

NO. 113,267

IN THE SUPREME COURT OF THE STATE OF KANSAS

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

Plaintiffs/Appellees,

vs.

STATE OF KANSAS, *et al.*,

Defendants/Appellants.

SUPPLEMENTAL RESPONSE BRIEF OF PLAINTIFFS/APPELLEES

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

Alan L. Rupe, #08914
Jessica L. Skladzien, #24178
Mark A. Kanaga, #25711
LEWIS BRISBOIS BISGAARD & SMITH LLP
1605 N. Waterfront Parkway, Suite 150
Wichita, Kansas 67206
(316) 609-7900 (Telephone)
(316) 462-5746 (Facsimile)

John S. Robb, #09844
SOMERS, ROBB & ROBB
110 East Broadway
Newton, Kansas 67114
(316) 283-4650 (Telephone)
(316) 283-5049 (Facsimile)

Attorneys for Plaintiffs

TABLE OF CONTENTS

NATURE OF THE CASE1

PROCEDURAL HISTORY.....2

 K.S.A. §60-401(h).....4

Friedman v. Kan. State Bd. of Healing Arts, 296 Kan. 636 (2013).....5

Dragon v. Vanguard Indus., 282 Kan. 349 (2006)

 A. Plaintiffs’ Immediately and Properly Challenged the State’s
 Enactment of S.B. 76

 B. The Panel Ultimately Found that S.B. 7 Violated Article 6 of the
 Kansas Constitution6

 C. [Supplemental Procedural History]: The State Amended S.B. 7 to
 Comport with Article 6’s Equity Requirements But Wholly Failed
 to Cure the Known Adequacy Defects.....6

Gannon v. State, 372 P.3d 1181 (Kan. May 27, 2016).....7

STATEMENT OF THE FACTS7

 I. The Funding Levels That Existed Prior to the Adoption of S.B. 7, Which
 S.B. 7 Froze Into Place, Violated the Adequacy Component of Article 6 of
 the Kansas Constitution7

 A. Between 2009 and 2012, The State Began Making Significant Cuts
 to Education Funding for Political Reasons.....7

 B. The Cuts to Funding Forced School Districts to Eliminate Services,
 Programs, and Staff that Were in Place to Provide Students with an
 Education that Meets the *Rose* Standards8

 C. The Services, Programs, and Staff Cut as Result of Decreased
 Funding Were Eliminated for Affordability Reasons.....8

 D. [Supplemental Facts]: The Elimination of These Services,
 Programs, and Staff Negatively Impacted Student Achievement.....8

Montoy v. State, 282 Kan. 9 (2006)8, 9, 10, 14, 22

Morath v. Tex. Taxpayer & Student Fairness Coal.,
 2016 Tex. LEXIS 374, Tex. Sup. J. 771 (Tex. 2016).....9

Gannon v. State, 298 Kan. 1107, 1199 (2014).....9, 17, 18

Gannon v. State, 372 P.3d 1181 (Kan. May 27, 2016).....9, 10, 14, 15, 22

Montoy v. State, 282 Kan. 9 (2006)9, 10, 22

Montoy v. State, 279 Kan. 817 (2005)10

 K.S.A. 2013 Supp. 72-112710, 17, 18

Comprehensive Health of Planned Parenthood of Kan. &
 Mid-Missouri, Inc. v. Kline, 278 Kan. 372 (Kan. 2008)10

Urban Renewal Agency v. Decker, 197 Kan. 157 (1966).....14, 22

 K.S.A. 60-40915, 16, 22

 K.S.A. 60-41215, 22

Gannon v. State, 2015 Kan. LEXIS 314 (Kan. June 28, 2016)15, 22

Rose v. Council for Better Educ., 790 S.W.2d 186 (Ky. 1989)17, 18

 E. [Supplemental Facts]: The Kansas State Board of Education’s
 Recent Actions Demonstrate that Funding Levels Have Been – and
 Remain – Inadequate.....23

	<i>State ex rel. Miller v. Bd. of Educ.</i> , 212 Kan. 482 (1973).....	24
	<i>U.S.D. No. 443 v. Kansas State Board of Education</i> ,	
	266 Kan. 75, 96 (1998)	24
	K.S.A. 60-409	25
	K.S.A. 60-412	25
	<i>Gannon v. State</i> , 372 P.3d 1181 (Kan. May 27, 2016).....	25
	<i>Gannon v. State</i> , 2015 Kan. LEXIS 314 (Kan. June 28, 2016)	25
	<i>Gannon v. State</i> , 298 Kan. 1107 (2014).....	26
II.	The Adoption of S.B. 7 Did Not Cure the Unconstitutionality of the Inadequate Funding Levels.....	26
A.	S.B. 7 Wholly Replaced a Dynamic System with a Static Block of Funds.....	26
B.	S.B. 7 Violated the Adequacy Component of Article 6 Because it Reduced the Overall Funding Levels, Which Had Already Been Deemed Unconstitutional.....	27
C.	S.B. 7 Violated the Adequacy Component of Article 6 Because it Eliminated the Weightings.....	27
III.	[<i>Supplemental Argument</i>]: Recent Amendments to S.B. 7 Did Not Cure the Unconstitutionality of the Inadequate Funding Levels	27
	<i>Gannon v. State</i> , 372 P.3d 1181 (Kan. May 27, 2016).....	27, 28
	K.S.A. 2014 Supp. 72-8804	27
	ARGUMENTS AND AUTHORITIES.....	31
I.	Justice Requires An Immediate Remedy	31
A.	The Mandatory Nature of Article 6 of the Kansas Constitution Requires Action to Remedy Any Violations of Its Provisions	31
B.	The Unconstitutionality Present in the Current System Have Existed for Too Long and Must be Remedied <i>Immediately</i>	31
C.	[<i>Supplemental Argument</i>]: The State’s Efforts to Escape Review by Arguing Justiciability, Mootness, and Changed Circumstances Should be Disregarded.....	32
	<i>Gannon v. State</i> , 298 Kan. 1107 (2014).....	32
	<i>Montoy v. State</i> , 275 Kan. 145 (Kan. 2003).....	33
	<i>Montoy v. State</i> , 279 Kan. 817 (2005)	33
	<i>Knowles v. State Board of Education</i> , 219 Kan. 271 (1976)	33
	<i>Southern Pacific Terminal Co. v. ICC</i> , 219 U.S. 498 (1911)	34
	<i>Roe v. Wade</i> , 410 U.S. 113 (1973).....	34
	<i>Petrella v. Brownback</i> , 787 F.3d 1242 (10th Cir. 2015).....	34, 35
II.	The Appropriate Standard of Review and Allocation of Burden	36
III.	The Panel had Authority to Adjudicate the Constitutionality of House Substitute for Senate Bill 7	36
IV.	[<i>Supplemental Argument</i>]: The Panel Applied the Correct Test in Adjudicating the Constitutionality of S.B. 7.....	36
	<i>Morath v. Tex. Taxpayer & Student Fairness Coal.</i> ,	
	2016 Tex. LEXIS 374, Tex. Sup. J. 771 (Tex. 2016)	36, 38
	<i>Gannon v. State</i> , 298 Kan. 1107 (2014).....	36, 38
	<i>Mock v. State of Kansas</i> , No. 91-cv-1009 (1991).....	37

	<i>Provance v. Shawnee Mission U.S.D. No. 512</i> , 231 Kan. 636 (1982).....	37
	<i>State v. Smith</i> , 155 Kan. 588 (1942)	37
	<i>Montoy v. State</i> , 279 Kan. 817 (2005)	38
V.	The Panel Correctly Concluded that S.B. 7 Violates the Adequacy Component of Article 6 of the Kansas Constitution.....	38
	A. The Legislature Adopted S.B. 7 – Which Further Cut the Funding Provided to Kansas School Districts – Knowing that Kansas Public Schools Were Already Being Funded at An Unconstitutional Level and Perpetuating Those Inadequacies.....	39
	B. S.B. 7 Was Not Adopted to Address the Actual Costs of Funding an Education in Kansas.....	39
	C. There is No Evidence Before this Court that S.B. 7 is Reasonably Calculated to Have All Kansas Schoolchildren Meet or Exceed the <i>Rose</i> Factors.....	39
VI.	This Court Should Retain Jurisdiction Until the State Wholly Complies with its Constitutional Obligations	40
VII.	[<i>Supplemental Argument</i>]: The Panel Did Not Err in Ordering a Specific, Constitutional Remedy for the State’s Violation of Article 6 of the Kansas Constitution; In Fact; A Supplemental Order Requiring the State to Increase Funding Is Appropriate Based on the Panel’s Findings	40
	<i>Montoy v. State</i> , 279 Kan. 817 (2005)	43
	<i>DeRolph v. State</i> , 2000 Ohio 437 (2000).....	43
	<i>Gannon v. State</i> , 298 Kan. 1107 (2014).....	43
VIII.	[<i>Supplemental Argument</i>]: Money Makes a Difference	44
	<i>Cooke v. Gillespie</i> , 285 Kan. 748 (Kan. 2008)	44
	<i>Morath v. Tex. Taxpayer & Student Fairness Coal.</i> , 2016 Tex. LEXIS 374, Tex. Sup. J. 771 (Tex. 2016).....	44, 45
	K.S.A. 60-409	44
	K.S.A. 60-412	44
	<i>Gannon v. State</i> , 372 P.3d 1181 (Kan. May 27, 2016).....	44
	<i>Gannon v. State</i> , 2015 Kan. LEXIS 314 (Kan. June 28, 2016)	44
IX.	None of the State’s Arguments Dictate Reversal	47
	CONCLUSION.....	48
	CERTIFICATE OF SERVICE	49
	APPENDIX	
	A. Appendix A: 2015 NAEP Results	
	B. Appendix B: Report of the Special Committee on K-12 Student Success to the 2016 Kansas Legislature	
	C. Appendix C: 2015 Assessment Data	
	D. Appendix D: Kansas State Department of Education Graduation and Dropout Data	
	E. Appendix E: Kansas State Board of Education Meeting Minutes	
	F. Appendix F: Legislative Research Material	

NATURE OF THE CASE

Who chooses which generation of Kansas schoolchildren must sacrifice their education in order to allow the Legislature more time to comply with its obligations and finally adopt a constitutionally funded formula? Year after year, Kansas students are given the same message: we will resolve this issue “soon.” For Kansas students, “soon” cannot come soon enough. Kansas students who started kindergarten in a public school in Kansas in 2009-2010, when the cuts began, will now begin the seventh grade without ever enjoying the benefit of a constitutionally adequate education. High-school seniors scheduled to graduate in 2017 have not benefitted from a constitutionally-funded education since they were in the fifth grade. And, the “constitutional” level of education that the students did receive was only provided for two years, following this Court’s orders in *Montoy*, which forced the State to comply with its constitutional obligations to provide a suitable level of funding. Kansas students deserve more than a few years’ worth of a constitutionally-appropriate education nestled between court cases and cost studies; the Constitution demands more. Yet, with the exception of that brief two-year period in which the State was judicially-required to increase education funding, Kansas public education has been underfunded for far too many years. *See* Plaintiffs’ Response Brief, filed January 12, 2016 (“Plaintiffs’ Response”), pp. 35-38.

The State has been aware that funding levels have been unconstitutional since at least June of 2010. *See, e.g.*, R. Vol. 107, pp. 7087-7134. Yet, it has done nothing to remedy the inadequate funding levels. Instead, knowing that it already provided an unconstitutional level of funding, the State adopted House Substitute for Senate Bill 7

(“S.B. 7”) – wholly replacing the previous, dynamic school funding formula with a static block of *less* dollars. S.B. 7’s inadequate funding violates Article 6 of the Kansas Constitution.

In response to this Court’s July 6, 2016 Order, and in further support of its arguments that S.B. 7 is unconstitutional, Plaintiffs provide the following supplemental information:

PROCEDURAL HISTORY

The history of this case is long; Plaintiffs limit their discussion to those relevant events that have taken place since this Court’s March 7, 2014 Mandate. On December 30, 2014, in compliance with this Court’s March 2014 Mandate, the Panel analyzed whether funding levels under the SDFPQA were constitutionally adequate for the second time. The Panel again determined that the then-current funding levels did not meet the adequacy component of Article 6 of the Kansas Constitution. R. Vol. 24, p.3065. This finding is important to this appeal because, if the levels of funding under the SDFQPA were unconstitutional in December of 2014, then the static block of *less* dollars appropriated by the later-enacted S.B. 7 are surely unconstitutional as well. *See, e.g.*, Plaintiffs’ Response, pp. 24-26.

On appeal, Plaintiffs urged this Court to both rely on and defer to the findings that Plaintiffs submitted to the Panel prior to the Panel’s December 2014 Order (specifically, the Proposed Findings of Fact and Conclusions of Law submitted to the Panel on May 16, 2014, *see e.g.*, Plaintiffs’ Response, at p.6). Plaintiffs did – and continue to – take the position that the Panel’s December Order relied on those findings in reaching its

conclusions. After all, the Panel's December 2014 Order states: "As is obvious by the resulting opinion following, our divergence with the Plaintiffs rests principally in the amount of dollars believed to represent a state of adequacy in meeting the *Rose factors*, not the clear fact that constitutional inadequacy from any rational measure or perspective clearly has existed and still persists in the State's approach to funding the K-12 school system." R. Vol. 24, p.3055; Plaintiffs' Response, at p. 6.

In the Reply Brief of Appellant State of Kansas ("State's Reply"), filed with this Court on January 27, 2016, the State alleges that the Plaintiffs somehow made misrepresentations to the Court when Plaintiffs arguing that these findings are entitled to deference on appeal. The State now argues that the Panel *did not* rely on the Plaintiffs' findings simply because the Panel issued an Order on March 11, 2015, striking certain language from the December 2014 Order. The State wholly misconstrues the Panel's March 11, 2015 Order, which *substantially denied* the State's Motion to Alter and Amend; the March 2015 Order was not a wholesale repudiation of the previous December 2014 Order.

On March 11, 2015, in response to the State's Motion to Alter and Amend the Panel's December 2014 Order, the Panel struck certain language from the December Order, including language that Plaintiffs' Proposed Findings of Fact "speak the truth." R. Vol. 128, p. 11. While the Panel noted that the language it struck was "perhaps too loose, obviously loosely edited," it did not repudiate any of its earlier factual findings or legal conclusions. R. Vol. 128, pp. 5-16. **It did not strike any of the language on which Plaintiffs relied in their Response to argue that their findings were entitled to**

deference on appeal (*e.g.*, that the Panel only diverged from Plaintiffs as to the remedy).

Id. Within the March 2015 Order, the Panel encouraged readers of its December 2014 Order to read the decisions “with the idea that each word, sentence, and comma was intended to be crafted to convey both the findings and conclusions of the Court.” R. Vol. 128, p.7. The Panel further explicitly rejected any implication that the facts submitted by Plaintiffs and underlying its opinion were somehow in doubt:

In this case . . . the facts themselves were either matters of public record, *e.g.*, test scores and school funding sources and amounts, or otherwise involved opinions and evaluations of need by those deeply immersed in providing a public education to each student in the diverse K-12 student body statewide. As to the latter, *the State presented not a single Kansas grounded educator that rebutted either the testimony or exhibits which advanced the need or the costs associated with that need, a need that was unanimously expressed.*

Id. at p.8 (emphasis added). The Panel went on to discuss the financial conclusions it drew: “As to the financial conclusions, the premises for those were fully discussed, such that if one accepts the evaluation premises adopted by us, or even if one does not, a proper factual conclusion can still be derived by adding, subtracting, multiplying, or dividing.” *Id.* at p.9.

The Panel ultimately explained:

The genesis of the paragraph of which the State complains rested in our belief that the facts that were advanced that could be seen as in opposition to our conclusions and findings were *necessarily implicitly rejected* while those that would support our holdings were *implicitly accepted*, making their identification or their listing simply an unnecessary redundancy.

Id. at p.10 (emphasis added). This comports with K.S.A. §60-401(h), which states that “[a] ruling implies a supporting finding of fact.” Rather than somehow rejecting Plaintiffs’ Proposed Findings of Fact by withdrawing the paragraph the State complained

of, the Panel merely withdrew that paragraph “for the sake of grammar and clarity” while emphasizing that “[w]e reviewed fully all the State’s submissions and found none would aid, alter, or change our prior opinions.” *Id.* at pp. 12-13.

Furthermore, in its opening appeal brief, the State failed to argue that the Panel’s December 2014 Order, as modified, contained inadequate findings of fact or conclusions of law. *See generally* Brief of Appellant State of Kansas (“State’s Opening Brief”), filed November 23, 2015. The State has therefore waived this issue because the Court deems issues not briefed as abandoned. *Friedman v. Kan. State Bd. of Healing Arts*, 296 Kan. 636, 643 (2013); *see also* *Dragon v. Vanguard Indus.*, 282 Kan. 349, 356 (2006) (“Where no objection is made, this court will presume the trial court found all facts necessary to support its judgment.”).

The State’s argument that the Panel did not rely on the Plaintiffs’ Findings in issuing its December 2014 Order should be disregarded. Rather than acknowledging that the Panel *substantially denied* the State’s Motion to Alter or Amend the December 2014 Order, the State attempts to transform the Panel’s removal of a single paragraph into a wholesale repudiation of the facts submitted by Plaintiffs and clearly relied upon by the Panel. As the Panel made clear, it “implicitly accepted” the facts submitted by Plaintiffs that support the Panel’s holding. Therefore, those findings are therefore entitled to deference on appeal.

The May 16, 2014 Proposed Findings of Fact and Conclusions of Law are not the only proposed findings submitted to the Panel that are entitled to deference in this appeal. After the Panel’s March 2015 Order, the Panel issued a separate order evaluating the

constitutionality of S.B. 7 (signed into law on March 25, 2015). R. Vol. 140, p.7. On June 26, 2015, the Panel ultimately agreed with Plaintiffs that S.B. 7 violated Article 6 of the Kansas Constitution. See Plaintiffs’ Response, at p.7. In finding S.B. 7 unconstitutional, the Panel explicitly adopted Plaintiffs’ Proposed Findings of Fact and Conclusions of Law as their own, with the exception of Plaintiffs’ Proposed Findings ¶¶ 101, 103, 107, 110-112. Plaintiffs’ Response, at p. 7; R. Vol. 136, pp. 1426-27. Those findings, submitted May 15, 2015, are also entitled to deference on appeal.

A. Plaintiffs’ Immediately and Properly Challenged the State’s Enactment of S.B. 7

See Plaintiffs’ Response, at pp. 6-7.

B. The Panel Ultimately Found that S.B. 7 Violated Article 6 of the Kansas Constitution

See Plaintiffs’ Response, at p. 7.

C. [Supplemental Procedural History]: The State Amended S.B. 7 to Comport with Article 6’s Equity Requirements But Wholly Failed to Cure the Known Adequacy Defects

Since the filing of Plaintiffs’ Response, the State has amended S.B. 7 twice. Both times, the State amended S.B. 7 knowing that the “block grants” provided inadequate levels of education funding. Nonetheless, the State never attempted to cure those inadequacies. Instead, the State only amended S.B. 7 to comport with Article 6’s *equity* requirement, despite the opportunity to adopt wholly constitutional legislation that also provided *adequate* levels of funding.

On March 24, 2016, in response to this Court’s February 11, 2016 Order on the equity portion of this case, the Legislature passed Senate Substitute for H.B. 2655 (“H.B.

2655”). Governor Brownback signed this Act into law on April 7, 2016. This Court ultimately held that the adoption of H.B. 2655 failed to cure all the inequities that were present in the operation of S.B. 7, as amended. The Court then gave the State “yet another opportunity to treat Kansas students fairly” by passing remedial, constitutional legislation before June 30, 2016. *See Gannon v. State*, 372 P.3d 1181, 1204 (Kan. May 27, 2016) (“Gannon III”).

