	18	0.8	0.0	0.0		
112	Edwards	Central Plains	578	578	578	0.0	0.0	578	578	0.0	189	189	0.0	208	18.7	0.0	0.0	173	78.9	0.0	15	0.7	0.0	0.0		
113	Wenaha	Rock Hill	1,212	1,178	1,178	0.0	0.0	1,178	1,178	0.0	289	289	0.0	212	17.7	0.0	0.0	339	155.2	20.2	67	3.1	0.0	0.0		
114	Doniphan	Riverside	782	740	740	0.0	0.0	740	740	0.0	241	241	0.0	285	23.8	9.2	0.6	207	140.0	0.0	36	1.8	102.7	25.7		
115	Wenaha	Wenaha Central Schools	511	553	554	0.0	0.0	554	553	0.0	228	228	0.0	201	16.8	0.0	0.0	111	59.6	0.0	31	1.4	136.9	34.5		
201	Cheyey	Cheyenne County	210	183	190	0.0	0.0	190	190	0.0	150	150	0.0	53	4.4	20.4	13.7	75	34.2	0.0	22	1.0	0.0	0.0		
202	Wardville	Burns	3,691	3,691	3,757	0.0	0.0	3,757	3,757	0.0	134	134	0.0	134	11.5	1,561	101.4	2,478	1,130.0	247.8	182	7.5	0.0	0.0		
203	Wardville	Piper	1,626	1,646	1,718	0.0	0.0	1,718	1,718	0.0	63	63	0.0	214	18.7	12.1	0.0	214	87.8	12.8	46	2.1	0.0	0.0		
204	Wardville	Burns Springs	2,234	2,308	2,404	0.0	0.0	2,404	2,404	0.0	67	67	0.0	165	14.2	56.2	3.6	130	59.3	0.0	34	1.8	0.0	0.0		
205	Butler	Burns	517	517	517	0.0	0.0	517	517	0.0	140	140	0.0	110	9.0	1.0	0.0	86	39.2	0.0	17	0.8	0.0	0.0		
206	Butler	Franklin-Whitewater	511	510	487	0.0	0.0	487	487	0.0	165	165	0.0	121	10.1	0.0	0.0	147	68.8	0.0	25	1.2	0.0	0.0		
207	Leavenworth	FL Leavenworth	2,050	2,020	1,803	0.0	0.0	1,803	1,803	0.0	75	75	0.0	75	6.0	0.0	0.0	300	19.8	0.0	34	1.8	0.0	0.0		
208	1992	Hartman	412	374	364	0.0	0.0	364	364	0.0	174	174	0.0	174	17.4	0.0	0.0	42	0.0	0.0	86	3.9	0.0	0.0		
209	Genese	Wray	1,028	1,028	1,028	0.0	0.0	1,028	1,028	0.0	227	227	0.0	227	19.8	1,123	78.0	493	224.8	99.0	52	2.4	226.8	56.7		
210	Silverton	Hugoton	954	978	1,013	0.0	0.0	1,013	1,013	0.0	143	143	0.0	143	12.1	0.0	0.0	300	19.8	0.0	37	1.8	0.0	0.0		
211	Horton	Horton	726	728	718	0.0	0.0	718	718	0.0	124	124	0.0	248	20.4	0.0	0.0	158	13.3	0.0	0.0	0.0	0.0	0.0		
212	Horton	Western Valley	192	190	190	0.0	0.0	190	190	0.0	152	152	0.0	152	12.0	0.0	0.0	92	42.8	9.2	8	0.3	0.0	0.0		
214	Giant	Ulysses	1,527	1,524	1,528	0.0	0.0	1,528	1,528	0.0	31	31	0.0	31	2.8	0.0	0.0	68	42.8	9.2	8	0.3	0.0	0.0		
215	Keary	Ulysses	620	597	618	0.0	0.0	618	618	0.0	198	198	0.0	363	30.2	1,265	104.4	898	404.8	89.8	96	4.5	0.0	0.0		
216	Keary	Oxford	249	291	243	0.0	0.0	243	243	0.0	143	143	0.0	143	14.3	0.0	0.0	62	52	18.1	10	0.5	0.0	0.0		
217	Horton	Ulysses	192	190	190	0.0	0.0	190	190	0.0	237	237	0.0	237	19.8	0.0	0.0	136	61	79.1	8	0.4	0.0	0.0		
218	Keary	Ulysses	531	549	571	0.0	0.0	571	571	0.0	62	62	0.0	62	5.2	18.1	10.5	68	72.2	15.8	14	0.7	0.0	0.0		
219	Clark	Minneka	261	268	263	0.0	0.0	263	263	0.0	157	157	0.0	157	12.0	0.0	0.0	292	128.8	28.2	25	1.2	0.0	0.0		
220	Clark	Ulysses	200	205	204	0.0	0.0	204	204	0.0	160	160	0.0	160	16.0	0.0	0.0	81	39.7	0.0	8	0.4	0.0	0.0		
221	Washington	Burns	327	343	357	0.0	0.0	357	357	0.0	144	144	0.0	144	14.4	0.0	0.0	104	49.3	2.3	70	3.3	4	1.1	0.0	
224	Washington	Clinton-Clyde	276	282	286	0.0	0.0	286	286	0.0	195	195	0.0	195	18.5	42.9	2.8	119	54.3	0.0	9	0.4	0.0	0.0		
225	Wade	Powder	157	163	163	0.0	0.0	163	163	0.0	130	130	0.0	130	13.0	0.0	0.0	34	34.5	2.3	70	3.3	4	1.1	0.0	
226	Wade	Wade	407	447	443	0.0	0.0	443	443	0.0	198	198	0.0	114	9.5	63.1	4.2	145	66.1	0.0	20	1.2	0.0	0.0		
227	Johnson	Blue Valley	20,301	20,992	20,998	0.0	0.0	20,998	20,998	0.0	725	725	0.0	725	72.5	0.0	0.0	440	260.0	0.0	142	6.8	0.0	0.0		
228	Johnson	Spring Hill	1,921	2,034	2,115	0.0	0.0	2,115	2,115	0.0	174	174	0.0	174	17.4	759	63.0	210.1	138	126.1	57.0	153	7.1	129.2	32.3	
229	Johnson	Carlisle-Egerton	4,549	4,743	4,940	0.0	0.0	4,940	4,940	0.0	486	486	0.0	486	48.6	1,626	135.9	823.9	542	741	340.0	0.0	38	1.8	0.0	
230	Johnson	Carlisle-Egerton	6,203	6,344	6,524	0.0	0.0	6,524	6,524	0.0	223	223	0.0	223	22.3	815	66.3	426.3	388.9	5,646	2,314.8	0.0	1,158	53.8	2,892.3	748.1
231	Johnson	Osaka	25,447	26,017	26,255	0.0	0.0	26,255	26,255	0.0	95	95	0.0	95	9.5	0.0	0.0	1,024	459.9	102.4	102	4.7	0.0	0.0		