In response, on June 24, 2016, the Legislature held a special legislative session and passed Senate Substitute for H.B. 2001 (“H.B. 2001”). Governor Brownback signed H.B. 2001 into law on June 27, 2016, and, that same day, the parties jointly stipulated that H.B. 2001, if fully funded, met the equity requirements of the Kansas Constitution. On June 28, 2016, this Court entered an Order finding that H.B. 2001 complied with the Court’s May 27, 2016 Order.

STATEMENT OF THE FACTS

I. THE FUNDING LEVELS THAT EXISTED PRIOR TO THE ADOPTION OF S.B. 7, WHICH S.B. 7 FROZE INTO PLACE, VIOLATED THE ADEQUACY COMPONENT OF ARTICLE 6 OF THE KANSAS CONSTITUTION

When the State adopted S.B. 7, it froze constitutionally inadequate funding levels into place. The State has taken no action since adopting S.B. 7 to increase the inadequate funding or to otherwise ensure that public education is being constitutionally funded. The State’s failure in this regard has caused further, significant declines in student achievement, as measured by various outputs.

A. Between 2009 and 2012, The State Began Making Significant Cuts to Education Funding for Political Reasons

See Plaintiffs’ Response, at pp. 9-10.

B. The Cuts to Funding Forced School Districts to Eliminate Services, Programs, and Staff that Were in Place to Provide Students with an Education that Meets the *Rose* Standards

See Plaintiffs' Response, at pp. 10-15.

C. The Services, Programs, and Staff Cut as Result of Decreased Funding Were Eliminated for Affordability Reasons

See Plaintiffs' Response, at pp. 15-16.

D. [Supplemental Facts]: The Elimination of These Services, Programs, and Staff Negatively Impacted Student Achievement

Plaintiffs have, through this entire litigation and appeal, provided ample evidence necessary services, programs, and staff were eliminated solely due to decreased funding *and* that the elimination of these services, programs, and staff negatively impacted student achievement. *See e.g.*, Plaintiffs' Response, pp. 16-24. The continued decreases in student achievement are directly attributable to the State's inadequate funding of public education. *Id.*; *see also infra* § Money Makes a Difference. Since the filing of Plaintiffs' Response, the State has produced additional evidence that student achievement continues to decline. All of this evidence was available to the Legislature when it adopted the recent amendments to S.B. 7 and is properly before this Court on appeal.

Preliminarily, the State has complained that the evidence available to this Court on appeal is "stale." *See e.g.*, State's Reply, pp. 4-5. As this Court knows, the most current evidence is not necessary to resolve a school funding case. Requiring the most up-to-date evidence "would extend [this litigation] into an indefinite future," but "the children of Kansas need a resolution of this matter now." *Montoy v. State*, 282 Kan. 9, 33

(2006) (“Montoy V”) (J., Rosen, concurring). Other Supreme Courts have also recognized this; the Texas Supreme Court recently stated:

The State’s advocacy for a strict application of the ripeness doctrine would mean school finance cases could never be entertained, because the facts relating to funding, test scores, tax rates, property values, etc., are always changing to some extent . . . the inevitable changes in relevant factual circumstances do not place school finance cases completely beyond the decision-making reach of the courts; again, holding otherwise would effectively overrule our longstanding recognition that the courts play a legitimate, constitutionally authorized role in these disputes.

Morath v. Tex. Taxpayer & Student Fairness Coal., 2016 Tex. LEXIS 374, *48-49, Tex. Sup. J. 771 (Tex. 2016).

If this Court disagreed, then when it first remanded this matter to the Panel in March of 2014, it could have done so with instructions to reopen the evidence. It did not. Instead, this Court instructed the Panel to “*promptly* make findings as appropriate” considering “whatever evidence it deems relevant – *whether presently in the record or after reopening.*” *Gannon I*, 298 Kan. at 1199 (emphasis added). This Court gave the Panel discretion to determine whether *the most recent* evidence was necessary. *Id.* at 1171-72. Thus, this appeal can move forward despite the State’s allegations regarding “stale” evidence. Nevertheless, the State’s “staleness” concerns can be resolved by considering the most recent evidence of student achievement, all of which is properly before this Court as legislative history or is appropriate for judicial notice.

This Court has repeatedly considered supplemental and updated information in ruling on school finance cases, especially where such information has been considered by the legislature as part of the legislative history of the enactments under scrutiny. *See, e.g., Gannon III*, 372 P.3d at 1188 (citing *Montoy V*, 282 Kan. at 20) (considering

submitted facts that had not been subjected to the fact-finding processes of litigation but were “part of the legislative history”)); *see also Montoy v. State*, 279 Kan. 817, 825 (2005) (“Montoy IV”) (“[T]his court’s retained jurisdiction allows a review to determine if there has been compliance with our opinion.”).¹ As such, this Court should consider the following evidence that – as measured by NAEP results, state assessments, drop-out rates, graduation rates, and remediation rates – Kansas students are not receiving a suitable education that meets or exceeds the *Rose* factors. The current system is *still* not reasonably calculated to ensure that students receive “training or preparation for advanced training in either academic or vocational fields so as to enable students to choose and pursue life work intelligently.” *See* K.S.A. 72-1127. Students are not developing “sufficient levels of academic or vocational skills to enable students to compete favorably in academics and the job market.” *Id.* And they are not developing “sufficient oral and written communication skills which enable students to function in a complex and rapidly changing society.” *Id.* The Panel’s finding that S.B. 7 is unconstitutional should be affirmed.

Post-Trial NAEP Results Demonstrate An Increasing Number of Kansas Public School Students Are Not Receiving a Suitable Education. The State has continuously urged this Court to compare Kansas students to the students of other states

¹ Alternatively, if this Court determines that it is inappropriate to consider this additional evidence *and* determines that it is necessary to have the most up-to-date evidence available, rather than entering judgment in favor of the State, this Court should appoint a special master to conduct an evidentiary hearing and make any necessary factual findings. *See, e.g., Comprehensive Health of Planned Parenthood of Kan. & Mid-Missouri, Inc. v. Kline*, 278 Kan. 372, 388 (Kan. 2008) (“Because several facts underlying this action remained in dispute, on October 24, 2007, this court appointed District Judge David King as a special master to conduct an evidentiary hearing and make factual findings. We provided Judge King with a list of 17 questions to guide the proceedings before him.”).

by relying on NAEP data. *See, e.g.*, State’s Opening Brief, pp. 32-33 (citing R. Vol. 38, pp. 2214-15); *see also* R. Vol. 58, pp. 1421-22; R. Vol. 14, pp. 1884-86 (NAEP is “the only nationally representative and continuing assessment of what America’s students know and can do in various subject areas.”). The data available to the Plaintiffs at the time they filed their Response indicated that significant numbers of Kansas students were not performing well on NAEP assessments. *See* Plaintiffs’ Response, p.22. The most recent NAEP data, set forth in the following chart, demonstrates that a significant percentage of Kansas students still perform “below basic” levels, and that percentage continues to grow:

	% Below Basic 2009 ²	% Below Basic 2011 ³	% Below Basic 2015 ⁴
4th Grade Reading			
National: All Students	34%	34%	32%
Kansas: All Students	28%	29%	32%
Kansas: White Students	22%	24%	26%
Kansas: Black Students	44%	54%	56%
Kansas: Hispanic Students	45%	45%	46%
Kansas: Free and Reduced Lunch	40%	42%	46%
8th Grade Reading			
National: All Students	26%	25%	25%
Kansas: All Students	20%	21%	21%
Kansas: White Students	14%	16%	15%
Kansas: Black Students	43%	42%	43%
Kansas: Hispanic Students	39%	34%	34%
Kansas: Free and Reduced Lunch	33%	32%	32%

² R. Vol. 67, at pp. 2464-2465.

³ *Id.*

⁴ Addendum A: 2015 NAEP Results.

4th Grade Math			
National: All Students	19%	18%	19%
Kansas: All Students	11%	10%	17%
Kansas: White Students	6%	7%	11%
Kansas: Black Students	34%	28%	43%
Kansas: Hispanic Students	19%	17%	29%
Kansas: Free and Reduced Lunch	18%	15%	26%
8th Grade Math			
National: All Students	29%	28%	30%
Kansas: All Students	21%	20%	24%
Kansas: White Students	15%	14%	18%
Kansas: Black Students	48%	41%	46%
Kansas: Hispanic Students	35%	35%	35%
Kansas: Free and Reduced Lunch	33%	32%	36%

These NAEP results demonstrate that, especially when the data is disaggregated by subgroup, a surprising number of Kansas students are testing below basic levels, further supporting Plaintiffs’ argument that the funding levels are not reasonably calculated to provide Kansas students with an education that meets the *Rose*-based test. The 2015 NAEP results further reveal:

4th Grade Reading Scores. When confronted with the 2009 NAEP data for 4th grade reading, Governor Brownback, then U.S. Senator, proclaimed, “As you can see from this graph, 28% of our students are below basic levels according to National Assessment of Education Progress scores. That number is far too high.” *See* Plaintiffs’ Response, at p. 22. Between 2009 and 2015, the number of Kansas 4th graders testing at below basic levels on the NAEP assessment has risen from 28% (which was “far too high”) to 32%. *Supra.* During the same time period, the number of 4th grade black students who test below basic has risen 12%, from 44% in 2009 to 56% in 2015. *Supra.* Over half of Kansas’ black 4th graders who took the NAEP assessments score below

basic. *See* Appx. A, at NAEP000089. Almost one-half of the Hispanic students and the free-and-reduced lunch students did as poorly. *Id.*

8th Grade Reading Scores. In 2015, one-quarter of Kansas 8th graders perform “below basic” in reading. *See* Appx. A, at NAEP000090. Forty-three percent of the black 8th grade students tested “below basic.” *Id.* Approximately one-third of the Hispanic students and the free-and-reduced lunch students did as poorly. *Id.*

4th Grade Math Scores. The percentage of Kansas’ 4th grade students performing at the lowest levels in Kansas jumped from 11% in 2009 to 17% in 2015. *See* Appx. A, at NAEP000091. Forty-three percent of the black 4th grade students tested “below basic.” *Id.* Almost one-third of the Hispanic students and the free-and-reduced lunch students did as poorly. *Id.*

8th Grade Math Scores. Eighth grade math scores have remained consistently bad in Kansas since 2009, and – in 2015 – a significant percentage of Kansas 8th graders (30%) continue to perform “below basic” in math. *See* Appx. A, at NAEP000092. Forty-six percent of the black 8th grade students tested “below basic.” *Id.* More than one-third of the Hispanic students and the free-and-reduced lunch students did as poorly. *Id.*

It is clear that all Kansas students are not performing well on NAEP assessments. Test scores have gone from bad to worse. And, the decreasing performance is directly attributable to the State’s underfunding of education. *Infra* § Money Makes a Difference. This updated NAEP information is properly before this Court because it was available to

the State when it made legislative amendments to S.B. 7 during the 2015-16 legislative session and the 2016 special session.

As the State admits, the 2016 Legislature was aware of and relied on the Final Report of the Special Committee on K-12 Student Success to guide its decisions regarding the allocation of state dollars to public education in Kansas. *See* State’s Reply, p. 6. The Special Committee reported:

Information presented on the most recent NAEP state rankings showed Kansas’ Grade 4 Mathematics ranking dropping from 11th in 2013 to 25th in 2015. A similar drop from 12th in 8th Grade Math in 2013 to 22nd in 2015 occurred. NAEP 4th Grade reading results saw Kansas dip from 23rd to 35th; and 8th grade reading saw an increase in the ranking from 29th to 28th.

Appendix B, Report of the Special Committee on K-12 Student Success to the 2016 Kansas Legislature (“K-12 Final Report”), at 0-8.⁵ As a result, both the K-12 Final Report and the 2015 NAEP data are properly before this Court as legislative history, relied on by the Legislature in making amendments to S.B. 7. *Montoy V*, 282 Kan. at 23 (citing *Urban Renewal Agency v. Decker*, 197 Kan. 157, 160 (1966) (historical background, legislative proceedings, and changes in a statute during course of enactment may be considered by the court in determining legislative intent)); *see also Gannon III*, 372 P.3d at 1188 (examining “the legislative record, including documents and information made available to lawmakers during their deliberative process.”).

Further, it is proper for this Court to take judicial notice of both the NAEP data and the K-12 Final Report, both of which are “capable of immediate and accurate

⁵ The K-12 Final Report is available at: http://www.ksiegresearch.org/KLRD-web/Publications/CommitteeReports/2015CommitteeReports/spec_k-12_student_success-cr.pdf.

determination by resort to easily accessible sources of indisputable accuracy” (*i.e.*, the Kansas State Department of Education’s website⁶ and the Kansas Legislature’s website⁷). K.S.A. 60-409(b)(4); K.S.A. 60-412(c); *see also* R. Vol. 24, at 3136 (taking judicial notice of July 2014 KSBE minutes); *Gannon III*, 372 P.3d at 1202 (taking judicial notice of legislative material); *Gannon v. State*, 2015 Kan. LEXIS 314, *2 (Kan. June 28, 2016) (“Gannon IV”) (acknowledging that, in reviewing a statute for constitutional compliance, facts provided “through legislative history” or “judicial notice” can be considered along with “reviewing the record on appeal”).

Post-Trial State Assessment Results Demonstrate An Increasing Number of Kansas School Students Are Not Receiving a Suitable Education. Since trial, the State has adopted a new method of assessing the performance of its students. The State first administered the new test – aligned with the new College and Career Ready Standards – in the spring of 2015. Appx. B, at 0-7. Because of this change, pre-trial assessment results do not necessarily sync with post-trial results. Nonetheless, even though the methods differ, those assessments demonstrate that the State is currently failing to provide a significant number of Kansas students with an education that is

⁶ All of the NAEP data was accessed from the KSDE’s website at: http://ksreportcard.ksde.org/naep.aspx?org_no=State&rpfType=3 and can also be accessed by e-mailing ksreportcard@ksde.org.

⁷ All of the meeting minutes, agendas, Committee documents, and testimony considered and/or produced by the K-12 Special Committee are available at: http://www.kslegislature.org/li/b2015_16/committees/ctte_spc_2015_special_committee_on_k12_student_s.../.

reasonably calculated to meet or exceed the *Rose* factors. See Appendix C: 2015 Assessment Data.⁸

The new assessments report results in four levels of “achievement.” Appx. C, at KSDE158348. As the KSDE explains:

Level 1 indicates that student is not performing at grade-level standards. Level 2 indicates that the student is doing grade-level work as defined by the standards but not at the depth or level of rigor to be considered on-track for college success. Level 3 indicates that the student is performing at academic expectations for that grade and is on track to being college ready. Level 4 indicates that student is performing above expectations and is on-track to being college ready.

Id. (emphasis added). Under these standards, an individual whose test results reveal performance at a Level 1 or a Level 2 is not considered to be “on-track for college success.” *Id.*

Like the NAEP scores, the recent Kansas assessment results show student performance has gone from bad to worse. Results on these newly-aligned assessments prove to be dismal, especially at the eighth grade and high school levels. See generally Appx. C.

The assessment results demonstrate that all Kansas schoolchildren are not being provided an education to enable them to meet or exceed the *Rose* factors. For example:

Math Results – An understanding of mathematics is an indispensable part of students receiving “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

⁸ It is proper for this Court to take judicial notice of the 2015 Assessment Data, which is capable of immediate and accurate determination by resort to easily accessible sources of indisputable accuracy (*i.e.*, the Kansas State Department of Education’s own website). K.S.A. 60-409(b)(4); K.S.A. 60-412(c). This data can be accessed at: http://ksreportcard.ksde.org/assessment_results.aspx?org_no=State&rptType=3.

intelligently; and [obtaining] sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market.” See *Gannon v. State*, 298 Kan. 1107, 1164 (2014) (“Gannon I”) (citing *Rose v. Council for Better Educ.*, 790 S.W.2d 186, 212 (Ky. 1989); K.S.A. 2013 Supp. 72-1127(c)). Kansas’ students math results show that this *Rose* factor is not being met:

- Across *all* grades and *all* demographics, 23.13% of students perform **below grade-level** (at Level 1) in math. Appx. C, at KSDE158361. **The majority of students** (66.83%) are not considered to be on-track for college readiness because they perform at Level 1 or Level 2 in math. *Id.*
- When the results are disaggregated by grade level, an even higher number of high school students (36.86%) perform **below grade-level** (at Level 1). *Id.* at KSDE158349. **The majority of high school students** (74.07%) are not considered to be on-track for college readiness because they perform at Level 1 or Level 2 in math. *Id.*
- Disaggregating the data by subgroups shows far worse results:
 - *More than 60%* of the high schools’ ELL students perform **below grade-level** (at Level 1) in math. *Id.* at KSDE158353. Astoundingly, **the majority of ELL high school students** (*almost 90%*) are not considered to be on-track for college readiness because they perform at Level 1 or Level 2 in math. *Id.*

- *More than 55%* of the State’s African-American high school students perform **below grade-level** (at Level 1) in math. *Id.* at KSDE158354. **The majority of African-American high school students** (83.41%) are not considered to be on-track for college readiness because they perform at Level 1 or Level 2 in math. *Id.*
- *More than 50%* of the high schools students receiving free and reduced lunch perform **below grade-level** (at Level 1) in math. *Id.* at KSDE158351. **The majority of high schools students receiving free and reduced lunch students** (85.14%) are not considered to be on-track for college readiness because they perform at Level 1 or Level 2 in math. *Id.*
- *More than 50%* of Hispanic high school students perform **below grade-level** (at Level 1) in math. *Id.* at KSDE158352. **The majority of Hispanic high school students** (85.45%) are not considered to be on-track for college readiness because they perform at Level 1 or Level 2 in math. *Id.*

English Language Arts Results – The *Rose* factors required by this Court for constitutional adequacy require that *all* Kansas schoolchildren receive an education that provides for the “[d]evelopment of sufficient oral and written communication skills which enable students to function in a complex and rapidly changing society.” *See Gannon I*, 298 Kan. at 1165 (citing *Rose*, 790 S.W.2d at 212; K.S.A. 2013 Supp. 72-

1127(c)). Again, Kansas' students' English Language Art ("ELA") results demonstrate that this factor is also not being met:

- Across *all* grades and *all* demographics, 21.16% of students perform **below grade-level** (at Level 1). Appx. C, at KSDE158367. **More than half of all Kansas students** (57.91%) are not considered to be on-track for college readiness because they are not performing at either a Level 1 or a Level 2. *Id.*
- When the results are disaggregated by grade level, 24.01% of high school students perform at Level 1; 67.20% are not considered to be on-track for college readiness because they perform at Level 1 or Level 2. *Id.* at KSDE158355.
- When disaggregated by subgroups, it becomes clear that the subgroups are especially struggling:
 - *More than half* (53.19%) of ELL high school students perform **below grade-level** (at Level 1) in reading. *Id.* at KSDE158359.
 - **The majority of ELL high school students** (*almost 90%*) are not considered to be on-track for college readiness because they perform at Level 1 or Level 2. *Id.*
 - *Almost half* (42.58%) of African-American high school students perform **below grade-level** (at Level 1) in reading. *Id.* at KSDE158360.
 - **The majority of African-American high school students** (79.71%) are not considered to be on-track for college readiness because they perform at Level 1 or Level 2. *Id.*

- *More than one-third* (38.25%) of Hispanic high school students perform **below grade-level** (at Level 1) in reading. *Id.* at KSDE158358.
- **The majority of Hispanic high school students** (81.19%) are not considered to be on-track for college readiness because they perform at Level 1 or Level 2. *Id.*
- *More than one-third* (36.54%) of the high school students receiving free and reduced lunch perform **below grade-level** (at Level 1) in reading. *Id.* at KSDE158357.
- **The majority of high school students receiving free and reduced lunch students** (79.48%) are not considered to be on-track for college readiness because they perform at Level 1 or Level 2. *Id.*

Plaintiffs demonstrated at trial that significant numbers of Kansas students were not receiving a suitable education, as defined by this Court. Current state assessment results demonstrate that is still the case. The failures reflected in the assessments are directly attributable to the State's inadequate funding of education. *Infra* § Money Makes a Difference. By the State's own standards, it is clear that the current school finance system is *still* not reasonably calculated to ensure that Kansas schoolchildren are provided an education that meets or exceeds the *Rose* factors. The Panel's finding that S.B. 7 is unconstitutional should be affirmed.

Post-Trial Drop-Out Rates, Graduation Rates, and Remediation Rates Demonstrate An Increasing Number of Kansas School Students Are Not Receiving a Suitable Education. The most recent data regarding drop-out rates, graduation rates,

and remediation rates continues to demonstrate the current school finance system is *still* not reasonably calculated to ensure that Kansas schoolchildren are provided an education that meets or exceeds the *Rose* factors. While 4-year graduation rates among all students have remained stable since 2012, in 2014, only 85.8% of students graduated within four years. Appendix D: Kansas State Department of Education Graduation and Dropout Data, at KSDE158373. But, as Plaintiffs have repeatedly shown in this case, averages often hide the problem. In 2014, African-American students were graduating in four years at a rate of only 77.0%; Hispanics at a rate of 78.8%. *Id.* Students receiving free or reduced lunches graduated in four years at a rate of only 77.2%, and students with limited English proficiency graduated in four years at a rate of only 76.0%. *Id.* The subgroups also face dropout rates greater than the average dropout rate among all students. *Id.* These continuing disparities demonstrate that the system is not presently designed or funded to ensure that all students receive an adequate education.

And, this data demonstrating the unreasonably low drop-out, graduation, and remediation rates was known to the 2016 Legislature. The State admits that it relied on the Final Report of the Special Committee on K-12 Student Success to guide its decisions regarding allocation of state dollars to public education in Kansas. *See* State's Reply, at p. 6. In the K-12 Final Report, the Committee specifically recommended that graduation, remediation, and dropout rates be improved. Appx. B, at 0-2, 0-10; *see also id.* at p. 0-7 ("the Deputy Commissioner told the Committee that Kansas student drop-out rates and remediation rates at Kansas colleges and universities are over 50 percent, an unacceptably high percentage"). Thus, this information is properly before this Court as

legislative history, relied on by the Legislature in making amendments to S.B. 7. *Montoy V*, 282 Kan. at 23 (citing *Urban Renewal Agency*, 197 Kan. at 160; *see also Gannon III*, 372 P.3d at 1188 (examining “the legislative record, including documents and information made available to lawmakers during their deliberative process”).

It is also proper for this Court to take judicial notice of the graduation data, much like the K-12 Final Report, because it is “capable of immediate and accurate determination by resort to easily accessible sources of indisputable accuracy” (*i.e.*, the Kansas State Department of Education’s website⁹). K.S.A. 60-409(b)(4); K.S.A. 60-412(c); *Gannon III*, 372 P.3d at 1202 (taking judicial notice of legislative material); *Gannon IV*, 2015 Kan. LEXIS 314, *2 (acknowledging that, in reviewing a statute for constitutional compliance, facts provided “through legislative history” or “judicial notice” can be considered along with “reviewing the record on appeal”).

The elimination of these services, programs, and staff continues to negatively impact student achievement. The State complains that the evidence in the record is “stale.” The State ignores the fact that this Court may also properly consider relevant legislative history and judicially-noticed facts in addition to the record on appeal. *Gannon IV*, 2015 Kan. LEXIS 314, *2 (acknowledging that, in reviewing a statute for constitutional compliance, facts provided “through legislative history” or “judicial notice” can be considered along with “reviewing the record on appeal”).

⁹ This information is available online at:
<http://www.ksde.org/Portals/0/TLA/Graduation%20and%20School%20Choice/Graduation%20and%20Dropout/2012,%202013%20and%202014%20graduation%20and%20dropout%20rates%20by%20subgroup.pdf>.

These additional facts, appropriately before this Court, demonstrate that student achievement (as measured by NAEP scores, assessment scores, drop-out rates, graduation rates, and remediation rates) continues to decline. This continued decline is directly attributable to the State's failure to adequately fund Kansas public education. *See, e.g., infra* § Money Makes a Difference. And, this continued decline demonstrates that Kansas students are not receive an education that comports with either the *Rose* factors or K.S.A. 72-1127.

Unfortunately, this impact has been worse on certain sub-groups, whom this Court has repeatedly acknowledged cost more to educate. The disparities amongst sub-groups are especially glaring in light of S.B. 7's elimination of the weightings that were specifically designed to address the demonstrated additional educational needs of these subgroups. So long as the State operates under a school funding system that is blind to these differences, Kansas students will continue to receive an education that falls far short of the constitutional standards set forth in Article 6.

The State has not improved the adequacy of Kansas public education since the trial in this matter; it has actively harmed it. By failing to amend the school finance law or appropriate additional funding to address this declining student achievement, the State has yet again failed to uphold its constitutional obligations.

E. [Supplemental Facts]: The Kansas State Board of Education's Recent Actions Demonstrate that Funding Levels Have Been – and Remain – Inadequate

Although the State continues to rely on its claims of “record” funding for schools, throughout the period following the State's post-*Montoy* funding cuts, the Kansas State

Board of Education (“KSBE”) has consistently recommended additional funding in order to ensure that the schools were adequately funded. The Kansas Constitution places at least part of the constitutional responsibility regarding the education interests of Kansas on the KSBE. Kansas Constitution, Article 6, §2 (the KSBE “shall have general supervision of public schools”). This responsibility gives the KSBE “the power to inspect, to superintend, to evaluate, and to oversee” public education in Kansas. *State ex rel. Miller v. Bd. of Educ.*, 212 Kan. 482, 492 (1973). This Court has held that those powers are “self executing” such that “the legislature could not thwart [this] provision.” *State ex rel. Miller*, 212 Kan. at 489. The Legislature should enact legislation “to facilitate or assist” the KSBE in exercising these powers. *See U.S.D. No. 443 v. Kansas State Board of Education*, 266 Kan. 75, 96 (1998) (citing *State ex rel. Miller*, 212 Kan. at 488). The Kansas Legislature is by no means the sole entity with constitutional obligations regarding the educational interests of the State. Yet, it has continued to wholly ignore the consistent, repeated recommendations from KSBE to increase funding to public education. In doing so, it fails to assist the KSBE in exercising its powers, and improperly acts in derogation of the Kansas Constitution. *See id.*

At the time of trial, the KSBE had repeatedly recommended the State fund the formula at the current statutory level or higher. R. Vol. 79, pp. 3702-13 (KSBE recommended a \$41 increase to the base state aid per pupil for the FY2009 budget); pp. 3720-32 (KSBE recommended an FY2013 budget that would fund all education programs currently in state statute at their statutory levels); pp. 3733-3737 (KSBE recommended a budget that would fund the law for FY2011, which totaled additional

funding of \$281,780,223); pp. 3741-47 (KSBE approved a FY2012 budget recommendation to fund programs at the level established in current law for a total of \$471,761,017 in new funding); pp. 3748-58 (KSBE recommended a FY2010 budget with an increase in the base to meet the state law and to fund the costs of programs necessary to comply with the current law).

The KSBE, under its constitutionally-derived authority and obligation to provide general supervision of schools in Kansas, continues to seek funding increases from the Legislature to ensure that schools are adequately funded. For example, in July 2012, the KSBE voted to submit a FY 2014 budget that would fund the base state aid per pupil (“BSAPP”) at \$4,492. *See* Appendix E: Kansas State Board of Education Meeting Minutes, at KSBE002454¹⁰. In July 2013, the KSBE again voted to submit a FY 2015 budget that would seek to fund the BSAPP to the statutory level of \$4,492. *Id.* at KSBE002464. In July 2014, the KSBE reacted to the “block grant” system by submitting a FY2016 budget that would seek to fund the BSAPP at \$4,200 and then phase in a \$100 increase to the BSAPP per year for three more years. *Id.* at KSBE002474. In July 2015, the KSBE voted to increase funding for FY 2017 by 3 percent. *Id.* at KSBE002482. And again, in July of this year, the KSBE recommended an increase in school funding; specifically, it recommended a \$900 million, two-year increase in state aid. *Id.* at

¹⁰ Plaintiffs request that the Court take judicial notice of Appendix E pursuant to K.S.A. 60-409. K.S.A. 60-409(b)(4); K.S.A. 60-412(c); *see also* R. Vol. 24, at 3136 (taking judicial notice of July 2014 KSBE minutes); *Gannon III*, 372 P.3d at 1202 (taking judicial notice of legislative material); *Gannon IV*, 2015 Kan. LEXIS 314, *2 (acknowledging that, in reviewing a statute for constitutional compliance, facts provided “through legislative history” or “judicial notice” can be considered along with “reviewing the record on appeal”). Plaintiffs also note that similar legislative materials were considered by this Court in *Montoy V*, even though they had “not been subjected to the fact-finding processes of litigation through which the parties were permitted to examine [their] validity and accuracy.” *See* 282 Kan. at 21, *see also Gannon III*, 372 P.3d at 1188 (examining “the legislative record, including documents and information made available to lawmakers during their deliberative process.”).

KSBE002448, 2490-91. The KSBE’s recommendation would increase general fund operating state aid by \$565.6 million for FY 2018 and \$327.8 million for FY 2019. *Id.*

As the Panel and this Court previously found, “cuts to BSAPP in fiscal years 2009 to 2012 totaled more than \$511 million.” *Gannon I*, 298 Kan. at 1115. While the Legislature made those cuts, the KSBE continued to recommend that the State fund education at the statutorily-required level. *Supra*. Then, after the passage of S.B. 7, which only froze in place a level of funding that the Panel had already found unconstitutional, the KSBE continued to exercise its constitutional responsibility and authority by recommending increases to the block grant amounts. The KSBE’s actions since the State first began its post-*Montoy* cuts support the Panel’s determination that the levels of funding were, and continue to be, unconstitutional and inadequate.

This Court has made clear, “total spending is not the touchstone for adequacy.” *Gannon*, 298 Kan. at 1237. But, as demands and enrollment increase, it will continue to cost more money to educate more students. The Panel recognized that. The KSBE recognizes that. Plaintiffs recognize that and respectfully ask this Court to do so as well. Just because the State allegedly spends more money on education each year does not mean that it is spending an adequate amount of money that complies with Article 6.

II. THE ADOPTION OF S.B. 7 DID NOT CURE THE UNCONSTITUTIONALITY OF THE INADEQUATE FUNDING LEVELS

A. S.B. 7 Wholly Replaced a Dynamic System with a Static Block of Funds

See Plaintiffs’ Response, at pp. 24-26.

B. S.B. 7 Violated the Adequacy Component of Article 6 Because it Reduced the Overall Funding Levels, Which Had Already Been Deemed Unconstitutional

See Plaintiffs' Response, at pp. 26-31.

C. S.B. 7 Violated the Adequacy Component of Article 6 Because it Eliminated the Weightings

See Plaintiffs' Response, at pp. 31-32. **In sum, knowing that it was already providing an unconstitutional level of funding under operation of the SDFQPA, the State adopted S.B.7 – wholly replacing a dynamic school funding formula with a static block of *less* dollars.**

III. [Supplemental Argument]: RECENT AMENDMENTS TO S.B. 7 DID NOT CURE THE UNCONSTITUTIONALITY OF THE INADEQUATE FUNDING LEVELS

Although the State has had ample opportunity to amend S.B. 7 since the parties earlier briefed the adequacy issue, *see supra*, Procedural History, at §C., the State has not used those opportunities to cure the adequacy issues identified by the Panel.

This Court specifically found that H.B. 2655 “restore[d] the prior formula for capital outlay state aid” and “also applie[d] the same capital outlay aid formula to LOB supplemental general state aid.” *Gannon III*, 372 P.3d at 1184. This reversion from S.B. 7’s calculation of capital outlay state aid to “the previous SDFQPA formula” increased capital outlay state aid in the 2016-17 school year by approximately \$23.5 million statewide. *Id.* at 1190. However, as this Court noted, “[b]y law, school districts may only use capital outlay funds for capital improvements such as building costs, equipment purchases, and other authorized investments.” *Id.* at 1191-1192 (citing K.S.A. 2014 Supp. 72-8804). The Court summarized the limitations on capital outlay state aid as

follows: “In sum, LOB enhances a district’s ability to perform its basic function, while capital outlay, although necessary, is indirect and generates considerably smaller revenue.” *Id.* at 1192. Given the limitations placed on capital outlay state aid, this Court already determined that the increase in capital outlay state aid does not directly affect the ability of the schools to ensure that all schoolchildren meet or exceed the factors set forth in *Rose* (*i.e.*, this Court’s adequacy test).

As for LOB aid, this Court found that H.B. 2655 actually “decrease[d] the overall aid going to qualifying districts – not only per the calculations under the SDFQPA’s LOB formula but also under the CLASS ‘quintile’ system held unconstitutional in *Gannon II*.” *Id.* at 1191. As the Court found, H.B. 2655 reduced the supplemental general state aid for 2016-17 by \$82,908,792 from the amount provided in the 2015-16 school year. *Id.* And, while “the legislature’s use of the hold harmless provision and extraordinary need fund in H.B. 2655 admittedly mitigates this increase in equity . . . at most they bring aid-qualifying districts back up to LOB distribution levels found inequitable in *Gannon II*.” *Id.* at 1191. Obviously, a reduction or static amount of funding cannot have cured the adequacy issues as found by the Panel and briefed by Plaintiffs in January 2016.

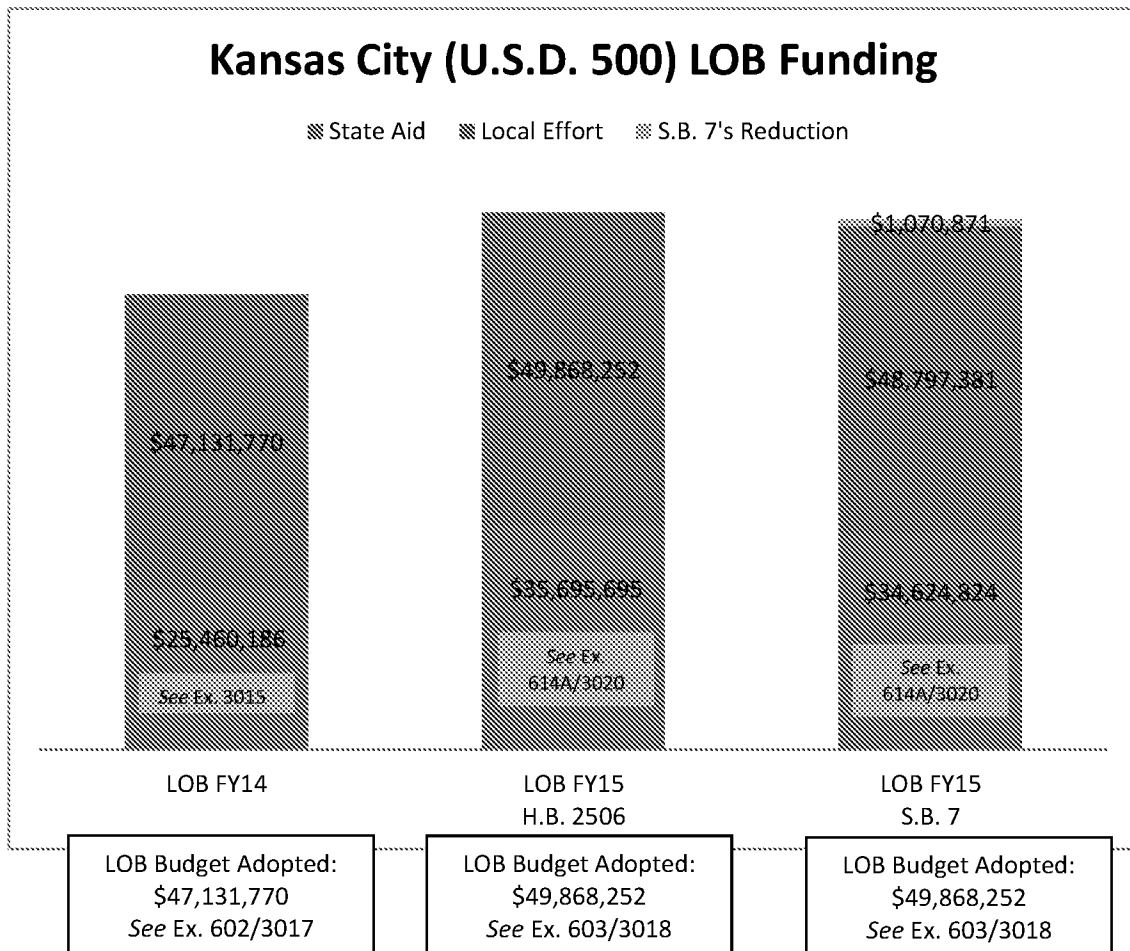
H.B. 2001 similarly did not cure the adequacy problems that exist in the current funding system. H.B. 2001 funded an additional \$38 million in LOB equalization aid for the 2016-2017 school year. This additional funding in no way cures the adequacy defects found by the Panel. First, the adequacy deficiencies found by the Panel far exceed the \$38 million in additional funding provided by H.B. 2001. The Panel’s proposed adequacy remedy would have set the BSAPP in a range from \$4,654 to \$4,980,

depending on whether the Legislature made changes to the weightings the Panel deemed necessary. R. Vol. 24, at 3157-3158. At the time of that Order, the Legislature set the BSAPP \$3,852. *Id.* at 3090. The weighted FTEs for FY 2015 was 683,497.2. *Id.* at 3155. Thus, the Panel identified a funding deficiency that approximated between \$548,164,754 and \$770,984,842. At most, S.B. 7 simply froze in place the FY 2015 funding levels, similarly freezing these adequacy deficiencies into place (not even addressing the fact that, every year, due to inflation and other factors, it costs *more* to educate the same child than it did the year before).

Taking inflation into consideration further demonstrates the inadequacy of this amount of money. Calendar year 2015's rate of inflation was 0.7%. Assuming that the State was only required to increase funding by \$548,164,754 in FY15 (*the low end* of the Panel's adequacy finding), funding *should have* increased for FY16 by approximately \$38 million just to account for inflation. This static funding cannot have addressed the Panel's findings that the current level of funding is inadequate. Thus, even if this Court considers the additional \$38 million provided by way of supplemental state aid in 2016, this increase simply is not of the magnitude necessary to address the deficiencies identified by the Panel.

Second, as the Panel recognized in its December 30, 2014 Order, "supplemental general state aid, when provided, may be an addition to, and *sometimes in lieu of*, local funds that would have otherwise had to have been required to have been generated by an adopted LOB." R.Vol.24, pp. 3111-3112. In other words, additional supplemental general state aid does not always equal more dollars to the school; in many cases, it

simply means that the same amount of dollars comes from a different source – *i.e.*, more of it comes from the State rather than local taxpayers. For equity purposes, this is a good result because it serves to equalize to a degree the tax effort required from district to district – one of the prongs of the Court’s equity test. But, for adequacy purposes, the net effect of such additional supplemental general state aid equates to essentially zero for many, if not most school districts, because the operation of the LOB cap ensures that this additional LOB equalization aid results in taxpayer relief rather than extra dollars to the classroom. The following demonstrates how increases in supplemental general state aid provided by the State do not increase the total amount of money available to the districts:



See R.Vol. 140, pp. 31-32 (FOF ¶¶89).