232	Johnson	FL Scott	1,872	1,853	1,812	0.0	0.0	1,812	1,812	0.0	175	175	0.0	175	17.5	1,829	152.9	1,070.7	0.0	65.0	65.0	0.0	0.0	0.0	0.0	
233	Bourbon	Wardensburg	444	444	444	0.0	0.0	444	444	0.0	302	302	0.0	302	30.2	0.0	0.0	722	384.6	361	44	2.0	0.0	0.0		
234	Smith	Smith Center	430	418	402	0.0	0.0	402	402	0.0	175	175	0.0	175	17.5	0.0	0.0	115	51.2	0.0	23	1.1	0.0	0.0		
235	Oswayo	North Oswayo Co.	618	608	591	0.0	0.0	591	591	0.0	191	191	0.0	230	23.0	0.0	0.0	171	14.6	0.0	127	57.9	0.0	29	1.3	0.0
240	Oswayo	North Valley	594	591	576	0.0	0.0	576	576	0.0	208	208	0.0	208	20.8	0.0	0.0	146	12.8	0.0	17	0.8	0.0	0.0		
241	Walla	Walla	192	188	188	0.0	0.0	188	188	0.0	152	152	0.0	152	15.2	0.0	0.0	96	39.2	0.0	11	0.5	0.0	0.0		
242	Walla	Wiskan	103	110	91	0.0	0.0	91	91	0.0	91	91	0.0	91												



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FY 2012 Legal Max

WPI012	WPI013	WPI014	WPI015	WPI016	WPI017	WPI018	WPI019	WPI020	WPI021	WPI022	WPI023	WPI024	WPI025	WPI026	WPI027	WPI028	WPI029	WPI030	WPI031	WPI032	WPI033	WPI034	WPI035	WPI036	WPI037	WPI038	WPI039	WPI040	WPI041	WPI042	WPI043	WPI044	WPI045	WPI046	WPI047	WPI048	WPI049	WPI050	WPI051	WPI052	WPI053	WPI054	WPI055	WPI056	WPI057	WPI058	WPI059	WPI060	WPI061	WPI062	WPI063	WPI064	WPI065	WPI066	WPI067	WPI068	WPI069	WPI070	WPI071	WPI072	WPI073	WPI074	WPI075	WPI076	WPI077	WPI078	WPI079	WPI080	WPI081	WPI082	WPI083	WPI084	WPI085	WPI086	WPI087	WPI088	WPI089	WPI090	WPI091	WPI092	WPI093	WPI094	WPI095	WPI096	WPI097	WPI098	WPI099	WPI100					
US24	County	District Name	FTE End of Year 2010	FTE End of Year 2011	FTE End of Year 2012	FTE End of Year 2013	FTE End of Year 2014	FTE End of Year 2015	FTE End of Year 2016	FTE End of Year 2017	FTE End of Year 2018	FTE End of Year 2019	FTE End of Year 2020	FTE End of Year 2021	FTE End of Year 2022	FTE End of Year 2023	FTE End of Year 2024	FTE End of Year 2025	FTE End of Year 2026	FTE End of Year 2027	FTE End of Year 2028	FTE End of Year 2029	FTE End of Year 2030	FTE End of Year 2031	FTE End of Year 2032	FTE End of Year 2033	FTE End of Year 2034	FTE End of Year 2035	FTE End of Year 2036	FTE End of Year 2037	FTE End of Year 2038	FTE End of Year 2039	FTE End of Year 2040	FTE End of Year 2041	FTE End of Year 2042	FTE End of Year 2043	FTE End of Year 2044	FTE End of Year 2045	FTE End of Year 2046	FTE End of Year 2047	FTE End of Year 2048	FTE End of Year 2049	FTE End of Year 2050	FTE End of Year 2051	FTE End of Year 2052	FTE End of Year 2053	FTE End of Year 2054	FTE End of Year 2055	FTE End of Year 2056	FTE End of Year 2057	FTE End of Year 2058	FTE End of Year 2059	FTE End of Year 2060	FTE End of Year 2061	FTE End of Year 2062	FTE End of Year 2063	FTE End of Year 2064	FTE End of Year 2065	FTE End of Year 2066	FTE End of Year 2067	FTE End of Year 2068	FTE End of Year 2069	FTE End of Year 2070	FTE End of Year 2071	FTE End of Year 2072	FTE End of Year 2073	FTE End of Year 2074	FTE End of Year 2075	FTE End of Year 2076	FTE End of Year 2077	FTE End of Year 2078	FTE End of Year 2079	FTE End of Year 2080	FTE End of Year 2081	FTE End of Year 2082	FTE End of Year 2083	FTE End of Year 2084	FTE End of Year 2085	FTE End of Year 2086	FTE End of Year 2087	FTE End of Year 2088	FTE End of Year 2089	FTE End of Year 2090	FTE End of Year 2091	FTE End of Year 2092	FTE End of Year 2093	FTE End of Year 2094	FTE End of Year 2095	FTE End of Year 2096	FTE End of Year 2097	FTE End of Year 2098	FTE End of Year 2099	FTE End of Year 2100



Base State Aid Per Pupil = \$3,780

FY 2012 Legal Max

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4/4/2012	Col 1	Col 2	Col 3	Col 4	Col 4(a)	Col 4(b)	Col 4(c)	Col 4(d)	Col 4(e)	Col 4(f)	Col 4(g)	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)						