Accordingly, additional LOB equalization aid does not serve, in most cases, to increase a district's ability to ensure that all of its schoolchildren meet or exceed the factors set out in *Rose* and adopted as the measuring stick for adequacy under the Kansas Constitution. And, as the Panel found, LOB levies are not mandatory under the current school finance system, and the State provides no fail-safe funds when voluntary taxation falls short. Therefore, any compliance with this Court's adequacy test that could result from LOB local funding and supplemental general state aid would be at best "accidental" or "fortuitous." R.Vol.24, pp. 3119-20. Thus, this Court should not consider the additional \$38 million in supplemental general state aid provided by the State for 2016-17 in applying this Court's adequacy test.

ARGUMENTS AND AUTHORITIES

I. JUSTICE REQUIRES AN IMMEDIATE REMEDY

A. The Mandatory Nature of Article 6 of the Kansas Constitution Requires Action to Remedy Any Violations of Its Provisions

The positive, mandatory nature of Article 6 requires that the Kansas courts take action to remedy any violations of its provisions. See Plaintiffs' Response, at pp. 32-34.

B. The Unconstitutionalities Present in the Current System Have Existed for Too Long and Must be Remedied *Immediately*

Kansas students deserve more than a few years' worth of a constitutionally-appropriate education nestled between court cases and cost studies; the Constitution demands more. Yet, with the exception of that brief two-year period in which the State

was judicially-required to increase education funding, Kansas public education has been underfunded for at least a decade. *See* Plaintiffs’ Response, at pp. 35-38. *The time for a remedy is now.*

C. [Supplemental Argument]: The State’s Efforts to Escape Review by Arguing Justiciability, Mootness, and Changed Circumstances Should be Disregarded

Plaintiffs have presented substantial, competent evidence that S.B. 7 is wholly unconstitutional; the State’s attempts to use this appeal to take a second shot at arguing justiciability or mootness should be disregarded. *See* Plaintiffs’ Response, at pp. 38-39. These arguments demonstrate the State’s continued and repeated attempts to delay adjudication of the issues raised in this appeal. The Panel first found school funding levels inadequate in January 2013. Since then, the overall funding levels have generally remained unchanged. The State has not adopted any increases in education funding since that date, not even once the Panel *again* determined funding levels unconstitutional and inadequate in December of 2014.

What was the State’s response to this second finding of inadequacy? On March 25, 2015, the State enacted S.B. 7, which wholly replaced the dynamic SDFQPA with a static block of *less* dollars: it essentially froze funding into place at a *lower* level than what the Panel twice deemed unconstitutional. *See Gannon II* (indicating that S.B. 7’s block grants gave each district what it would have received under the SDFQPA in fiscal year 2015 *but then* reduced that amount by .4% to fund the “extraordinary need state aid fund”).

The State’s adoption of S.B. 7 proves two things. First, an immediate remedy is

imperative to ensure that Kansas schoolchildren receive a constitutionally adequate education. As this Court noted in *Gannon I*, “[T]he issue of suitability is not stagnant: past history teaches that this issue must be closely monitored.” *Gannon I*, 298 Kan. at 1169 (citing *Montoy v. State*, 275 Kan. 145, 153 (Kan. 2003) (“Montoy I”). S.B. 7 is worse than stagnant; it reduced funding by .4% and provides no mechanisms to address increases in student populations, increases in students with increased educational needs, or even inflation. Every passing year results in a more inadequate education than the year before.

Second, the State’s actions belie any argument that legislative action taken subsequent to the Panel’s findings have rendered the adequacy issue moot. To date, the State has failed to make the argument that the adoption of S.B. 7 renders any challenge to the SDFQPA moot. Given that the State has recently enacted amendments to S.B. 7, however, Plaintiffs presume that the State may make these arguments in supplemental briefing. As this Court has noted multiple times in analyzing school finance decision, when an amendment arises “in response to a specific order of this court while [it] retained jurisdiction,” continued review by this Court is appropriate. *Montoy IV*, 279 Kan. at 825 (citing *Knowles v. State Board of Education*, 219 Kan. 271 (1976)). The same result is appropriate here.

As this Court acknowledged in both *Knowles* and *Montoy*:

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.

Id. (citing *Knowles*, 219 Kan. at 279-80). This Court fully recognizes that, due to the nature of this litigation, legislative sessions, whether part of the remedial phase or otherwise, will almost always occur before this Court is able to review the legislation found unconstitutional by a trial court. See *Southern Pacific Terminal Co. v. ICC*, 219 U.S. 498 (1911); *Roe v. Wade*, 410 U.S. 113 (1973) (finding that because a pregnancy would almost always come to term before the usual appellate process is complete, the Court must review pregnancy legislation even after the pregnancy ends so that appellate review is not effectively denied). And the State’s history of enacting constitutional school finance legislation only to later renege on the promises made to the courts and Kansas’ schoolchildren within that legislation is well-established; this Court’s own recent experience in the equity phase of this case attests to it.

Further, the United States Court of Appeals for Tenth Circuit has already considered and rejected similar mootness arguments by the State in the context of the adoption of S.B. 7. See, e.g., *Petrella v. Brownback*, 787 F.3d 1242 (10th Cir. 2015). This Court should as well. In considering the State’s mootness argument in *Petrella*, the Tenth Circuit stated:

We must also consider whether plaintiffs’ claims are now moot. “A case is moot when it is impossible for the court to grant any effectual relief whatever to a prevailing party.” “The crucial question is whether granting a present determination of the issues offered will have some effect in the real world.”

In response to the Kansas Supreme Court’s decision in *Gannon*, the Kansas legislature substantially amended the state’s school financing system After briefing in this case was complete, **the Kansas Legislature replaced the SDFQPA with the CLASS Act**. Although the CLASS Act substantially alters the state’s school financing system, the funds to which a district is entitled under it “will be based in part on, and

be at least equal to, the total state financial support as determined for school year 2014-2015 under the [SDFQPA] prior to its repeal.”

....

Despite the changes to Kansas’ system of school financing, the core elements challenged by plaintiffs remain. Although the SDFQPA formula has been replaced by block grants for the next two years, those grants are calculated primarily using the now-repealed SDFQPA formula. . . . Because a ruling in favor of plaintiffs could provide them effectual relief, the case is not moot.

Petrella, 787 F.3d at 1255-56 (internal citations omitted) (emphasis added).

As a factual matter, this Court has already determined that S.B. 7 does, at its best, only freezes school funding at the level calculated due to the district under the SDFQPA for 2015; it did not increase the *amount* of school funding received by each district or even how that school funding would initially be calculated. Those legislative enactments simply changed how an unconstitutionally inadequate amount of funding would be distributed and ensured that it would continue to be distributed unconstitutionally for two more years. Replacing a dynamic school funding formula with a static block of *less* dollars does not render a finding of unconstitutionally inadequate funding factually moot. As a legal matter, the State should not be allowed to evade this Court’s constitutional review by engaging in this type of “formula re-writing” to avoid its constitutional obligations.

For these reasons, this Court should disregard any arguments by the State that this matter is nonjusticiable or moot. This Court should act now. The Kansas Constitution mandates that Kansas schoolchildren receive a constitutionally adequate education.

II. THE APPROPRIATE STANDARD OF REVIEW AND ALLOCATION OF BURDEN

Because the Panel’s findings are supported by substantial competent evidence and support the Panel’s conclusions of law, those findings should stand. *See* Plaintiffs’ Response, at pp. 39-40; *see also Supra* § Procedural History.

III. THE PANEL HAD AUTHORITY TO ADJUDICATE THE CONSTITUTIONALITY OF HOUSE SUBSTITUTE FOR SENATE BILL 7

See Plaintiffs’ Response, at pp. 40-43.

IV. [Supplemental Argument]: THE PANEL APPLIED THE CORRECT TEST IN ADJUDICATING THE CONSTITUTIONALITY OF S.B. 7

The Panel applied the Court’s stated adequacy test. *See* Plaintiffs’ Response, at pp. 43-44. Nonetheless, the State has continuously asked this Court to apply numerous tests to evaluate S.B. 7 that are not the adequacy test previously articulated by this Court. In light of the Texas Supreme Court’s recent decision in *Morath v. Tex. Taxpayer & Student Fairness Coal.*, 2016 Tex. LEXIS 374, Tex. Sup. J. 771 (Tex. 2016), Plaintiffs presume that the State will once again ask this Court to apply a test other than the *Rose*-based test. This Court should ignore those arguments.

Morath is not persuasive in Kansas. First and foremost, as this Court has previously made clear, the language of the Kansas Constitution – not the Texas Constitution – dictates the duties of the Kansas Legislature. *See Gannon*, 298 Kan. at 1140 (“we obviously look to the language of our own constitution”). Because significant differences exist between the constitutional requirements imposed on the Texas Legislature by the Texas Constitution and the constitutional requirements imposed on the Kansas Legislature by the Kansas Constitution, it is inappropriate to apply *Morath* here.

See *Gannon*, 298 Kan. at 1145 (noting differences between the two constitutions, including – for instance – that the term “efficient” does not appear in Article 6 of the Kansas Constitution); *Neely*, 176 S.W.3d at 783-785 (describing the standard of review applied in *Neely* as a “test of arbitrariness”); *Morath*, 2016 Tex. LEXIS 374, *41 (indicating that the “review of the adequacy requirement” is “under the arbitrariness standards” and is always “very deferential”). Presumably, the distinction between the constitutional language caused the Kansas Supreme Court to adopt the *Rose*-based test, and not the Texas Supreme Court’s arbitrariness test.

There are other important distinctions between *Morath* and *Gannon*. For instance, in *Morath*, the Texas Supreme Court refused to entertain the argument that the Court could “in theory find constitutional inadequacy as to specific groups.” The Court emphasized that the test only asked whether “*the system as a whole* is providing for a general diffusion of knowledge.” *Morath*, 2016 Tex. LEXIS 374, *77-78. But, the test articulated by *this* Court, and grounded in years of school finance jurisprudence, requires funding levels be “reasonably calculated to have all Kansas public education students meet or exceed the standards set out in *Rose*.” *Gannon*, 298 Kan. at 1170; *see also* R. Vol. 46, pp. 84, 86 (excerpts from *Mock v. State of Kansas*, No. 91-cv-1009 (1991)) (The legislative duty imposed by the Kansas Constitution is a duty *to each school child of Kansas, equally.*) (citing *Provance v. Shawnee Mission U.S.D. No. 512*, 231 Kan. 636, 643 (1982), which 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”) (emphasis added)); *State v. Smith*, 155 Kan. 588, 595 (1942) (“The 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”). Therefore, if the State urges this Court to take a similar approach with regard to specific subgroups, this Court should decline to do so. The State’s broad, general statements about achievement and assessment scores generally obscure the fact that Kansas fails a significant portion of its students, especially considering disaggregated results.

Given the significant differences between the school finance jurisprudence in Kansas and Texas, it would be improper to apply the *Morath* holding to the issues in this appeal. Compare e.g., *Morath*, 2016 Tex. LEXIS 374, *53-54, 73 (“an adequacy determination should not depend on ‘inputs’ such as funding per student”; “the spending level is an input that generally is not decisive in determining whether the State is providing a general diffusion of knowledge”) with *Montoy IV*, 279 Kan. at 842-43 (indicating that a consideration of inputs and outputs is necessary to evaluate whether a school finance formula provides a constitutionally adequate education) and *Gannon*, 298 Kan. at 1170 (“actual costs remain a valid factor to be considered” when evaluating whether a funding system is constitutionally adequate).

V. **THE PANEL CORRECTLY CONCLUDED THAT S.B. 7 VIOLATES THE ADEQUACY COMPONENT OF ARTICLE 6 OF THE KANSAS CONSTITUTION**

The substantial, competent evidence before the Panel and this Court demonstrates that S.B. 7 is not *reasonably calculated* to have all Kansas public education students meet or exceed the *Rose* standards. See Plaintiffs’ Response, at pp. 44-51.

A. The Legislature Adopted S.B. 7 – Which Further Cut the Funding Provided to Kansas School Districts – Knowing that Kansas Public Schools Were Already Being Funded at An Unconstitutional Level and Perpetuating Those Inadequacies

See Plaintiffs’ Response, at pp. 45-46.

B. S.B. 7 Was Not Adopted to Address the Actual Costs of Funding an Education in Kansas

See Plaintiffs’ Response, at pp. 46-49. The State merely took an unconstitutional level of funding, resulting from political choices and “bureaucratic games,” and froze that level of funding into place for the next two years (again, calling S.B. 7 a “freeze” is conservative – while purporting to hold school districts harmless, it actually reduced funding to only the poorest school districts and took .4% of each district’s allotted funds).

Id. Freezing unconstitutional levels of funding into place does nothing to change the constitutionality of those amounts and did nothing to change the fact that the State never evaluated, considered, or asked what it would reasonably cost to have all Kansas students meet or exceed the *Rose* standards. *Id.*

C. There is No Evidence Before this Court that S.B. 7 is Reasonably Calculated to Have All Kansas Schoolchildren Meet or Exceed the Rose Factors

See Plaintiffs’ Response, at pp. 49-51. Instead, the evidence demonstrates:

(1) The State began making funding cuts in 2009 for political reasons.

(2) Following those cuts, school districts were forced to eliminated the services, programs, and staff that were in place to provide students with an education that meets the *Rose* standards.

(3) All of these eliminated services, programs, and staff were necessary to have students meet or exceed the *Rose* standards.

(4) All of these services, programs, and staff were eliminated for affordability reasons.

(5) The elimination of these services, programs, and staff negatively impacted student achievement, as measured by various outputs.

(6) S.B. 7 froze the funding levels into place, thereby freezing these cuts into place and provided no additional resources to reverse either the cuts or the decreases in student achievement.

The Panel's determination that S.B. 7 is unconstitutional should be affirmed.

VI. THIS COURT SHOULD RETAIN JURISDICTION UNTIL THE STATE WHOLLY COMPLIES WITH ITS CONSTITUTIONAL OBLIGATIONS

See Plaintiffs' Response, at p. 52.

VII. [Supplemental Argument]: THE PANEL DID NOT ERR IN ORDERING A SPECIFIC, CONSTITUTIONAL REMEDY FOR THE STATE'S VIOLATION OF ARTICLE 6 OF THE KANSAS CONSTITUTION; IN FACT; A SUPPLEMENTAL ORDER REQUIRING THE STATE TO INCREASE FUNDING IS APPROPRIATE BASED ON THE PANEL'S FINDINGS

Plaintiffs contend that the State should be required to fund education at a level no lower than a base state aid per pupil of \$5,944. *See* Plaintiffs' Response, at pp. 54-57. This amount represents the average of the reasonable cost studies available to the Legislature and this Court, reflecting an estimate of the actual cost to provide all Kansas school students with an education that comports with Article 6. *See id.* The State, in what can only be characterized as yet another delaying tactic, argues that this Court cannot impose an order "requiring the State to fund a constitutionally adequate education

at a level consistent with the average of the cost studies” because Plaintiffs’ did not cross-appeal the Panel’s Order, and even if they had, the Panel’s “remedy” should only be changed if the “Panel arbitrarily disregarded undisputed evidence, or was influenced by some extrinsic consideration such as bias, passion, or prejudice.” State’s Reply, at pp. 22-23. This convoluted argument ignores what the Panel’s Order actually said.

The State’s argument assumes that the Panel’s December 2014 Order instituted a specific remedy that set in stone the required amounts of money to be spent by the State in order to meet this Court’s adequacy test. This is not so. Rather, in an act of extreme deference, the Panel merely provided guidance to the State legislature regarding the considerations that should be taken into account when the *Legislature* crafted a constitutionally adequate school finance system. For example, the Panel found that:

However, until a floor is established to determine where and at what level reliance on local option budgets must necessarily cease and a fail-safe funding mechanism established to assure constitutional funding adequacy in order to prevent an unconstitutional shortfall, no proper allocation between a BSAPP and LOB funding can be identified, only the total of the shortfall can be best identified by reference to the per pupil core expenditures necessary to meet the educational outcomes set by the Rose factors. Thus, at least in the first instance, a political judgment must be made by the legislature in regard to the proper reaches of, and parameters for, the concept of the LOB in terms of the use of those funds for enhancements or spending at the choice of local school boards.

R. Vol. 24, p.3145.

In that Order, the Panel specifically contemplated that if LOB funding was “to some substantial degree maintained for locally determined purposes, then a BSAPP funding threshold in the range of \$4980 *or above in 2014 dollars* could likely be needed just as a matter of having available dollars in an LOB for those purely local choices.” *Id.*

at 3151. This statement sets no limit on a remedy likely to be imposed *two years later*. The Panel explicitly stated, “[w]e caution here we are not directing an exact BSAPP figure nor are we directing any exact method to any funding, but rather only noting parameters which should be considered in formulation to avoid unconstitutional results. *Id.* at 3153. The Panel went on to state that “[w]e do not perceive we have authority through this remand to enter but a declaratory judgment and findings Accordingly, a declaratory judgment is entered as stated aforesaid” *Id.* at 3162. And, the Panel did not order a specific raise to the BSAPP level in its June 26, 2015 Order either, instead relying on this Court’s “ultimate resolution of these adequacy issues.” R. Vol. 136, p.1481.

Plaintiffs do not seek what the State calls an “expanded remedy.” Plaintiffs seek an order that requires the State to fund public education at a constitutionally adequate level. There was no need for Plaintiffs to cross-appeal; the Panel never ordered the fictitious remedy that the State now seeks to use to limit the remedy that this Court may impose. Instead the Panel, like Plaintiffs and Kansas’ schoolchildren, looked to this Court to remedy the on-going adequacy issues.

Kansas public education has remained unconstitutionally funded for too long. With the exception of a brief two-year period in which the State was judicially-required to increase funding to education immediately following *Montoy*, Kansas public education has been underfunded for more than a decade. Justice *requires* an immediate remedy to this continued unconstitutionality. This Court’s own experience in school finance litigation, including the recent round of decisions and legislative activity regarding this

Court's equity rulings, demonstrates beyond question that the State must be given specific direction as to how it must act in order to meet its constitutional obligations with regard to school funding. Unless this Court provides that guidance through an order such as the one sought by Plaintiffs, the Legislature will undoubtedly continue with its stated plan to completely rewrite the school finance formula, an unnecessary and constitutionally uncertain endeavor that, without specific direction from this Court, will likely fail to remedy the unconstitutionality the State is required to cure. An Order such as the one sought by Plaintiffs would provide that direction with the specificity necessary to ensure a remedy.

As this Court found in *Montoy IV*, “[a] remedy that is never enforced is truly not a remedy.” 279 Kan. at 821, 825-26 (citing *DeRolph v. State*, 2000 Ohio 437 (2000)). To the extent that this Court upholds the Panel's findings of continued constitutionally inadequate funding, an immediate remedy from this Court is desperately needed. This Court has always upheld its duty to enforce compliance with the Kansas Constitution's requirements regarding school funding. See *Gannon*, 298 Kan. at 1161. (“However delicate that duty may be, we are not at liberty to surrender, or to ignore, or to waive it.”) The Order sought by Plaintiffs represents the best manner for this Court to act consistently with that duty.

Finally, throughout this litigation, the State has consistently defended the inadequacy of the current system with arguments that it is the economy – and not the State – that is to blame for the underfunding. To the extent the State attempts to plead poverty again, as it has in the past, that argument should be disregarded again. R. Vol.

14, p.1867. There are many options available to the State to fund education. For example, the State has lost \$920 million annually as a result of the 2012 tax cuts. Appendix F: Updated Information Regarding Effect of Tax Cuts.¹¹ Simply repealing the tax cuts would more than cover the cost of increasing education funding to Kansas schools.

VIII. [Supplemental Argument]: MONEY MAKES A DIFFERENCE

Given the overwhelming evidence to the contrary, the State abandoned its argument on appeal that increased education funding does not correlate with increased educational outputs (*i.e.*, that money does not make a difference). *See generally* State’s Adequacy Brief; *Cooke v. Gillespie*, 285 Kan. 748, 758 (Kan. 2008) (“We have held that an issue not briefed is deemed waived or abandoned[.]”). Plaintiffs assume that the State will improperly attempt to revive those arguments in light of the recent Texas Supreme Court decision in *Morath v. Tex. Taxpayer & Student Fairness Coal.*, 2016 Tex. LEXIS 374, Tex. Sup. J. 771 (Tex. 2016). This Court should ignore those arguments.