																									FTE Enroll (no 4 yr old at risk excl (2020/2010)	FTE Enroll (no 4 yr old at risk excl (2020/2010)	FTE Enroll (no 4 yr old at risk excl (2020/2010)	District Enrollment	FTE Enroll (no 4 yr old at risk excl (2020/2011)	FTE Enroll (no 4 yr old at risk excl (2020/2011)
322	Polk	Wesley	300.0	310.0	318.5	316.5	0.0	0.0	316.5	318.5	316.5	0.0	151.5	151.5	0.0	99.8	0.0	0.0	96	44.7	0.0	22	0.0	0.0	0.0					
323	Polk	Westonland	465.1	469.5	502.2	502.2	11.0	0.0	502.2	502.2	502.2	0.0	252.8	252.8	0.0	195.9	18.4	0.0	259.8	0.0	0.0	24	1.1	0.0	0.0					
324	Polk	Phillipsburg	628.5	613.4	597.0	613.4	0.0	0.0	597.0	597.0	613.4	0.0	231.7	231.7	0.0	62.5	5.2	0.0	165	84.4	0.0	26	1.2	0.0	0.0					
325	Polk	Logan	181.5	175.0	180.0	180.0	0.0	3.0	183.0	183.0	183.0	0.0	145.4	145.4	0.0	74.5	5.2	0.0	68	40.1	5.3	5	0.2	0.0	0.0					
326	Polk	Stanhope	522.0	514.5	578.1	578.1	0.0	0.0	578.1	578.1	578.1	0.0	231.9	231.9	0.0	122.3	10.2	0.0	180	86.2	0.0	28	1.3	0.0	0.0					
327	Polk	Alma	470.0	457.1	451.8	459.8	0.0	0.0	451.8	451.8	459.8	0.0	238.8	238.8	0.0	251.3	20.9	0.0	119	49.7	0.0	54	2.5	0.0	0.0					
328	Polk	Wabunsee East	505.5	484.7	475.1	498.8	0.0	0.0	475.1	475.1	498.8	0.0	240.8	240.8	0.0	128.8	10.8	0.0	127	57.9	0.0	31	1.4	0.0	0.0					
329	Polk	Kingman	588.7	1,005.7	922.2	1,005.7	0.0	0.0	922.2	922.2	1,005.7	0.0	245.8	245.8	0.0	253.6	21.1	0.0	337	153.7	0.0	65	3.0	0.0	0.0					
330	Polk	Kingman	170.8	165.0	168.5	167.7	0.0	0.0	168.5	168.5	167.7	0.0	140.0	140.0	0.0	0.0	0.0	0.0	87	39.7	8.7	15	0.7	0.0	0.0					
331	Polk	Kingman	1,081.2	1,053.7	1,039.8	1,053.7	0.0	2.5	1,048.1	1,048.1	1,053.7	0.0	541.1	541.1	0.0	81.1	8.8	0.0	53	42.1	5.8	13	0.6	0.0	0.0					
332	Polk	Southern Cloud	258.8	250.0	248.5	250.7	0.0	0.0	248.5	248.5	250.7	0.0	154.1	154.1	0.0	0.0	0.0	0.0	154	70.9	27.4	11	1.9	0.0	0.0					
333	Polk	North Jackson	378.5	391.0	375.2	391.0	0.0	0.0	375.2	375.2	391.0	0.0	177.2	177.2	0.0	125.2	10.4	0.0	107	48.0	0.0	24	1.1	0.0	0.0					
334	Polk	Hobbs	1,058.0	1,070.0	1,112.8	1,112.8	0.0	0.0	1,112.8	1,112.8	1,112.8	0.0	565.5	565.5	0.0	308.5	29.7	1.8	364	166.0	0.0	45	2.1	0.0	0.0					
335	Polk	Waynes	593.2	512.1	504.5	512.1	0.0	0.0	504.5	504.5	512.1	0.0	251.9	251.9	0.0	164.7	13.7	0.0	310	142.3	0.0	57	2.7	65.6	16.8					
336	Polk	Valley Falls	493.3	397.5	393.4	398.1	0.0	3.5	397.0	397.0	405.8	0.0	180.6	180.6	0.0	204.4	20.4	0.0	118	10.0	0.0	29	1.1	0.0	0.0					
337	Polk	Jefferson County	479.0	474.0	459.2	474.0	0.0	3.5	482.5	482.5	477.5	0.0	252.8	252.8	0.0	219.3	17.8	0.0	175	78.0	0.0	66	3.1	0.0	0.0					
338	Polk	Jefferson County	892.8	892.0	892.0	892.0	0.0	0.0	892.0	892.0	892.0	0.0	427.5	427.5	0.0	213.9	213.9	0.0	112.1	8.8	0.0	147	6.6	0.0	0.0					
339	Polk	Jefferson West	529.1	500.1	493.5	507.2	0.0	14.0	507.2	508.4	504.8	0.0	207.1	207.1	0.0	144.1	12.0	0.0	107	87.6	0.0	39	1.8	0.0	0.0					
340	Polk	Oakdale	450.0	477.6	488.7	488.7	0.0	7.0	495.7	498.1	498.1	0.0	435.7	435.7	0.0	207.1	207.1	0.0	144.1	12.0	0.0	107	87.6	0.0	39	1.8	0.0	0.0		
341	Polk	McLouth	548.0	527.9	525.6	527.9	0.0	0.0	527.9	527.9	527.9	0.0	259.8	259.8	0.0	209.8	209.8	0.0	169.1	14.1	1.8	0.1	229	104.4	13.7	31	1.4	0.0	0.0	
342	Polk	Lincoln	315.0	317.7	315.0	318.0	0.0	0.0	315.0	315.0	318.0	0.0	159.5	159.5	0.0	120.8	10.1	0.0	96	43.8	18.3	15	0.7	0.0	0.0					
343	Polk	Stearns	3,572.0	3,575.6	3,675.2	3,675.2	0.0	19.5	3,694.7	3,694.7	3,694.7	0.0	1,769.9	1,769.9	0.0	1,269.9	10.1	0.0	1,016	404.0	0.0	230	10.7	0.0	0.0					
344	Polk	Jayhawk	514.6	499.6	488.0	497.4	0.0	9.5	497.4	497.4	497.4	0.0	209.8	209.8	0.0	169.1	14.1	1.8	0.1	229	104.4	13.7	31	1.4	0.0	0.0				
345	Polk	Kennel Cofield	353.0	355.5	354.8	355.5	0.0	3.5	354.8	354.8	355.5	0.0	170.9	170.9	0.0	66.8	5.8	1.8	127	102.4	15.4	11	0.5	0.0	0.0					
346	Polk	Baytown City	1,314.4	1,320.4	1,321.2	1,329.4	0.0	24.0	1,342.7	1,342.7	1,342.7	0.0	665.8	665.8	0.0	49.4	4.1	300.5	18.8	15.4	102	9.2	21	1.0	0.0	0.0				