This Court should not rely on *Morath* in deciding the issues before it. *Supra* Arguments and Authorities § IV: The Panel Applied the Correct Test in Adjudicating the Constitutionality of S.B. 7. And, the *Morath* Court’s decision on the specific issue of

¹¹Plaintiffs request that the Court take judicial notice of Appendix F pursuant to K.S.A. 60-409. K.S.A. 60-409(b)(4); K.S.A. 60-412(c); *see also* R. Vol. 24, at 3136; *Gannon III*, 372 P.3d at 1202 (taking judicial notice of legislative material); *Gannon IV*, 2015 Kan. LEXIS 314, *2 (acknowledging that, in reviewing a statute for constitutional compliance, facts provided “through legislative history” or “judicial notice” can be considered along with “reviewing the record on appeal”). Plaintiffs also note that similar legislative materials were considered by this Court in *Montoy V*, even though they had “not been subjected to the fact-finding processes of litigation through which the parties were permitted to examine [their] validity and accuracy.” *See* 282 Kan. at 21, *see also Gannon III*, 372 P.3d at 1188 (examining “the legislative record, including documents and information made available to lawmakers during their deliberative process.”). The FY 2016 State General Fund Receipts Final Report is available at: http://budget.ks.gov/files/FY2016/SGF_Receipts/State_General_Fund_Receipts--June_2016_Final.pdf.

whether money makes a difference should be disregarded because of significant differences in the evidence presented on the record. In *Morath*, the Texas Supreme Court concluded that “whether more spending will necessarily raise student achievement” was a “highly controversial issue.” *Morath*, 2016 Tex. LEXIS 374, *73. The same cannot be said in Kansas. Instead, the overwhelming (and unrebutted) evidence, available to the State at all times relevant to this litigation, demonstrates that “yes, money makes a difference” because reducing funding to education negatively impacts student achievement and performance. Plaintiffs’ Response, pp. 17-20; R. Vol. 26, p.3299 (SOF ¶24); R. Vol. 24, p.30.

First, the *Gannon* Panel made a factual finding that student performance is linked to funding and rejected the State’s arguments otherwise. R. Vol. 14, pp. 1869-88. In so finding, the *Gannon* Panel stated, “Here, we disagree substantially with the above suggested findings advanced by the Defendant We find the truth of the matter is contrary to the State’s assertions.” R. Vol. 14, p.1877. That finding, entered well before the State adopted S.B. 7, was not disturbed on appeal and now represents the law of the case.

Second, the most recent cost study conducted, commissioned by the State itself, found “a 1% increase in district performance outcomes was associated with a .83% increase in spending – almost a one-to-one relationship.” R. Vol. 14, pp. 1646-47; R. Vol. 13, pp. 1637-38 (FOF ¶199); *see also* Appx. B, at 0-8.

Third, actual experiences of Kansas schools, such as the “remarkable story” of Kansas City’s Emerson Elementary, demonstrate the importance of funding in increasing

student performance. R. Vol. 19, pp. 198-99; R. Vol. 20, pp. 216-222, 252-62, 284, 327, 408, 449; R. Vol. 13, pp. 1714-15; R. Vol. 21, p.600, 639; R. Vol. 22, pp. 784, 788-89, 795, 907-09, 962; R. Vol. 26, pp. 1714-15, 1751-52.

Fourth, between 2010-11 and 2011-12, the percentage of all students meeting AYP only increased by .4%. R. Vol. 26, p.3299 (SOF ¶24); R. Vol. 116, pp. 8301-06. Between 2005-06 and 2006-07 (when the school districts were able to put to use increased funds pursuant to *Montoy*), the percentage of all students meeting AYP increased by 5.4%. *Id.* Since the cuts began in 2009-10, the increases in the percentage of students meeting AYP year-to-year dramatically decreased. *Id.* This data is especially important in light of the State’s continued insistence that “all is well” because things are “improving.” The State’s actions have significantly slowed – and in some cases stopped or reversed – a previous pattern of steady and substantial increases.

Fifth, educators are aware and agree that they cannot increase student achievement and outcomes with decreased funding. R. Vol. 26, p.3299 (SOF ¶25); R. Vol. 97, pp. 6102-27; R. Vol. 92, p.5691; R. Vol. 98, pp. 6215, 6246.

Sixth, the State itself attributes significantly decreased rates of improvement on state assessments to “the staff and budget cuts taking place in Kansas in 2010.” R. Vol. 26, p.3299 (SOF ¶26); R. Vol. 126, p.15577.

Seventh, the 2010 Commission found that “Kansas students have made great academic strides . . . largely due to the infusion of school funding.” R. Vol. 26, p.3200 (SOF ¶27); R. Vol. 78, pp. 3602, 3609.

Eighth, money – and the resources that cost money – are necessary to implement an adequate education system. The things that schools can do to increase student outcomes – like reducing class sizes and increasing teacher salaries – cost money. R. Vol. 97, p.6130; R. Vol. 30, pp. 237-38 (“Everything costs money. As you know, there’s nothing in life that’s truly free.”). Obviously, the amount of funding provided to a district dictates how much money it can dedicate to increasing staff, decreasing class sizes, and increasing teacher salaries. The State simply cannot dispute the point that money makes a difference. Their own expert, Dr. Hanushek, testified that “the most important factor influencing student achievement is the quality of the teacher.” R. Vol. 38, pp. 2282-83; R. Vol. 14, p.1783. He further testified, “The money [spent on education] is obviously important at some level. You have to have funds to have teachers in schools.” R. Vol. 14, p.1781; R. Vol. 13, p.1638. Given that a school district cannot hire a quality teacher without adequate funding, the “debate” over whether “money matters” is settled. R. Vol. 97, pp. 6128-49.

Should the State improperly attempt to raise its arguments that “money does not matter,” this Court should disregard them. The un rebutted evidence in this case mandates a finding that, in Kansas public education, money does matter.

IX. NONE OF THE STATE’S ARGUMENTS DICTATE REVERSAL

In the State’s Opening Brief, it made twenty-one arguments as to why this Court should reverse the Panel’s decision. None of those arguments support reversal. *See* Plaintiffs’ Response, at pp. 60-88.

CONCLUSION

For reasons stated above, Plaintiffs request that this Court affirm the decisions by the Panel, entered below, finding that S.B. 7 is unconstitutional.

Dated this 12th day of August, 2016.

Respectfully submitted,



Alan L. Rupe, #08914
Jessica L. Skladzien, #24178
Mark A. Kanaga, #25711
LEWIS BRISBOIS BISGAARD &
SMITH LLP
1605 North Waterfront Parkway, Suite
150
Wichita, KS 67206-6634
(316) 609-7900 (Telephone)
(316) 462-5746 (Facsimile)
Alan.Rupe@lewisbrisbois.com
Jessica.Skladzien@lewisbrisbois.com
Mark.Kanaga@lewisbrisbois.com

and

John S. Robb, #09844
SOMERS, ROBB & ROBB
110 East Broadway
Newton, KS 67114
(316) 283-4650 (Telephone)
(316) 283-5049 (Facsimile)
JohnRobb@robblaw.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of August, 2016, I electronically served the foregoing to:

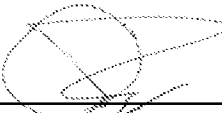
Derek Schmidt
Jeffrey A. Chanay
Stephen R. McAllister
M.J. Willoughby
Memorial Building, 2nd Floor
120 SW 10th Ave.
Topeka, KS 66612-1597
Derek.Schmidt@ag.ks.gov
Jeff.Chanay@ag.ks.gov
stevermac@fastmail.fm
MJ.Willoughby@ag.ks.gov

Arthur S. Chalmers
Hite, Fanning & Honeyman, L.L.P.
100 North Broadway, Suite 950
Wichita, KS 67202-2209
chalmers@hitefanning.com

*Attorneys for Defendant State of
Kansas*

Steve Phillips
Assistant Attorney General
Office of the Attorney General
Memorial Building, 2nd Floor
120 S.W. 10th Ave.
Topeka, KS 66612-1597
Steve.Phillips@ag.ks.gov
*Attorney for State Treasurer Ron
Estes*

Philip R. Michael
Daniel J. Carroll
Kansas Dept. of Administration
1000 SW Jackson, Suite 500
Topeka, KS 66612
philip.michael@da.ks.gov
dan.carroll@da.ks.gov
*Attorneys for Secretary of
Administration Jim Clark*



Alan L. Rupe

APPENDIX

- A. **Appendix A:** 2015 NAEP Results
- B. **Appendix B:** Report of the Special Committee on K-12 Student Success to the 2016
Kansas Legislature
- C. **Appendix C:** 2015 Assessment Data
- D. **Appendix D:** Kansas State Department of Education Graduation and Dropout Data
- E. **Appendix E:** Kansas State Board of Education Meeting Minutes
- F. **Appendix F:** Legislative Research Material

Appendix A:
2015 NAEP Results



National Assessment of Educational Progress (NAEP)

NAEP Results

[Print](#) [Download](#)

Group	Program Year	Grade	Below Basic	Basic	Proficient	Advanced
National: All students sampled	2015	4	32	33	27	8
Kansas: All students sampled	2015	4	32	32	26	9
White	2015	4	26	33	31	11
Black	2015	4	56	28	14	2
Hispanic	2015	4	46	33	17	4
Asian/Pacific Islander	2015	4	17	31	35	17
Am Indian/Alaska Native	2015	4	0	0	0	0
Free and Reduced Lunch	2015	4	46	34	18	3
Students with Disabilities	2015	4	76	16	6	1
ELL Students	2015	4	55	30	12	3

Selections

Subject:

Reading

Grade Level:

4th

Program Year:

2015

NAEP Participation

[Print](#) [Download](#)

Group	Program Year	Grade	Participation Rate
National: Students with Disabilities	2015	4	87.0
Kansas: Students with Disabilities	2015	4	89.0
National: English Language Learners	2015	4	93.0
Kansas: English Language Learners	2015	4	97.0



National Assessment of Educational Progress (NAEP)

NAEP Results

[Print](#)
[Download](#)

Group	Program Year	Grade	Below Basic	Basic	Proficient	Advanced
National: All students sampled	2015	8	25	42	29	3
Kansas: All students sampled	2015	8	21	44	32	3
White	2015	8	15	44	38	3
Black	2015	8	43	43	13	1
Hispanic	2015	8	34	46	19	1
Asian/Pacific Islander	2015	8	13	29	41	17
Am Indian/Alaska Native	2015	8	0	0	0	0
Free and Reduced Lunch	2015	8	32	47	21	1
Students with Disabilities	2015	8	62	30	7	1
ELL Students	2015	8	39	43	17	0

Selections

Subject:

Grade Level:

Program Year:

NAEP Participation

[Print](#)
[Download](#)

Group	Program Year	Grade	Participation Rate
National: Students with Disabilities	2015	8	87.0
Kansas: Students with Disabilities	2015	8	92.0
National: English Language Learners	2015	8	90.0
Kansas: English Language Learners	2015	8	97.0



National Assessment of Educational Progress (NAEP)

NAEP Results

[Print](#) [Download](#)

Group	Program Year	Grade	Below Basic	Basic	Proficient	Advanced
National: All students sampled	2015	4	19	42	32	7
Kansas: All students sampled	2015	4	17	42	34	7
White	2015	4	11	39	41	9
Black	2015	4	43	44	13	1
Hispanic	2015	4	29	48	21	2
Asian/Pacific Islander	2015	4	10	33	34	22
Am Indian/Alaska Native	2015	4	0	0	0	0
Free and Reduced Lunch	2015	4	26	47	24	3
Students with Disabilities	2015	4	45	35	18	2
ELL Students	2015	4	34	47	17	1

Selections

Subject:

Grade Level:

Program Year:

NAEP Participation

[Print](#) [Download](#)

Group	Program Year	Grade	Participation Rate
National: Students with Disabilities	2015	4	89.0
Kansas: Students with Disabilities	2015	4	93.0
National: English Language Learners	2015	4	95.0
Kansas: English Language Learners	2015	4	97.0



National Assessment of Educational Progress (NAEP)

NAEP Results

Print Download

Group	Program Year	Grade	Below Basic	Basic	Proficient	Advanced
National: All students sampled	2015	8	30	38	24	8
Kansas: All students sampled	2015	8	24	42	27	6
White	2015	8	18	43	31	7
Black	2015	8	46	41	12	1
Hispanic	2015	8	35	42	18	4
Asian/Pacific Islander	2015	8	19	22	35	24
Am Indian/Alaska Native	2015	8	0	0	0	0
Free and Reduced Lunch	2015	8	36	46	17	2
Students with Disabilities	2015	8	71	23	4	2
ELL Students	2015	8	45	41	12	3

Selections

Subject:

Math

Grade Level:

8th

Program Year:

2015

NAEP Participation

Print Download

Group	Program Year	Grade	Participation Rate
National: Students with Disabilities	2015	8	90.0
Kansas: Students with Disabilities	2015	8	92.0
National: English Language Learners	2015	8	93.0
Kansas: English Language Learners	2015	8	96.0

Appendix B:

Report of the Special Committee on K-12 Student Success to the 2016 Kansas Legislature

Report of the Special Committee on K-12 Student Success to the 2016 Kansas Legislature

CHAIRPERSON: Representative Ron Highland

VICE-CHAIRPERSON: Senator Steve Abrams

OTHER MEMBERS: Senators Tom Arpke, Molly Baumgardner, Jim Denning, Anthony Hensley, Ty Masterson, Laura Kelly (substitute), and Steve Fitzgerald (substitute); Representatives Tony Barton, Sue Boldra, Larry Campbell, Dennis Hedke, Jerry Lunn, Ron Ryckman, Jr., Ed Trimmer, Valdenia Winn, Joe Siewert (substitute), Ken Corbet (substitute), and Nancy Lusk (substitute).

STUDY TOPIC

The objective of this study committee is to generate discussion, input, and research to further child-centric education that makes students the top priority.

This committee is to study the following, but would not be limited to (these topics):

- The Rose Standards set by the Kansas Supreme Court as the goal Kansas schools will meet;
- Best funding mechanism by formula or other criteria to ensure adequate Kansas taxpayer dollars are invested in the classroom;
- Definition of what comprises as a “suitable” education;
- Outcomes to ensure that students are well-prepared for their future endeavors; and
- Uniform accounting across all districts so best practices to achieve student success can be replicated.

2015 Special Committee on K-12 Student Success

REPORT

Conclusions and Recommendations

General

A new school funding mechanism should:

- Focus on each individual student, understanding that students have different needs and will require varying levels of support to achieve success;
- Include accountability and reporting measures to ensure aid is being distributed according to the needs of each individual student;
- Provide for multi-year funding to provide budget stability to the State and USDs; and
- Be equitable so that school districts have reasonably equal access to substantially similar educational opportunity through similar tax effort.

Accountability and Assessments

State Level

- The current state assessment testing approach should be reevaluated and revised as necessary to avoid “teaching to the test,” inconsistent standards of proficiency, untimely return of test results, and cumbersome technology requirements
- The State should provide funding for each student to take the ACT exam.
- The State should encourage other measures of outcome achievement, such as the Work Keys exam.
- An exam aligned with the *Rose* capacities should be developed by an objective third party with no connection to the State Department of Education or the Federal Department of Education.

District Level

School districts should:

- Arrange for all students to take the ACT exam;
- Administer a recognized third-party assessment that provides immediate, usable feedback for teachers and students.

- Track, report, and improve graduation and remediation rates; and
- Track, report, and improve dropout rates for all grade levels.

At-Risk Funding

- At-risk funding should be based directly upon a student's ability to learn, rather than the poverty level of the student.
- Alternately, any poverty measure for at-risk funding should be based upon information provided by the Kansas Department of Revenue and the Kansas Department of Labor and should be available for audit. All applications by parents or guardians for a school district to receive at-risk funding should be available for audit.
- All at-risk funding should be used for no purpose other than one which is demonstrably intended to reduce achievement gaps of at-risk students. All expenditures of at-risk funding should be limited to programs which have a measurable effect on reducing achievement gaps of at-risk students. The State Department of Education should provide an annual report summarizing these expenditures and their measurable effects.

Bonding by Local School Districts

- The Legislature should repeal the current statute for state aid for the payment of principal and interest on bonds for capital improvements.
- A new state aid statute for bond and interest payments should be created to specifically define and limit what projects may be funded with state aid for capital improvement.
- The new state aid statute should be limited to a specific dollar amount each fiscal year to avoid unforeseen demands on the State General Fund.
- A State building architect and project manager should be used in any new building project to reduce the costs associated with the project.
- A special committee of the legislature should be created to oversee and approve any bond issue before the issuance is placed on a ballot before local voters, if the local school districts desires to obtain capital improvement state aid (bond and interest state aid).

Accounting

- A simpler budget document should be developed that shows major expenditure categories and is published by each USD on its website and is available at each local school board meeting in the form of a balance sheet.
- A single, central accounting interface should be developed and be used by all school districts to allow the financial information of the school districts to be retrieved and evaluated in a single system for all local school districts in the state.
- An independent financial audit should be conducted annually of each school district and

the report of the audit should be published with other school district budget documents. The audit should:

- Certify that the school district is correctly following the State Accounting manual;
- Certify that the published budget documents accurately reflect the finances of the school district;
- Provide an inventory of all assets of the school district; and
- Provide a separate listing of all unused equipment, supplies, and property of the school district.

Efficient Use of Taxpayer Money

A new school funding mechanism should:

- Be based upon an efficient use of taxpayer money and should reward school districts who provide necessary services and commodities at the best possible price; and
- Require that functions such as transportation, accounting, information technology, food service, building and grounds maintenance, payroll, human resource services, and purchasing are coordinated between districts and/or provided through regional service centers or a statewide purchasing office.

Standards

The State Board of Education should use school district compliance with the *Rose* capacities as criteria for accreditation.

Other

The appropriate standing committees of the Kansas Legislature should form special sub-committees to examine and report on each of the following topics:

- Teacher pay;
- At-risk funding;
- Special education;
- Bond and interest state aid eligibility;
- The cost-benefit ratio of the receipt of federal funds;
- The relationship between school districts and interlocals, cooperatives, and service centers;

- The current and future implications of school district staffing levels on KPERS;
- Establishing the *Rose* capacities as the definition of a suitable education;
- Amending KSA 72-1127 to include personal finance as a mandatory area of instruction;
- Analyzing U.S. Securities and Exchange Commission (SEC) regulations concerning Governmental Accounting Standards Board (GASB) and Generally Accepted Accounting Principles (GAAP) to ensure all school districts are in compliance; and
- Investigating all extracurricular and co-curricular activities on the basis of efficiency and efficacy to deliver a suitable education to the students.

*Other considerations identified for inclusion in the report appear on page 12.

Proposed Legislation: None.

BACKGROUND

The Special Committee on K-12 Student Success was charged by the Legislative Coordinating Council (LCC) to study the following:

- The *Rose* Standards set by the Kansas Supreme Court as the goal Kansas schools will meet;
- Best funding mechanism by formula or other criteria to ensure adequate Kansas tax payer dollars are invested in the classroom;
- Definition of what comprises a “suitable” education;
- Outcomes to ensure that students are well prepared for their future endeavors; and
- Uniform accounting across all districts so best practices to achieve student success can be replicated.

The Committee began its work by reviewing the foundation upon which school districts in Kansas operate, that is, Article 6 of the *Kansas Constitution*, as well as the seven *Rose* capacities, which were originally set out in *Rose v. Council*

for Better Education, Inc., 790 S.W.2d 186 (Ky. 1989) and held by the Kansas Supreme Court in *Gannon v. State* to be the standards against which to evaluate the adequacy of the K-12 funding system. Further, the 2014 Kansas Legislature in Senate Sub. for HB 2506 stated the purpose and intention of the Legislature was to provide a K-12 funding system that provides students with these capacities. Both Article 6 and the *Rose* capacities appear below.