347	Polk	Stafford	269.8	269.8	267.1	269.8	0.0	0.0	267.1	267.1	269.8	0.0	129.9	129.9	0.0	110.9	10.9	0.0	86.8	5.8	4.5	0.2	396	183.2	0.0	79	3.7	381.7	95.4	
348	Polk	St. John/Hudson	301.5	304.5	304.5	312.2	0.0	0.0	304.5	304.5	312.2	0.0	149.9	149.9	0.0	90.4	7.5	153.2	10.1	121	102.4	15.4	11	0.5	0.0	0.0				
349	Polk	Wadley	269.1	271.5	272.5	272.6	0.0	4.0	272.6	272.6	272.6	0.0	217.9	217.9	0.0	22.3	18.4	310.4	20.4	396	183.2	0.0	79	3.7	381.7	95.4				
350	Polk	Goodland	899.5	924.3	922.3	925.5	0.0	0.0	922.3	922.3	925.5	0.0	477.5	477.5	0.0	213.9	213.9	0.0	112.1	8.8	0.0	147	6.6	0.0	0.0					
351	Polk	Wellington	1,841.5	1,848.8	1,827.8	1,848.8	0.0	7.0	1,848.8	1,848.8	1,848.8	0.0	912.4	912.4	0.0	456.2	456.2	0.0	228.1	228.1	0.0	114	5.2	0.0	0.0	0.0	0.0	0.0		
352	Polk	Wellington	426.7	392.7	391.1	392.8	0.0	0.0	391.1	391.1	392.8	0.0	177.8	177.8	0.0	159.8	13.3	0.0	143	63.2	0.0	22	1.0	0.0	0.0	0.0	0.0	0.0		
353	Polk	Wellington	329.7	320.7	313.3	322.7	0.0	0.0	313.3	313.3	322.7	0.0	211.4	211.4	0.0	117.1	9.8	0.0	115	97.1	0.0	29	1.3	0.0	0.0	0.0	0.0	0.0		
354	Polk	Wellington	117.5	109.8	108.0	111.8	0.0	1.0	108.0	108.0	111.8	0.0	58.3	58.3	0.0	59.3	4.9	0.0	61	20.7	0.0	15	0.7	0.0	0.0	0.0	0.0	0.0		
355	Polk	Conroy Springs	518.0	533.9	533.9	533.9	0.0	2.5	533.9	533.9	533.9	0.0	266.9	266.9	0.0	174.3	14.5	0.0	60	27.0	0.0	13	0.6	0.0	0.0	0.0	0.0	0.0		
356	Polk	Bellevue	644.0	656.5	591.5	613.7	0.0	15.5	605.0	605.0	613.7	0.0	347.7	347.7	0.0	34.7	2.8	0.0	43	19.8	0.0	4	0.3	0.0	0.0	0.0	0.0	0.0		
357	Polk	Oxford	332.5	332.7	313.3	332.7	0.0	2.5	313.3	313.3	332.7	0.0	158.3	158.3	0.0	101.9	8.5	0.0	105	43.8	8.4	11	0.5	0.0	0.0	0.0	0.0	0.0		
358	Polk	Hyden	288.0	292.4	292.4	292.4	0.0	0.0	292.4	292.4	292.4	0.0	146.2	146.2	0.0	84.2	7.0	22.1	1.5	154	207.8	29.2	23	1.1	140.3	35.1	0.0	0.0	0.0	0.0
359	Polk	Cadwell	238.5	236.5	229.5	236.5	0.0	3.5	236.5	236.5	236.5	0.0	124.0	124.0	0.0	154.4	14.4	0.0	80.8	52.1	10.1	67	3.1	0.0	0.0	0.0	0.0	0.0	0.0	
360	Polk	Anthony-Harper	619.1	625.1	604.5	625.1	0.0	17.0	625.1	625.1	625.1	0.0	305.8	305.8	0.0	187.8	18.8	0.0	109	48.3	8.4	11	0.5	0.0	0.0	0.0	0.0	0.0	0.0	
361	Polk	Phile View	935.4	944.5	927.0	944.5	0.0	0.0	927.0	927.0	944.5	0.0	462.3	462.3	0.0	231.2	231.2	0.0	115.6	11.6	0.0	14	0.6	0.0	0.0	0.0	0.0	0.0	0.0	
362	Polk	Holmes	544.0	544.0	544.0	544.0	0.0	0.0	544.0	544.0	544.0	0.0	272.0	272.0	0.0	136.0	136.0	0.0	68.0	68.0	0.0	34.0	1.7	0.0	0.0	0.0	0.0	0.0	0.0	
363	Polk	Marshall	711.2	697.5	600.6	693.2	0.0	9.0	600.6	600.6	693.2	0.0	298.5	298.5	0.0	149.2	14.9	0.0	228.0	109.0	77.0	51.1	426	195.2	25.7	27	1.7	0.0	0.0	0.0
364	Polk	Anderson	1,009.1	1,009.1	1,045.7	1,045.7	0.0	0.0	1,045.7	1,045.7	1,045.7	0.0	522.8	522.8	0.0	327.0	32.7	0.0	215	95.6	0.0	23	1.1	0.0	0.0	0.0	0.0	0.0	0.0	
365	Polk	Woodson	298.0	295.4	295.4	295.4	0.0	0.0	295.4	295.4	295.4	0.0	147.7	147.7	0.0	73.8	7.4	0.0	417	192.0	26.5	84	3.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0
366	Polk	Woodson	321.3	412.2	431.2	431.5	0.0	8.5	440.0	440.0	440.0	0.0	192.1	192.1	0.0	123.3	10.3	0.0	224	102.1	22.4	7	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0
367	Polk	Mantona	1,152.6	1,110.5	1,086.5	1,110.5	0.0	3.5	1,101.5	1,101.5	1,120.5	0.0	550.9	550.9	0.0	269.9	229.9	0.0	174.3	14.5	0.0	60								









Base State Aid Per Pupil = \$3,780

FY 2012 Legal Max

USD #	County	District Name	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)	2010-11																							
																							FTE Enroll (no 4 yr old at-risk) 9/20/2008	FTE Enroll (no 4 yr old at-risk) 9/20/2009	FTE Enroll (no 4 yr old at-risk) 9/20/2010	FTE Enroll (no 4 yr old at-risk) 9/20/2011	Deduction Enrollments	FTE Enroll (no 4 yr old at-risk) 9/20/2012	FTE Enroll (no 4 yr old at-risk) 9/20/2010	FTE Enroll (no 4 yr old at-risk) 9/20/2011	FTE Enroll (no 4 yr old at-risk) 9/20/2011	Total Adjusted Enrollment	Vocational FTE (no 4 yr old at-risk) 9/20/11	Low and High Enroll FTE	High Enroll	Vocational Contact Hrs	Vocational Weighted Hrs	Bilingual Contact Hrs	Bilingual Weighted Hrs	At-Risk FTE	High At-Risk FTE	2010-11 Non-Proficient Headcount	New Faculties FTE	New Facilities FTE	2010-11 Proficient Weighted	2010-11 Non-Proficient Weighted