Article 6.—EDUCATION

§ 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.

§ 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 post-baccalaureate 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.

§ 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.

§ 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

§ 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.

§ 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.

§ 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.

Rose Standards or Capacities

(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 and 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 surrounding states, in academics or in the job market.

[*Note:* The legislation also stated:

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.]

COMMITTEE ACTIVITIES

The LCC initially approved three meeting days and later approved two additional days. The Committee met all five days, with the first meeting on October 23, 2015, and the last on January 5, 2016.

Following is a brief description of the information and testimony presented in each of the meeting dates.

October 23, 2015

School district expenditures and personnel. Randy Watson, Commissioner, Kansas Department of Education presented a review of school district expenditures and personnel, including:

- Eleven school years (2005-06 through 2015-16) of classroom expenditure data by district. Classroom expenditures included costs in the following categories:
 - Instruction - Activities dealing directly with the interaction between teachers and students;
 - Student Support Services - Activities directly supporting students, including: social work, guidance, health, psychological, speech pathology, and audiology; and
 - Instructional Support Services - Activities related to improving instruction, such as library, media instruction-related technology, and academic student assessment services
- Two school years (2014-15 and 2015-16) of non-classroom expenditures;
- Superintendent and principal salaries;
- Numbers of certified and non-certified staff in school districts, as well as staff to student ratios;
- Expenditures for athletic-related items, such as supplemental salaries for educators working as coaches and assistant coaches, costs to maintain facilities, and transportation; and

- Expenditures for textbooks.

Historical information presented included information for at-risk students counts, as well as bilingual students. Committee members spent time discussing the use of free lunch eligibility as a proxy for determining at-risk funding compared to the use of poverty as a determiner of such funding.

Expenditures for preschool programs also were discussed. (KSA 72-67,115 states school districts may offer and teach preschool programs.)

Information related to special education expenditures was discussed, including the fact that school districts serving as special education cooperatives have higher expenditures per pupil because the special education expenditures from several districts are represented in the hosting district's expenditures. To gain a clearer picture of actual expenditures per pupil for each district, the Department of Education provided information with each district's special education costs shown in the originating district, rather than in the sponsoring district.

Bond and interest information. Revisor of Statutes staff reviewed Kansas statutes related to capital improvement state aid, sometimes referred to as bond and interest state aid. Department of Education staff provided information on outstanding bonds by school district, as well as 2014-15 school year's bond and interest total expenditures, bond and interest state aid, bond and interest state aid percentage rates, and local revenue for bond and interest payments. Information related to the cost per square foot for recently-completed school district construction projects also was reviewed.

Kansas Public Employees Retirement System (KPERs). KPERs' Executive Director, Alan Conroy, addressed the Committee on the history of the KPERs School Group, as well as the current status of KPERs unfunded liability, particularly related to the school employees share of that liability.

November 10, 2015

The Committee began with a review of information requested at the October 23 meeting.

Student assessments, standards, and outcomes. Kansas Department of Education Deputy Commissioner, Brad Neuenswander, presented information on student assessments and Kansas students' results on NAEP, ACT, and SAT tests. In addition, a review of standards, curriculum, and accreditation was undertaken.

KSA 72-6439 requiring the State Board of Education to establish curriculum standards and statewide assessments reflecting high academic standards in core areas of mathematics, science, reading, writing, and social studies was outlined.

Testing of Kansas students was discussed at length. Department of Education staff described the history of state assessments and the purchase of assessment services *via* the Center for Educational Testing and Evaluation (CETE) at the University of Kansas. A new test aligned with current College and Career Ready Standards was administered in the spring of 2015.

The most recent National Assessment of Educational Progress (NAEP) test results were discussed. The annual state assessment and the NAEP test are the only required tests for Kansas students. While 99 percent of Kansas students take the annual state assessment, approximately 3,000 Kansas students take a NAEP test every other year. In addition, approximately 75 percent of Kansas students take the ACT. Neither the ACT nor the SAT is administered on a statewide basis, and typically students must cover the cost of these exams. Other testing and assessments are done during a school year to assess a student's progress.

In summary, the Deputy Commissioner told the Committee that Kansas student drop-out rates and remediation rates at Kansas colleges and universities are over 50 percent, an unacceptably high percentage. The College and Career Ready Standards and accompanying assessments are designed to raise the bar on student academic success.

Review of school district audits. Committee members reviewed efficiency audits of school districts conducted by the Legislative Division of Post Audit (LPA).

At a subsequent meeting, the Legislative Post Auditor, Scott Frank, presented information indicating school districts had implemented 25 percent of the LPA efficiency recommendations. If all recommendations were implemented, approximate savings could be \$7.8 million, so the actual savings are approximately \$2.0 million. Mr. Frank told members while past implementation of recommendations were skewed toward those of lower impact not affecting students or community members, lately more higher impact recommendations have been implemented, such as closing a school building.

December 9, 2015

The Committee began with a review of information requested at the November 10 meeting.

Educational standards. Revisor of Statutes staff reviewed the constitutional standards for school finance, including the *Rose* capacities listed above, and the status of the ongoing *Gannon* litigation.

Standards, curriculum, lesson plans, and assessments. The Deputy Commissioner explained that standards are established at the state level, and, by statute, local districts determine their own curriculum. He differentiated the two saying standards are what students should know at each grade level, while curriculum is how students are taught. Lesson plans are teachers' daily guide for student instruction. With that explanation, Deputy Commissioner Neuenswander reviewed the process the state follows for developing standards and referenced the state law requiring the State Board to provide for statewide assessments compatible with those standards.

The State contract with CETE costs \$5.8 million, with less than \$1.0 million of that amount paid with state funding. The remainder is paid with federal funds. The average cost per student for Kansas assessments in math, English language arts, science, and history is \$17. Surrounding states costs per student are: Colorado - \$33; Nebraska - \$33; Oklahoma - \$32; and Missouri - \$31.

Information presented on the most recent NAEP state rankings showed Kansas' Grade 4 Mathematics ranking dropping from 11th in 2013 to 25th in 2015. A similar drop from 12th in 8th Grade Math in 2013 to 22nd in 2015 occurred. NAEP 4th Grade reading results saw Kansas dip from 23rd to 35th; and 8th grade reading saw an increase in the ranking from 29th to 28th.

Review of 2006 LPA K-12 Education Cost Study. The Post Auditor provided a summary of the process LPA used in 2006 to conduct its cost study, as well as key results. LPA found a strong association between the amounts districts spent and the outcomes they achieved. A 1.00 percent increase in performance was associated with a 0.83 percent increase in spending per student, and all else equal, districts with better outcomes spent more. He noted the results were statistically significant with a p value of less than 0.01.

He concluded with a reminder that the intent of the cost study was to help the Legislature decide appropriate funding levels, rather than to dictate a specific funding level. He also recognized the study is ten years old, and an updated study would likely produce similar, but not identical results.

Funding, Outcomes, and Efficiencies. Representatives of the Kansas Association of School Boards (KASB) and Kansas Policy Institute (KPI) presented information to the Committee on the relationship between funding and outcomes, as well as opportunities for efficiencies in Kansas' school finance system.

The KASB representative presented the result of its analysis comparing overall success of students in states performing better than Kansas ("aspiration states") and in states most like Kansas ("peer states"). Compared to the peer states, the two states ranking higher than Kansas provided more funding per pupil. Nearly half (four) of those peer states ranking below Kansas spent more, and (five) spent less. Based on this information, the analysis concluded Kansas is both a higher achieving state and a highly efficient state based on results for dollars spent. All of the aspiration states spent more per pupil than Kansas, but also tend to have lower rates of childhood poverty and eligibility for free and reduced lunch.

The testimony of the KPI representative critiqued the results of the LPA cost study, saying correlation is not the same as causation. Many factors aside from funding levels contribute to outcomes, including teacher effectiveness, how money is spent, and differences in curriculum. Further, the representative noted the LPA cost study concedes that it did not “examine the most cost-effective way for Kansas school districts to be organized and operated.” The KPI representative also stated cost study relied on data that misrepresented student performance on NAEP. To conclude, the KPI representative provided graphics showing funding and test scores over time to demonstrate that increased spending has not led to increased test scores and again emphasized that how money is spent ultimately is more important than how much is appropriated.

On the issue of efficiencies, the KASB representative reiterated his earlier assertion that districts already have found significant efficiencies as they are achieving better results, spending more on instruction and keeping class sizes small, and spending less in many support areas. The representative also stated data suggests more adults per student, whether teachers, administrators, or other support staff, are more likely to improve student outcomes than reducing positions by consolidating districts, closing schools, or combining programs. He concluded saying few choices will result in savings without some type of trade-off and urged a balance between the Legislature’s duty to provide suitable funding and that of local boards to “maintain, develop, and operate” local public schools.

The representative of KPI defined efficiency as providing the same or better quality service at the best possible price and offered information on spending differences, staffing variances, and efficiency opportunities. Because districts under local control can divert dollars in ways that remove funds from classroom instruction, KPI thinks it is important that the new funding mechanism contain some form of accountability to assure money is being spent both effectively and efficiently with a focus on student needs.

Public Testimony. The meeting concluded with oral and written testimony from private citizens and school district representatives.

December 16, 2015

Public testimony. The Committee again received oral and written testimony from the public, including testimony from representatives of Game On for Kansas Schools, KASB, Kansas Parent Teachers’ Association, KPI, Kansas Superintendents Association, and United School Administrators, as well as several school districts and a number of private citizens. Representative Trimmer also provided testimony.

January 5, 2016

The Committee met briefly to discuss a draft report and recommendations proposed by Committee members. The Committee moved to table the draft and resume discussion of the Committee’s recommendations to be held at a future meeting date.

Where To Find Meeting Minutes

All the Committee’s meeting minutes, including all attachments to the minutes, can be found on the Kansas Legislature’s website and by locating the 2015 Session Year and the Special Committee on K-12 Student Success.

CONCLUSIONS AND RECOMMENDATIONS

General

A new school funding mechanism should:

- Focus on each individual student;
- Include accountability and reporting measures to ensure aid is being distributed according to the needs of each individual student; and
- Provide for multi-year funding to provide budget stability to the State and USDs.

Accountability and Assessments

State Level

- The current state assessment testing approach should be reevaluated and revised as necessary to avoid “teaching to the test,” inconsistent standards of proficiency, untimely return of test results, and cumbersome technology requirements.
- The State should provide funding for each student to take the ACT exam.
- The State should encourage other measures of outcome achievement, such as the Work Keys exam.
- An exam aligned with the *Rose* capacities should be developed by an objective third party with no connection to the State Department of Education or the Federal Department of Education.

District Level

School districts should:

- Arrange for all students to take the ACT exam;
- Administer a recognized third-party assessment that provides immediate, usable feedback for teachers and students;
- Track, report, and improve graduation and remediation rates; and
- Track, report, and improve dropout rates for all grade levels.

At-risk Funding

- At-risk funding should be based directly upon a student’s ability to learn, rather than the poverty level of the student.
- Alternately, any poverty measure for at-risk funding should be based upon information provided by the Kansas Department of Revenue and the Kansas Department of Labor and should be available for audit. All applications by

parents or guardians for a school district to receive at-risk funding should be available for audit.

- All at-risk funding should be used for no purpose other than one which is demonstrably intended to reduce achievement gaps of at-risk students. All expenditures of at-risk funding should be limited to programs which have a measurable effect on reducing achievement gaps of at-risk students. The State Department of Education should provide an annual report summarizing these expenditures and their measurable effects.

Bonding by Local School Districts

- The Legislature should repeal the current statute for state aid for the payment of principal and interest on bonds for capital improvements.
- A new state aid statute for bond and interest payments should be created to specifically define and limit what projects may be funded with state aid for capital improvement.
- The new state aid statute should be limited to a specific dollar amount each fiscal year to avoid unforeseen demands on the State General Fund.
- A State building architect and project manager should be used in any new building project to reduce the costs associated with the project.
- A special committee of the legislature should be created to oversee and approve any bond issue before the issuance is placed on a ballot before local voters.

Accounting

- A simpler budget document should be developed that shows major expenditure categories and is published by each USD on its website and is available at each

local school board meeting in the form of a balance sheet.

- A single, central accounting interface should be developed and be used by all school districts to allow the financial information of the school districts to be retrieved and evaluated in a single system for all local school districts in the state.
- An independent financial audit should be conducted annually of each school district and the report of the audit should be published with other school district budget documents. The audit should:
 - Certify that the school district is correctly following the State Accounting manual;
 - Certify that the published budget documents accurately reflect the finances of the school district;
 - Provide an inventory of all assets of the school district; and
 - Provide a separate listing of all unused equipment, supplies, and property of the school district.

Efficient Use of Taxpayer Money

A new school funding mechanism should:

- Be based upon an efficient use of taxpayer money and should reward school districts who provide necessary services and commodities at the best possible price; and
- Require that functions such as transportation, accounting, information technology, food service, building and grounds maintenance, payroll, human resource services, and purchasing are coordinated between districts and/or provided through regional service centers or a statewide purchasing office.

Standards

The State Board of Education should use school district compliance with the *Rose* capacities as criteria for accreditation.

Other

The appropriate standing committees of the Kansas Legislature should form special sub-committees to examine and report on each of the following topics:

- Teacher pay;
- At-risk funding;
- Special education;
- Bond and interest state aid eligibility;
- The cost-benefit ratio of the receipt of federal funds;
- The relationship between school districts and interlocals, cooperatives, and service centers;
- The current and future implications of school district staffing levels on KPERS;
- Establishing the *Rose* capacities as the definition of a suitable education;
- Amending KSA 72-1127 to include personal finance as a mandatory area of instruction;
- Analyzing SEC regulations concerning GASB and GAAP to ensure all school districts are in compliance; and
- Investigating all extracurricular and co-curricular activities on the basis of efficiency and efficacy to deliver a suitable education to the students.

Other Considerations

At the final meeting of the Committee, a Committee member offered the following recommendations, which the Committee agreed to add to the Report.

- Eliminate the current September 20th student count and move to a process of determining student average daily attendance for the school year;
- Calculate State funding on the prior year district's average attendance numbers and valuations so both state and district can budget more

efficiently, eliminating the need for an additional appropriation following the April consensus process; and

- Treat the eight mill capital outlay levy the same as the 20 mill levy in regarding to tax increment financing projects.

2015 SPECIAL COMMITTEE ON K-12 STUDENT SUCCESS

**MINORITY
REPORT**

Submitted by:

**Senator Anthony Hensley
Representative Ed Trimmer
Representative Valdenia Winn**

JANUARY 19, 2016

After the enactment of 2015 House Substitute for Senate Bill No. 7, we believe there is a need to begin work on developing a permanent school finance formula. The majority party members of The Special Committee on K-12 Student Success failed to do that.

We also believe the Special Committee should have reviewed the school finance formulas in other states, particularly surrounding states and states with similar demographics as Kansas. One state's formula that would have proven useful to review is Pennsylvania's *Basic Education Funding Commission Report and Recommendations* - dated June 18, 2015. This Commission was created by the Pennsylvania General Assembly in 2014 and involved public hearings held across the state and solicited testimony from educators, business leaders, parents, and other education stakeholders. The Special Committee did not conduct such hearings.

Moving forward, the process of developing a permanent school finance formula should be as open and transparent as possible, which was NOT the process followed in the creation of 2015 House Substitute for Senate Bill No. 7.

The Special Committee also failed to review the history of our state's school finance formula, including judicial decisions. We believe that such a review would have resulted in the following conclusions reached by both the plaintiffs and the District Court in the *Gannon* case:

First, there is simply no need to wholly rewrite a new formula. The SDFQPA had existed since 1992. During its existence, the Supreme Court thoroughly evaluated the formula at least six times: in *U.S.D. 229*, in *Montoy I*, in *Montoy II*, in *Montoy IV*, in *Montoy V*, and again when this Court issued its first decision in *Gannon*. These decisions all resulted in the careful vetting and fine-tuning of the formula; a formula that, when fully funded, would arguably provide Kansas students with a suitable education in a manner that this Court suggested was constitutional. Plaintiffs' *Gannon v. State of Kansas* brief, January 12, 2016, page 36

First, we would say that the School District and Quality Performance Act, K.S.A. 72 - 6405 *et seq.*, as it currently stands, has not been shown to, itself, be unconstitutional at this point and on this record. All the problems raised by Plaintiffs in our view have not been shown to flow from the Act, but from a failure by the State to follow the Act's tenets and fully fund it as it directs. The unconstitutionality attendant here is due to underfunding, not the Act itself or, at least, not yet." District Court's January 2013 Opinion, pages 242-243

Finally, the Special Committee did not choose to review several important factors in consideration of a new formula including but not be limited to:

- Multi-Year Funding
- Enrollment
- Differential for size of school districts (the median size school district in Kansas is 550 students)
- Transportation tied to cost and density
- Differential for poverty and non-English speaking students
- Wealth as related to a district's tax base
- Cost-of-living increases
- Hold harmless provision so that no USD loses funds during implementation phase
- Differential related to career and technical education, *i.e.* differences in costs for differing types of career fields
- Special education costs

We wholeheartedly concur with the "fundamental requirements" of a new formula the United School Administrators/ Kansas School Superintendents Association school finance task force recommended in testimony to the Special Committee:

- Every student in Kansas' public schools will have an equal opportunity to be

college and career ready, as defined by the Rose Standards;

- Some students will require greater supports to meet standards;
- Any formula must meet constitutional requirements for equity and adequacy;
- The formula should recognize local control and provide funding of educational services; and,
- The Legislature and school districts need budgeting predictability.

In addition, we strongly urge the House and Senate education committees to give consideration to the following other recommendations:

Honoring Local Control

The people of Kansas have long supported the concept of “local control” under which local citizens make the decisions that impact their communities. Nowhere is this concept more sacred than in the governance of our public schools. Decisions are best made by the policy makers closest to the voters.

In the name of “efficiency” or perhaps “lowering costs” there are many who recommend the consolidation of all services. Yet such recommendation is contradictory to the tradition of local control. The state should encourage such agreements among districts but the decision to participate must be made by local elected school boards considering the needs of their local community.

The state can assist school districts in making good decisions by providing stability in the funding mechanism, so that schools can plan for future years confident that the resources necessary will be available. This would also assist in making decisions about consolidation of services as districts would know what funding was available to them going forward.

Further, the state should refrain from imposing any unfunded mandates on school districts. Employee compensation, staffing, and

curriculum decisions should be left solely to the local school board in partnership with employees, parents and patrons, particularly local business people.

We strongly oppose the Majority Report recommendation for a special committee of the Legislature to oversee and approve bond issues of local school districts prior to being placed on a ballot before local voters. This recommendation is not only contrary to “local control,” it is an insult to the intelligence of every local elected school board member and local school district voter in Kansas. We, along with other Kansas legislators who believe in the power of the people through the democratic process, put our trust in local policy makers and voters to think for themselves and to make decisions and take actions that are in the best interests of the children, parents and taxpayers in their local community.

Supporting Individual Student Needs

Any proposed changes to school funding in Kansas must take into consideration the individual needs of students. At-risk funding should be available to reduce the achievement gaps of at-risk students. Kansas and a number of other states use poverty as a proxy for at-risk status because research shows a strong correlation between poverty and low achievement in school. The Legislature has debated many times whether this should be based on poverty or actual student performance and has failed each time to find a better way to provide this funding. We believe at-risk funding should continue to be based on poverty.

We also continue to support the conclusion reached by Legislative Post Audit in its 2006 K-12 Education Cost Study, page 40. LPA found “a strong association between the amount districts spent and outcomes they achieved. In the cost function results, a 1.0% increase in district performance outcomes was associated with a 0.83% increase in spending – almost a one-to-one relationship.”