421	Starbuck	Starbuck County	451.0	453.6	442.7	451.8	0.0	5.0	454.7	454.7	454.7	459.9	0.0	200.0	200.0	0.0	29.2	2.4	691.2	45.2	225	102.6	13.5	30	1.5	0.0	0.0																			
453	Linnemorth	Linnemorth	3,668.0	3,387.0	3,344.9	3,434.4	40.0	54.0	3,338.0	3,028.4	3,546.4	3,527.4	107.5	1,028	0.0	122.6	593.3	49.2	41.5	7.8	1,625	877.8	192.5	249	11.6	756.0	169.0																			
454	Clatsop	Burien	312.0	307.0	311.2	337.0	0.0	4.0	315.2	315.2	315.2	341.0	0.0	160.4	160.4	0.0	109.6	5.1	0.0	101.0	0.0	0.0	0.0	19	0.7	0.0	0.0																			
458	Clatsop	Wahkiakum District	766.0	796.0	786.5	793.0	0.0	0.0	786.5	793.0	793.0	806.0	0.0	247.9	0.0	0.0	10.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0																		
457	Tinney	Garden City	6,835.0	6,807.7	6,975.0	6,975.0	0.0	0.0	6,975.0	7,074.2	7,074.2	7,074.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	136	62.0	8.2	4	0.2	0.0	0.0																			
498	Linnemorth	Beecher-Linwood	1,007.3	1,058.8	1,023.0	1,023.0	0.0	0.0	1,023.0	2,118.8	2,118.8	1,923.0	195.8	87.4	0.0	0.0	247.9	1,288.3	10,364.3	682.4	4,309	1,907.7	435.8	435	20.2	0.0	0.0																			
450	Clatsop	Scappoose	243.0	239.7	243.3	243.3	0.0	0.0	243.3	246.3	246.3	246.3	0.0	154.3	154.3	0.0	0.0	0.0	0.0	0.0	114	52.0	5.8	14	0.7	0.0	0.0																			
450	Hwy	Houston	1,912.0	1,914.0	1,915.0	1,915.0	0.0	0.0	1,915.0	1,915.0	1,915.0	1,915.0	0.0	252.1	252.1	0.0	178.8	14.7	96.1	0.0	260	184.2	36.9	39	1.7	0.0	0.0																			
481	Willam	Neoclema	709.2	699.5	709.5	709.2	0.0	0.0	717.5	717.5	717.5	717.5	0.0	235.8	235.8	0.0	192.5	18.0	0.0	0.0	134	81.1	8.0	9	0.4	0.0	0.0																			
482	Cowlitz	Central	347.0	358.9	331.9	358.6	0.0	0.0	331.9	331.9	331.9	358.6	0.0	166.9	166.6	0.0	69.1	5.8	0.0	0.0	0.0	0.0	0.0	25	1.2	0.0	0.0																			
483	Cowlitz	Lisle	362.8	360.6	362.9	365.8	0.0	0.0	365.8	365.8	365.8	365.8	0.0	64.4	64.4	0.0	84.4	486.9	40.7	0.0	499	209.3	0.0	148	6.8	0.0	0.0																			
454	Linnemorth	Longacres	1,860.9	1,837.8	1,811.7	1,837.8	0.0	0.0	1,811.7	1,811.7	1,811.7	1,837.8	0.0	92.1	92.1	0.0	92.1	732.5	68.6	59.2	38	1,077	481.1	64.8	122	5.7	0.0	0.0																		
455	Cowlitz	Winfield	2,327.1	2,320.2	2,291.0	2,329.2	0.0	15.0	2,320.2	2,304.0	2,306.0	2,344.0	0.0	92.1	92.1	0.0	108.3	89	695.0	45.8	355	183.2	21.5	49	2.3	0.0	0.0																			
466	Scott	Scott County	836.7	824.9	827.6	824.4	0.0	15.0	842.6	859.5	859.5	844.4	18.9	292.7	292.7	0.0	108.3	89	695.0	45.8	355	183.2	21.5	49	2.3	0.0	0.0																			
467	Wheeler	Wheeler	412.6	410.5	420.1	418.7	0.0	0.0	410.5	420.1	420.1	420.7	0.0	186.4	186.4	0.0	72.4	6.0	633.3	43.0	193	68.0	11.8	14	0.7	92.5	23.1																			
469	Linnemorth	Stanley	2,501.4	2,547.2	2,540.2	2,547.2	0.0	0.0	2,540.2	2,540.2	2,540.2	2,547.2	0.0	89.3	89.3	0.0	89.3	278.5	23.3	45.2	3.0	277	242.3	0.0	218	10.0	0.0	0.0																		
470	Cowlitz	Alamogordo	2,565.1	2,548.3	2,601.8	2,601.8	0.0	42.8	2,644.3	2,644.3	2,644.3	2,644.3	0.0	92.7	92.7	0.0	92.7	597.6	49.0	794.0	52.3	1,678	794.3	167.8	88	4.1	326.5	84.9																		
471	Cowlitz	Center	131.2	131.3	133.0	133.0	0.0	0.0	133.0	133.0	133.0	133.0	0.0	133.0	133.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0																		
473	Dickinson	Chapman	999.7	946.3	1,003.7	1,033.7	10.0	0.0	1,033.7	1,043.7	1,043.7	1,043.7	0.0	241.6	241.6	0.0	384.8	29.5	2.5	0.2	209	150.0	0.0	44	2.0	778.5	194.6																			
474	Walla	Wainwright	141.8	115.5	116.5	124.6	0.0	0.0	116.5	116.5	116.5	124.6	0.0	118.3	118.3	0.0	7.0	0.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0																		
475	Cowlitz	Lanham City	7,787.4	7,872.8	7,834.5	7,872.8	15.0	25.2	7,860.0	7,860.0	7,860.0	8,048.3	0.0	282.0	282.0	0.0	282.0	458.4	36.2	1,887.8	122.9	3,401	1,676.2	207.7	641	22.4	0.0	0.0																		
476	Cowlitz	Capeland	92.0	113.8	116.4	118.7	0.0	2.6	118.4	118.4	118.4	118.4	0.0	114.6	114.6	0.0	68.7	2.2	266.9	17.8	45	20.5	2.7	13	0.6	34.6	8.5																			
477	Gray	Ingalls	224.8	225.2	226.0	226.0	0.0	0.0	226.0	226.0	226.0	226.0	0.0	153.8	153.8	0.0	0.0	0.0	27.7	17.5	80	28.8	0.0	15	0.7	0.0	0.0																			
478	Anderson	Orchard	223.0	207.5	194.5	208.3	0.0	4.0	198.5	198.5	198.5	212.3	0.0	152.1	152.1	0.0	64.2	5.2	0.0	0.0	91	42.8	6.5	9	0.5	0.0	0.0																			
480	Ward	Ward	4,270.0	4,352.0	4,431.0	4,431.0	0.0	6.0	4,518.0	4,518.0	4,518.0	4,518.0	0.0	158.2	158.2	0.0	158.2	474.5	99.5	7,718.1	508.1	3,227	1,471.5	322.7	219	10.2	0.0	0.0																		
481	Dickinson	Rural Vista	413.3	382.5	392.0	371.8	0.0	6.0	383.0	383.0	383.0	383.8	0.0	174.8	174.8	0.0	0.0	0.0	0.0	0.0	125	57.0	0.0	23	1.1	0.0	0.0																			
482	Linn	Elgin	228.0	229.0	229.0	229.0	0.0	0.0	228.5	228.5	228.5	229.0	0.0	154.4	154.4	0.0	32.6	2.7	231.8	124.8	427	184.7	42.4	24	1.1	0.0	0.0																			
484	Warren	Warren Plateau	750.0	668.0	663.0	668.0	0.0	20.0	683.0	683.0	683.0	718.0	0.0	245.7	245.7	0.0	32.6	2.7	231.8	124.8	427	184.7	42.4	24	1.1	0.0	0.0																			
486	Mitchell	Friedland	723.8	704.9	698.1	704.5	0.0	0.0	698.1	698.1	698.1	713.3	0.0	245.2	245.2	0.0	73.9	6.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0																			
487	Dickinson	Henrieville	503.0	490.7	498.1	497.7	0.0	0.0	498.1	498.1	498.1	507.7	0.0	216.0	216.0	0.0	181.0	15.1	0.0	0.0	207	94.4	12.4	24	1.1	269.4	67.4																			
489	ETD	Ways	2,504.3	2,502.5	2,568.2	2,502.5	0.0	20.0	2,888.2	2,925.1	2,925.1	2,922.5	36.6	102.4	102.4	0.0	102.4	45.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0																			
489	Butler	St Dorado	1,877.0	1,801.5	1,817.0	1,817.0	0.0	15.0	1,888.0	1,888.0	1,888.0	1,888.0	0.0	118.7	118.7	0.0	493.0	41.1	21.1	1.4	426	194.3	0.0	91	4.2	103.3	25.8																			
490	Butler	Snyder	733.5	704.8	708.1	724.3	0.0	0.0	708.1	708.1	708.1	724.3	0.0	486.5	486.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0																			
491	Douglas	Funifria	284.5	247.8	258.8	263.0	0.0	0.0	258.8	271.8	271.8	261.0	14.8	181.1	181.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0																				
493	Wheeler	Columbia	1,007.0	1,001.7	1,000.5	1,033.1	0.0	15.0	1,015.5	1,015.5	1,044.1	1,044.1	0.0	241.1	241.1	0.0	317.3	26.4	5.5	0.4	465	212.0	27.8	165	3.0	0.0	0.0																			
494	Harrison	Strommen	479.8	453.0	442.0	463.0	0.0	10.5	452.5	452.5	452.5	473.5	0.0	201.4	201.4	0.0	32.5	2.7	749.6	49.3	295	118.3	28.5	30	1.4	0.0	0.0																			
495	Warner	FL Larned	82.5	88.8	92.2	92.2	0.0	0.0	92.2	92.2	92.2	92.2	0.0	178.9	178.9	0.0	18.7	1.4	19.4	1.3	396	178.9	23.3	70	3.3	0.0	0.0																			
496	Warner	Parsons Heights	126.9	134.5	134.5	134.5	0.0	0.0	134.5	134.5	134.5	134.5	0.0	6.8	6.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0																				
497	Douglas	Lawrence	3,554.5	3,518.7	3,724.0	3,724.0	0.0	26.0	3,724.0	3,724.0	3,724.0	3,724.0	0.0	1,301.2	1,301.2	0.0	342.0	1,994.0	168.2	2,410.9																										

Base State Aid Per Pupil = \$3,780

FY 2012 Legal Max

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USO #	Col 12	Col 13(a)	Col 13	Col 14	Col 15	Col 16	Col 17	Col 18	Col 19(a)	Col 19	Col 20	Col 21	Col 21(a)	Col 21(b)	Col 21(c)	Col 21(d)	Col 21(e)	Col 21(f)	Col 21(g)	Col 22(a)	Col 22(b)	Col 22(c)	Col 22(d)	Col 22(e)	Col 22(f)	Col 22(g)	Col 22(h)	Col 22(i)		
	Transp Over 2.5 Current Year	Transp Weighted FTE	Ancillary Weighted FTE	Deeking Error Weighted FTE	Coat of Living Weighted FTE	Virtual Weighted FTE	KAWS Weighted FTE	FY 12 Spec Ed Weighted FTE	Spec Ed Weighted FTE	2011-12 Subtotal Weighted FTE	2011-12 Total Weighted FTE	Authorized Transfers	Adopted General Fund (Inc Spec Ed)	2011-12 General Fund (Before Inclusion)	2010-11 Budget Low Vocation	2010-11 Actual Vocation	2010-11 Vocational All Risk Act	2010-11 Total Retention	2011-12 Adjusted Legal General Fund Budget	2009 9884 LDB Base General Fund	2011-12 LDB Authorized Percent	Min Computer Adopted LDB	Computer Adopted LDB	Legal LDB	Legal LDB	Legal LDB	Legal LDB	Legal LDB		
442	13.00	49.00	0.00	0.00	0.00	0.00	0.00	292,313	77.3	664.0	961.3	0	3,333,714	3,724,872	3,633,714			3,633,714	4,206,007	30.00%	1,262,402	1,150,000		1,622,402	1,150,000					
443	665.0	99.7	0.00	0.00	112.0	0.0	4,792,956	1,268.0	5,180.0	8,454.0	936,627	20,537,907	25,339,947	25,340,363	25,339,947			25,339,947	26,853,971	30.00%	8,047,011	7,106,000		7,106,000	7,106,000					
454	84.0	17.0	0.00	0.00	0.00	0.00	426,095	107.2	174.3	561.5	0	2,170,854	2,616,076	2,616,076				2,616,076	2,952,407	30.00%	879,726	822,000		822,000	822,000					
456	148.0	37.0	0.00	0.00	0.00	0.00	320,136	84.7	547.1	631.8	0	2,066,038	2,367,414	2,367,414				2,367,414	2,787,844	30.00%	832,023	421,000		421,000	421,000					
457	1,637.0	367.8	0.00	0.00	0.00	0.00	6,878,269	1,802.2	10,923.0	12,452.2	0	41,268,840	46,987,258	46,787,844	46,787,844				46,787,844	53,763,611	30.00%	16,138,063	11,731,600		11,731,600	11,731,600				
458	1,117.0	158.8	0.00	0.00	0.00	0.00	1,643,235	434.7	2,735.5	3,170.2	82,102	16,407,292	12,045,458	12,045,458				12,045,458	13,679,081	30.00%	4,103,724	4,103,724		4,103,724	4,103,724					
459	85.0	20.0	0.00	0.00	0.00	0.00	199,376	52.7	61.6	544.5	0	1,695,024	2,029,819	2,029,819				2,029,819	2,373,649	30.00%	712,053	620,000		620,000	620,000					
460	68.5	20.7	0.00	0.00	0.00	0.00	718,520	189.8	1,192.1	1,381.7	8,000	3	4,512,138	5,228,626	5,228,626				5,228,626	6,927,402	30.00%	1,776,211	1,776,211		1,776,211	1,776,211				
461	95.5	25.5	0.00	0.00	0.00	0.00	676,603	175.1	1,207.5	1,306.8	0	10	4,564,350	5,241,348	5,241,348				5,241,348	6,942,349	30.00%	1,782,704	1,587,973		1,587,973	1,587,973				
462	142.0	43.1	0.00	0.00	0.00	0.00	301,551	79.8	641.2	721.8	0	2,423,730	2,725,360	2,725,360				2,725,360	3,151,182	30.00%	945,949	978,500		978,500	978,500					
463	122.0	32.2	0.00	0.00	0.00	0.00	391,159	103.6	91.0	714.5	0	1	2,292,680	2,738,810	2,738,810				2,738,810	3,092,156	30.00%	924,071	820,000		820,000	820,000				
464	904.0	130.0	0.00	0.00	0.00	0.00	1,724,545	456.2	2,297.1	2,753.3	0	8,863,038	10,407,474	11,162,718	10,407,474				11,162,718	12,683,828	30.00%	3,456,125	3,650,000		3,650,000	3,650,000				
465	608.0	177.9	0.00	0.00	0.00	0.00	2,332,963	617.2	3,178.2	3,796.4	18,400	9	12,035,776	14,368,792	14,344,678	14,344,678				14,344,678	16,276,628	30.00%	4,892,988	4,874,609		4,874,609	4,874,609			
466	189.0	66.6	0.00	0.00	17.1	0.0	522,233	132.8	1,424.1	1,557.0	122,001	5,559,995	6,008,361	6,008,361				6,008,361	6,844,031	30.00%	2,053,209	2,063,265		2,053,209	2,053,209					
467	87.6	37.2	0.00	0.00	0.00	0.00	261,295	66.1	817.7	806.8	160,000	3	2,959,808	3,521,104	3,521,104				3,521,104	3,899,337	30.00%	1,169,001	1,059,000		1,059,000	1,059,000				
468	141.0	86.0	0.00	0.00	0.00	0.00	133,600	35.4	194.6	230.0	47,201	777,789	911,601	863,656				863,656	977,787	31.00%	301,114	268,001		268,001	268,001					
469	581.0	86.2	0.00	0.00	0.00	0.00	2,292,886	608.4	2,959.3	3,607.7	656,636	12,023,152	14,332,944	14,060,367	14,332,944				14,332,944	16,012,365	30.00%	4,503,717	4,818,898		4,818,898	4,818,898				
470	804.0	148.3	0.00	0.00	0.00	0.00	2,518,031	665.8	4,026.6	4,874.1	0	7	15,152,130	17,668,098	17,233,029	17,233,029				17,233,029	21,113,828	30.00%	6,025,093	4,820,000		4,820,000	4,820,000			
471	53.0	18.7	0.00	0.00	0.00	0.00	151,025	39.9	330.2	370.1	72,864	2	3,203,540	4,171,382	4,027,695	4,027,695				4,027,695	4,645,791	30.00%	1,362,661	1,296,000		1,296,000	1,296,000			
473	485.0	126.1	0.00	0.00	0.00	0.00	961,000	254.2	1,789.7	2,043.9	0	6,765,096	7,725,842	7,728,116	7,728,116				7,728,116	8,786,004	30.00%	2,636,901	2,460,833		2,460,833	2,460,833				
474	49.0	18.0	0.00	0.00	0.00	0.00	202,000	53.7	274.4	298.1	0	5,027,232	5,242,216	5,242,216				5,242,216	5,820,193	30.00%	1,736,438	1,597,000		1,597,000	1,597,000					
475	2,517.0	382.3	0.00	0.00	0.00	0.00	7,014,309	1,855.6	10,980.0	12,437.6	0	42,377,960	47,521,128	44,484,038	44,484,038				44,484,038	53,253,192	30.00%	16,068,652	12,101,000		12,101,000	12,101,000				
476	57.0	19.4	0.00	0.00	0.00	0.00	108,000	28.8	304.6	333.2	0	1,151,398	1,259,496	1,257,606				1,257,606	1,432,442	30.00%	435,743	436,000		436,000	436,000					
477	65.0	23.0	0.00	0.00	0.00	0.00	172,821	45.7	482.4	508.1	0	1,747,872	1,920,818	1,896,316				1,896,316	2,128,719	30.00%	617,333	607,000		607,000	607,000					
478	96.0	28.3	0.00	0.00	0.00	0.00	353,721	93.8	448.9	540.5	0	1,899,282	2,140,009	2,140,009				2,140,009	2,466,748	30.00%	808,974	667,000		667,000	667,000					
480	228.0	57.0	0.00	0.00	0.00	0.00	2,518,023	666.1	7,053.2	7,742.3	0	9	26,774,626	28,923,364	28,915,486	28,915,486				28,915,486	33,480,822	30.00%	10,044,250	6,130,000		6,130,000	6,130,000			
481	168.0	49.3	0.00	0.00	0.00	0.00	362,296	95.9	666.7	781.6	0	2,501,946	2,954,440	2,951,620				2,951,620	3,440,732	30.00%	1,032,220	935,000		935,000	935,000					
482	39.0	13.0	0.00	0.00	0.00	0.00	183,413	48.5	443.7	492.2	78,054	0	1,939,596	1,939,596	1,939,596				1,939,596	2,172,200	30.00%	651,660	669,215		669,215	669,215				
483	815.0	152.0	0.00	0.00	0.00	0.00	2,592,876	1,027.1	1,626.5	1,668.2	325,000	3	6,030,810	6,828,726	6,761,023	6,761,023				6,761,023	7,929,458	30.00%	2,187,438	1,124,000		1,124,000	1,124,000			
484	212.0	62.8	0.00	0.00	0.00	0.00	565,194	181.3	1,157.8	1,330.1	0	3,705,844	5,091,296	5,021,692				5,021,692	5,861,738	30.00%	1,737,278	1,587,000		1,587,000	1,587,000					
487	71.0	19.4	0.00	0.00	0.00	0.00	535,188	138.9	927.5	1,066.4	0	3,329,950	4,020,922	4,022,366				4,022,366	4,622,402	30.00%	1,506,599	1,065,000		1,065,000	1,065,000					
489	599.0	330.0	0.00	127.0	0.00	36.7	2,833,657	744.4	3,825.9	4,677.3	0	4	14,498,362	17,292,194	17,061,976	17,292,194				17,292,194	20,126,225	30.00%	5,037,568	6,264,447		6,264,447	6,264,447			
492	414.0	80.9	0.00	0.00	0.00	0.00	1,129,416	427.1	2,665.1	3,018.3	0	8	9,876,190	11,459,174	11,361,848				11,361,848	13,236,665	30.00%	3,849,692	3,599,000		3,599,000	3,599,000				
493	122.0	32.0	0.00	0.00	0.00	0.00	1,402,680	371.1	1,908.0	2,275.1	0	4	7,212,240	8,614,996	8,613,104				8,613,104	9,881,592	30.00%	2,904,478	2,504,000		2,504,000	2,504,000				
492	180.0	49.7	0.00	0.00	15.8	0.0	291,600	77.1	517.1	594.2	0	10	8,544,638	2,248,078	2,248,078	2,248,078				2,248,078	2,665,731	30.00%	775,719	733,244		733,244	733,244			
493	378.0	45.1	0.00	0.00	0.00	0.00	1,020,674	279.3	1,654.0	1,924.6	0	1	5,276,170	7,272,160	7,298,046	7,272,160				7,272,160	8,376,367	30.00%	2,573,807	2,513,000		2,513,000	2,513,000			
494	204.0	45.3	0.00	0.00	0.00	0.00	301,525	79.8	915.4	952.2	0	1	4,460,212	3,011,848	3,016,076	3,016,076				3,016,076	3,486,744	30.00%	1,187,744	1,187,500		1,187,500	1,187,500			
495	204.0	53.9	0.00	0.00	0.00	0.00	1,813,660	479.8	1,452.2	1,832.0	0	5	4,469,318	7,302,960	7,191,450	7,191,450				7,191,450	8,240,379	30.00%	2,482,188	2,212,500		2,212,500	2,212,500			
496	45.0	17.6	0.00	0.00	71.3	0.0	267,120	70.7	365.1	435.8	0	8	3,300,078	3,674,528	3,654,988	3,654,988				3,654,988	4,179,877	31.00%	653,433	537,652		537,652	537,652			
497	2,331.0	345.8	0.00																											