Special education funding is largely governed by federal law. The state’s obligation is to meet maintenance of effort requirements, and to ensure

that total resources are sufficient to meet the needs and services detailed in the child's Individualized Education Plan.

Kansas has an increasing population of English Language Learners (ELL) in our schools. These students present significant challenges to schools and any funding formula must take these challenges into consideration. Additional personnel with specialized training in modifying instruction for ELL students as well as classroom support through staff development and materials are needed.

The needs of Gifted and Talented Students also must be accounted for. Currently, these students receive funding through the state's special education program. But we know that their needs are also addressed in highly specialized, low enrollment classes including Advanced Placement and Dual Credit opportunities. The importance of these low-enrollment classes cannot be overlooked in the name of efficiency.

Career and Technical Education programs have widely varying costs generally related to the needed equipment or limitations on class size for safety purposes. The job market demands that we provide the resources necessary to provide these programs for our students.

Responding to Student, School, and District Needs

Any proposed changes to school funding in Kansas must take into consideration the ability to respond to changing conditions. Enrollment fluctuates. There is a mistaken notion that all new students arriving in a school or school district can easily be absorbed into existing classes. This is not always the case. Increases in student populations require additional resources.

Declining enrollment must also be taken into consideration. The 1992 formula adjustments took this into consideration when designed to adjust funding decreases based on a rolling average. All students in Kansas deserve access to a robust curriculum. In order to provide such opportunities, efficiencies of scale must be considered. School districts that are very small by necessity must have access to resources to

support necessarily small class sizes as well as distance learning opportunities that require significant investments in technology.

Changes in student demographics also have consequences for school districts. Such changes happen when new businesses move into communities bringing ELL students or when businesses close putting families in stress and poverty. Such demographic changes bring new or increasing challenges to our schools and must be taken into account.

The difference and disparity in wealth as related to a district's tax base must also be taken into account. For example, for the 2015-16 school year, one mill of property tax in USD 499 Galena raises \$17,338, or \$24 per student, while one mill in USD 244 Burlington raises \$449,704, or \$550 per student.

Subject Matters Not Included in Special Committee's Charge

Finally, there are subject matters in the Majority Report that were not included in the charge of the Special ,and therefore, should not be included in the report.

Merit pay for teachers is a matter for collective bargaining, best left to the local school board in negotiation with its employees. While a school finance formula should provide adequate resources in order to pay teachers well, the state should not interfere in local control regarding teacher pay.

The recommendation in the Majority Report for a financial literacy curriculum requirement is clearly outside the charge of the Special Committee. Moreover, it was never part of Committee discussions.

Finally, any consideration of KPERS was outside the scope of the Special Committee.

While teachers are part of the KPERS system, this is a separate issue from school finance. The Legislature has an obligation to fund KPERS regardless of the various components in a school finance formula.

Appendix C:

2015 Assessment Data



Additional Information

[Explanation of Display](#)[Resources](#)

Math and ELA Assessment Results

Kansas assessment results are now reported in four levels. Level 1 indicates that student is not performing at grade-level standards. Level 2 indicates that the student is doing grade-level work as defined by the standards but not at the depth or level of rigor to be considered on-track for college success. Level 3 indicates that the student is performing at academic expectations for that grade and is on track to being college ready. Level 4 indicates that the student is performing above expectations and is on-track to being college ready.

Building, district, and state-level reports provide summaries of the percent of students at each performance level. Assessment results capture a point-in-time and represent one part of a student's and schools' overall educational experience.

(To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.)

Science Assessment Results

The 2015 Science Assessment was given to students in grades 4, 7, and 11. The results are reported in 5 Performance Levels.

A new Science Assessment is being developed for 2016 and will be given to students in grades 5, 8, and 11. The 2016 Science Assessment will have 4 Performance Levels and will be fully aligned to the Kansas College and Career Ready Standards for Science.

Copyright © Kansas State Department of Education 2015

Front Desk: (785) 296-3201
FAX: (785) 296-7933
Email: ksreportcard@ksde.org
Landon State Office Building
900 SW Jackson St. Suite 600
Topeka, KS 66612



Kansas Report Card 2014-2015

Home Assessments & Accountability - Additional Performance Indicators - Teachers - Demographics Other Results -

State Totals

State
 Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

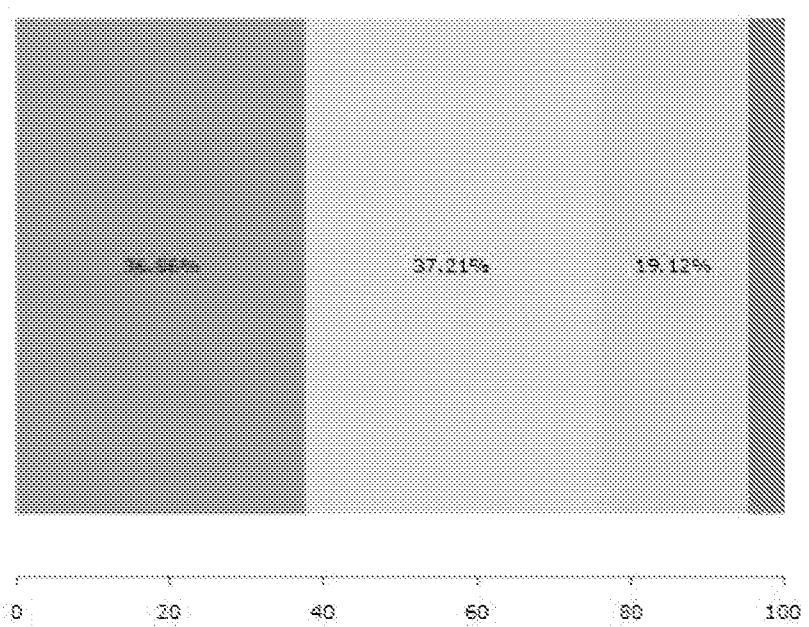
Grade Level:

Student Subgroup:

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

[Print](#) [Download](#)

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	36.86	37.21	19.12	4.52	2.27



Kansas Report Card 2014-2015

Home Assessments & Accountability - Additional Performance Indicators - Teachers - Demographics Other Results -

State Totals

State
 Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:
 Math

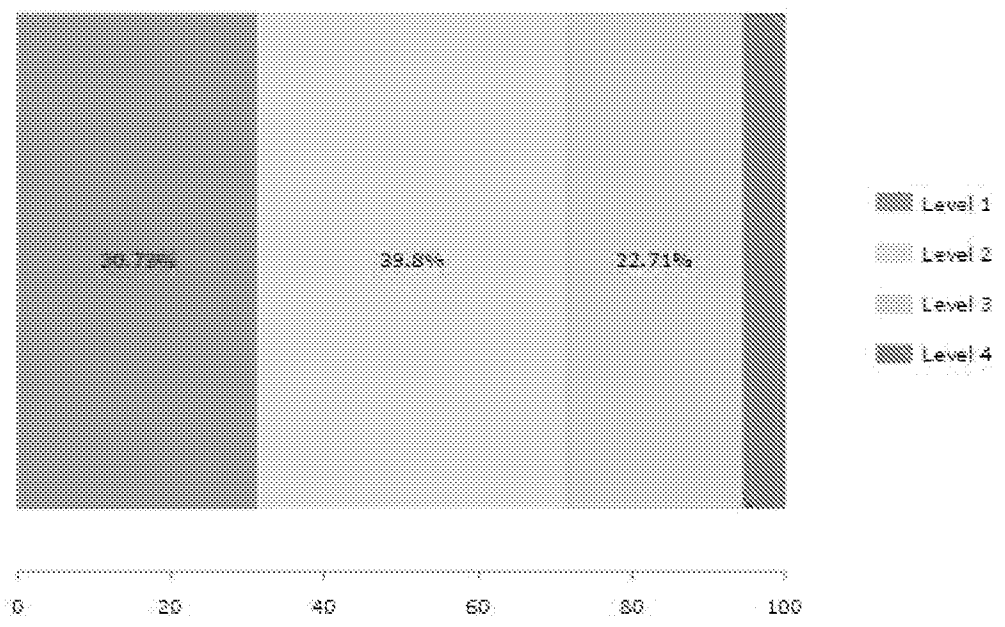
Grade Level:
 HS

Student Subgroup:
 White

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	30.73	39.8	22.71	5.38	1.35



State Totals

State

Grade Range:
 Title I Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

Math

Grade Level:

HS

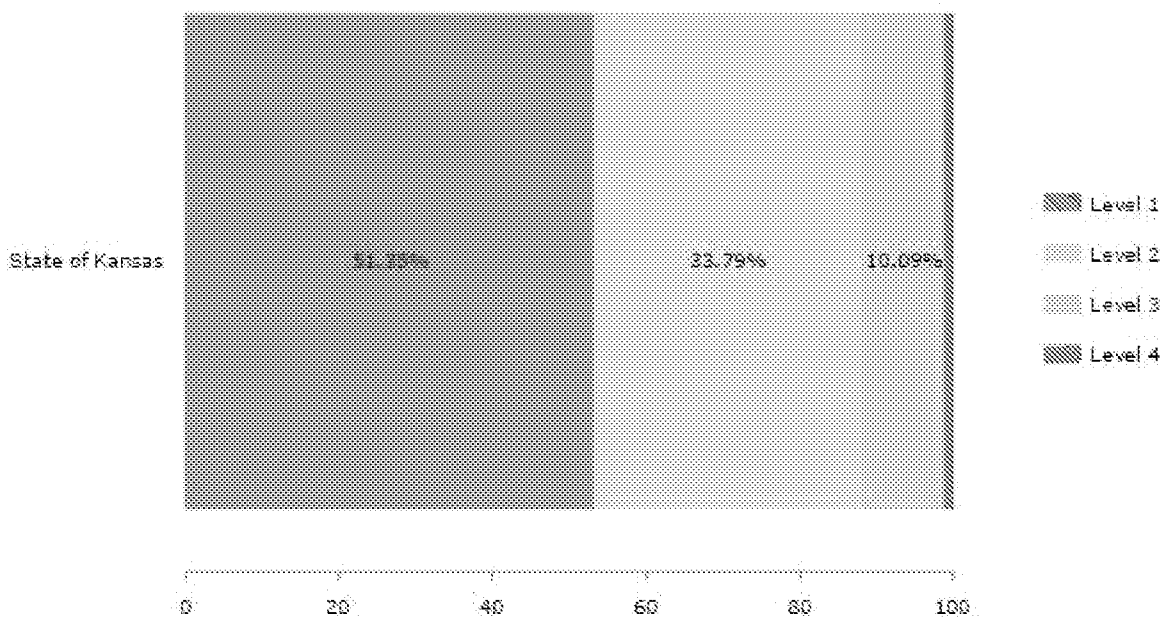
Student Subgroup:

Free and Reduced Lunch

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	51.35	33.79	10.09	1.19	3.55



State Totals

State

Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

Math

Grade Level:

HS

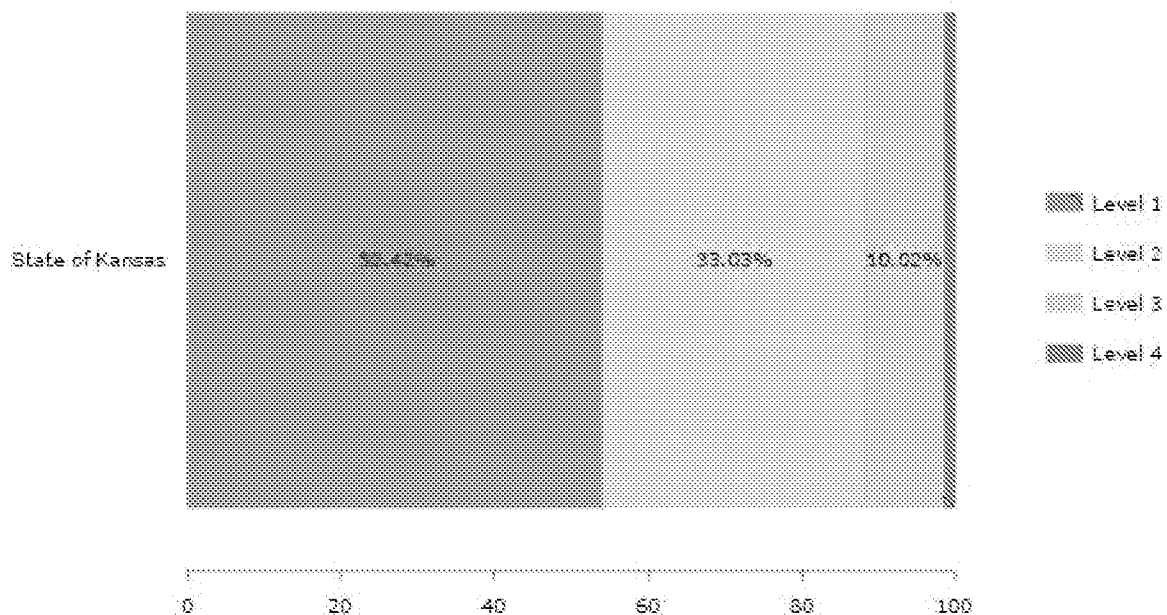
Student Subgroup:

Hispanic

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	52.42	33.03	10.02	1.29	3.22



Kansas Report Card 2014-2015

Home Assessments & Accountability - Additional Performance Indicators - Teachers - Demographics Other Results -

State Totals

State

Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

Math

Grade Level:

HS

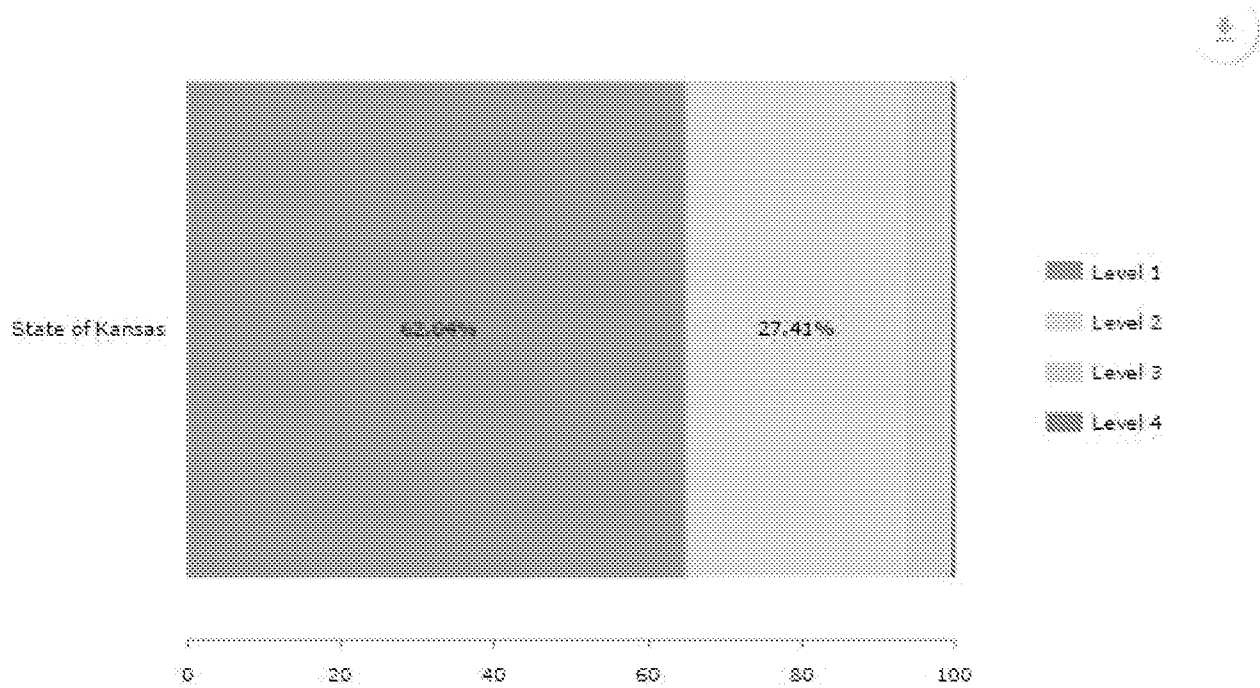
Student Subgroup:

ELL Students

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	62.04	27.41	5.72	0.37	4.43



Kansas Report Card 2014-2015

- Home
- Assessments & Accountability
- Additional Performance Indicators
- Teachers
- Demographics
- Other Results

State Totals

State

Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

Math

Grade Level:

HS

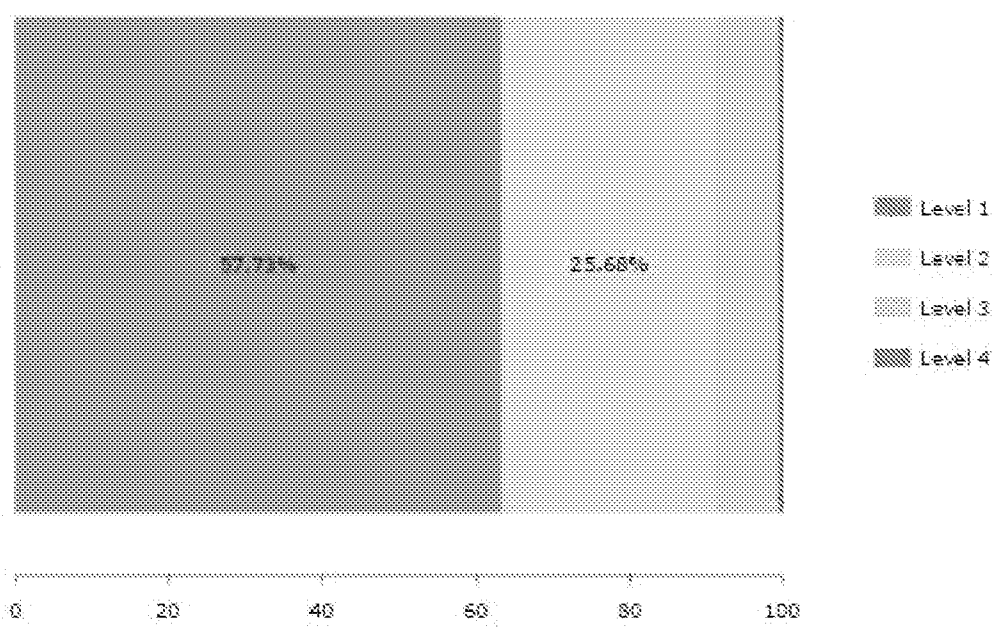
Student Subgroup:

African-American Students

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	57.73	25.68	7.34	0.45	8.78



Kansas Report Card 2014-2015

- Home
- Assessments & Accountability
- Additional Performance Indicators
- Teachers
- Demographics
- Other Results

State Totals

State

Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

ELA

Grade Level:

HS

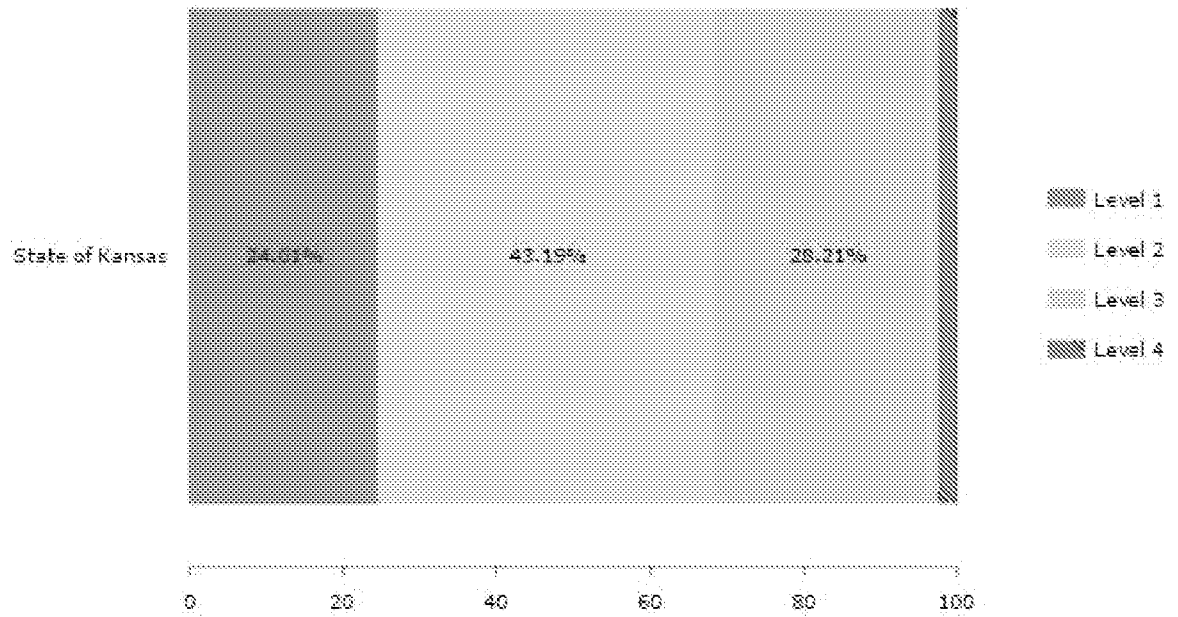
Student Subgroup:

All Students

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	24.01	43.19	28.21	2.21	2.35



Kansas Report Card 2014-2015

Home Assessments & Accountability - Additional Performance Indicators - Teachers - Demographics Other Results -

State Totals

State

Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

ELA

Grade Level:

HS

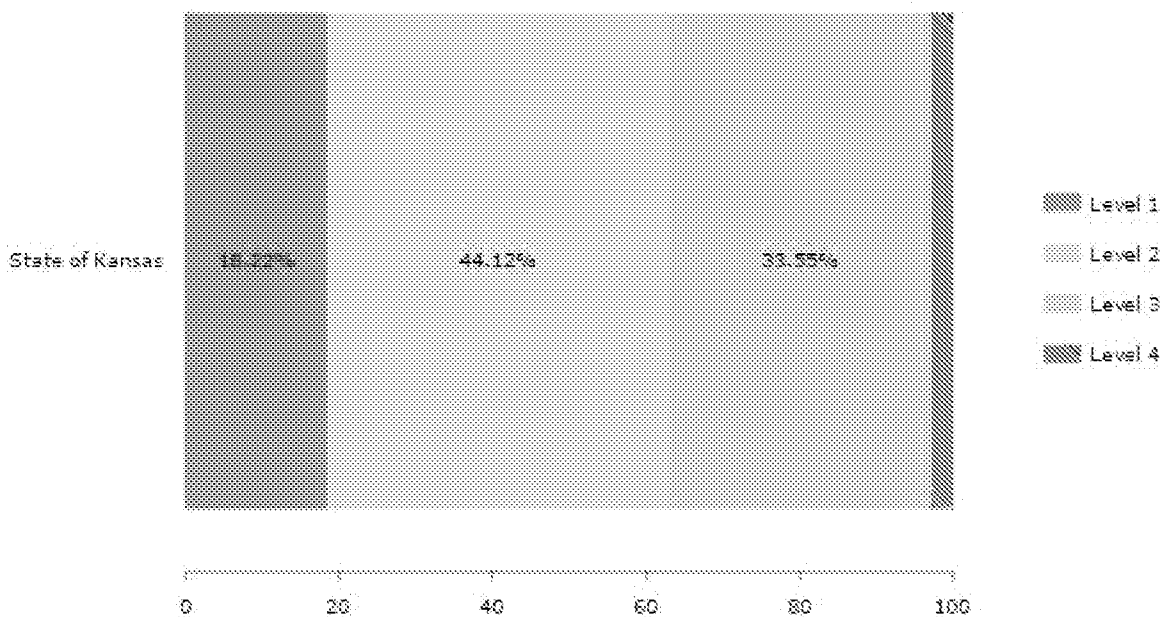
Student Subgroup:

White

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	18.22	44.12	33.55	2.75	1.33



Kansas Report Card 2014-2015

Home Assessments & Accountability - Additional Performance Indicators - Teachers - Demographics Other Results -

State Totals

State

Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

ELA

Grade Level:

HS

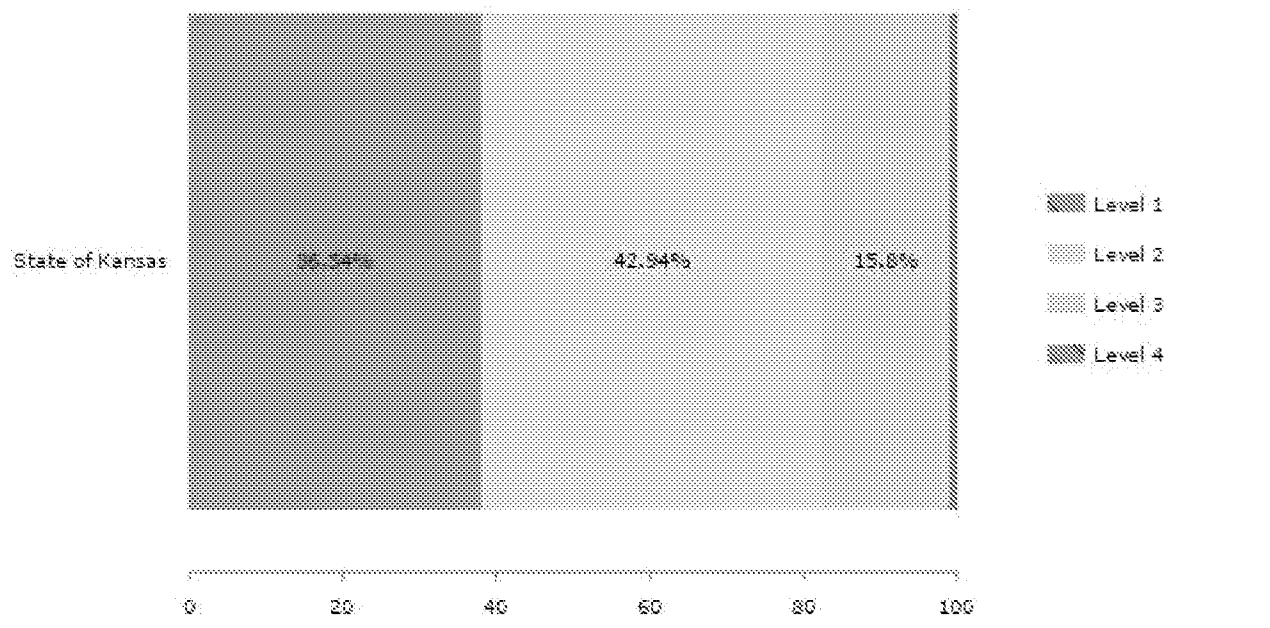
Student Subgroup:

Free and Reduced Lunch

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	36.54	42.94	15.8	0.87	3.83



State Totals

State

Grade Range:
 Title I Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

ELA

Grade Level:

HS

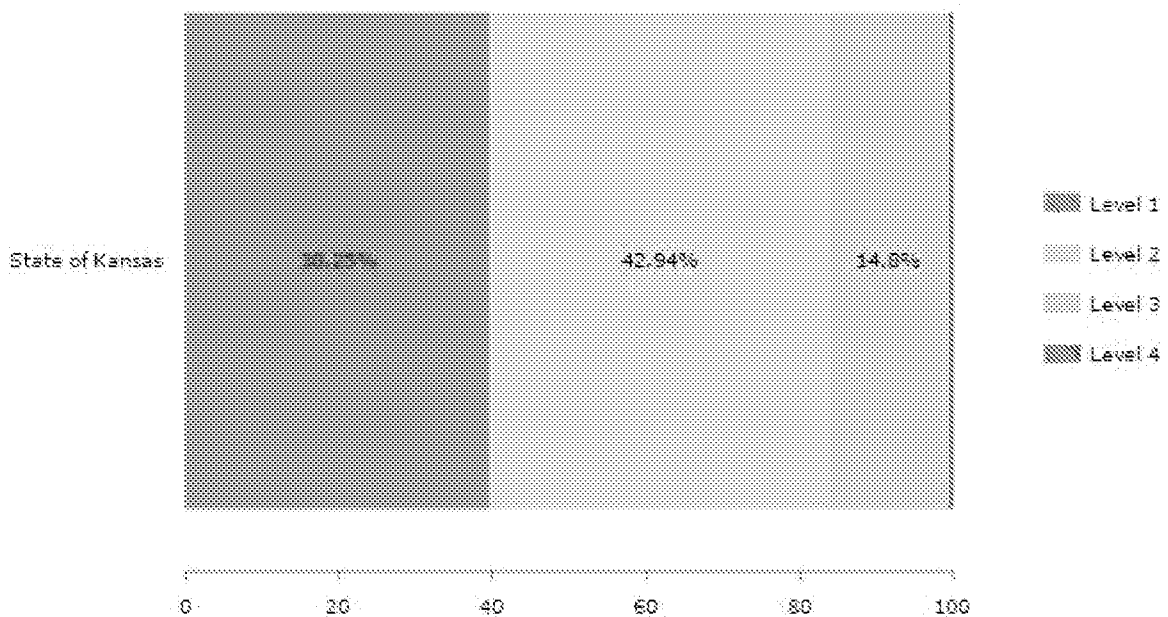
Student Subgroup:

Hispanic

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	38.25	42.94	14.8	0.51	3.48



State Totals

State

Grade Range:
 Title I Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

ELA

Grade Level:

HS

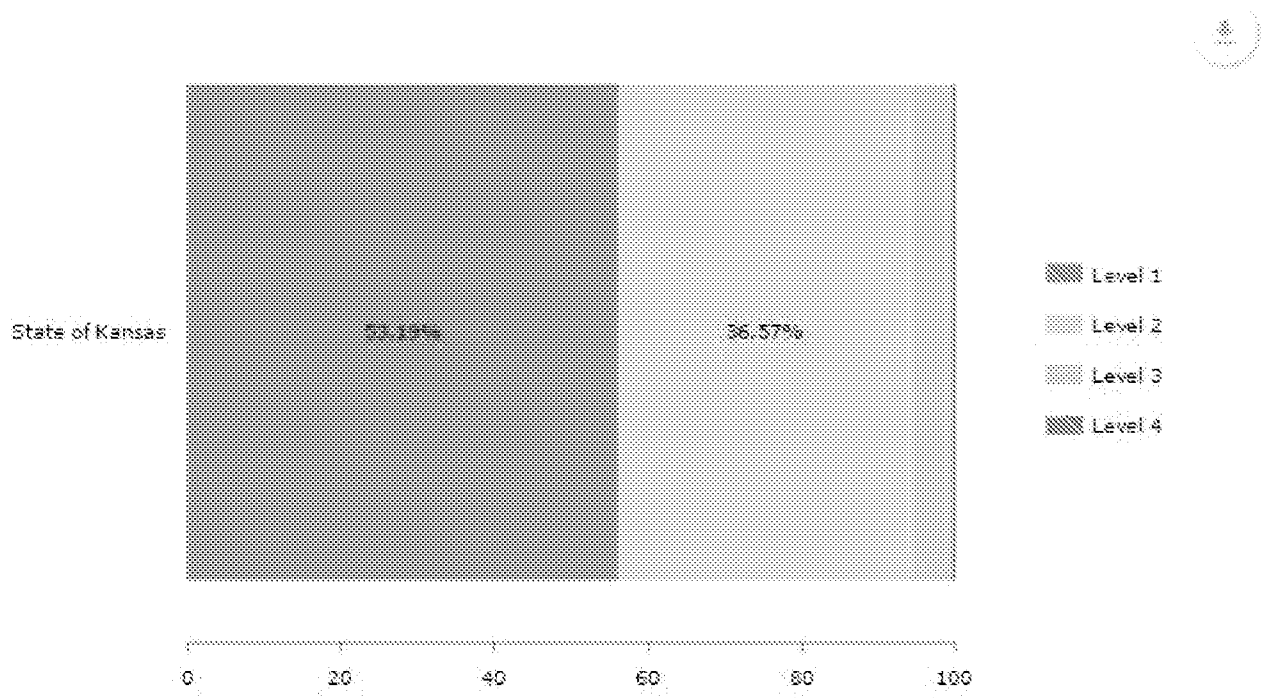
Student Subgroup:

ELL Students

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	53.19	36.57	4.96	0.13	5.13



State Totals

State

Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

ELA

Grade Level:

HS

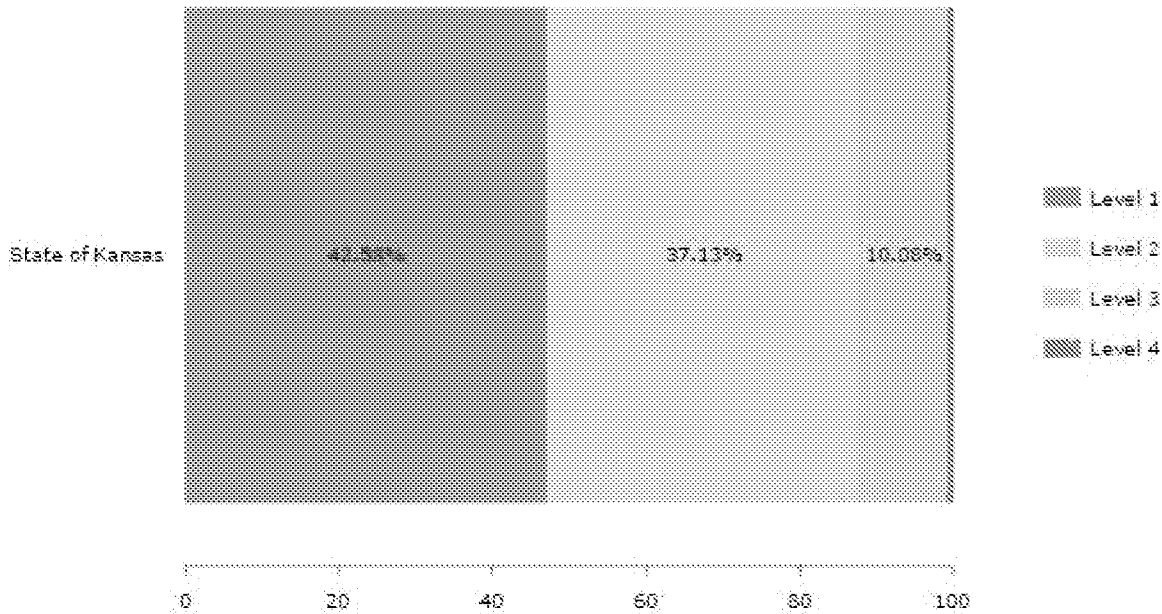
Student Subgroup:

African-American Students

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	42.58	37.13	10.08	0.65	9.54



Kansas Report Card 2014-2015

- Home
- Assessments & Accountability
- Additional Performance Indicators
- Teachers
- Demographics
- Other Results

State Totals

State

Grade Range:
 Title I Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

Math

Grade Level:

All Grades

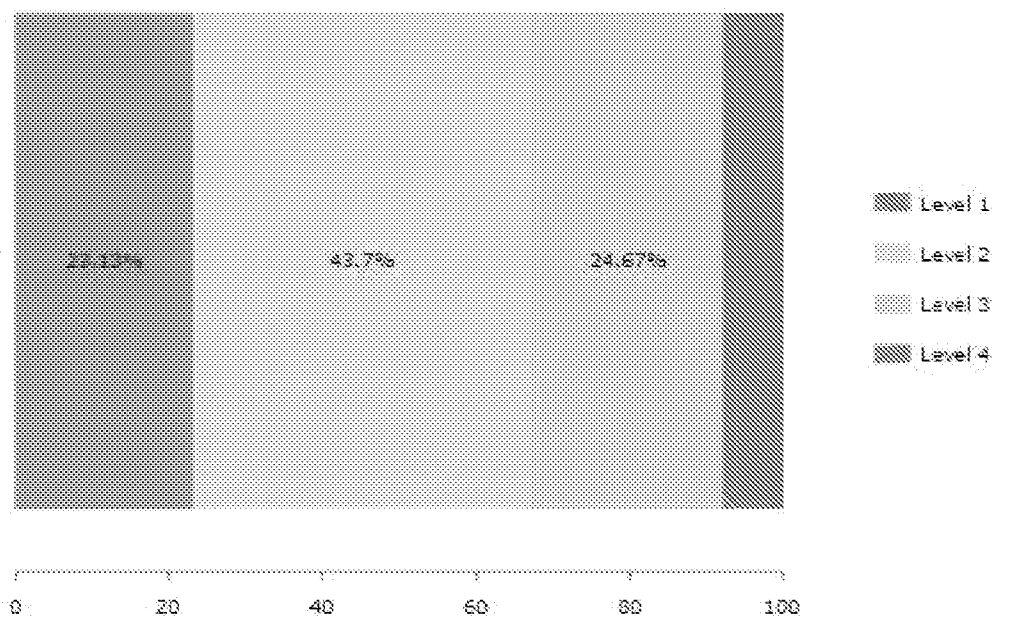
Student Subgroup:

All Students

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	23.13	43.7	24.67	7.57	0.9



State Totals

State

Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

Math

Grade Level:

All Grades

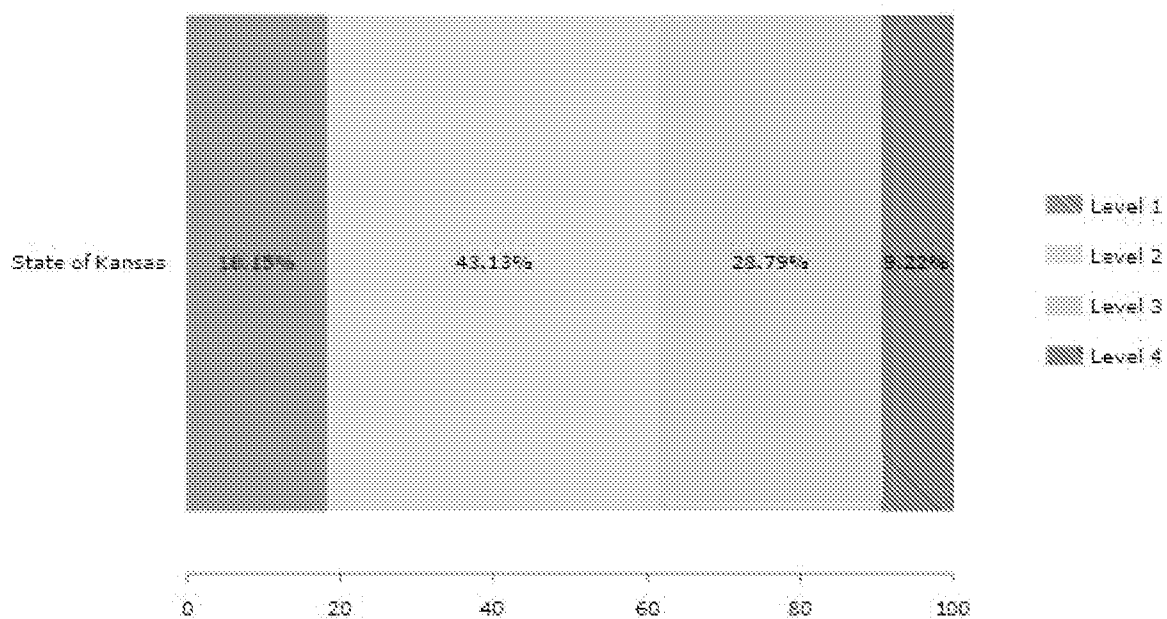
Student Subgroup:

White

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	18.15	43.13	28.79	9.22	0.69



State Totals

State

Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

Math

Grade Level:

All Grades

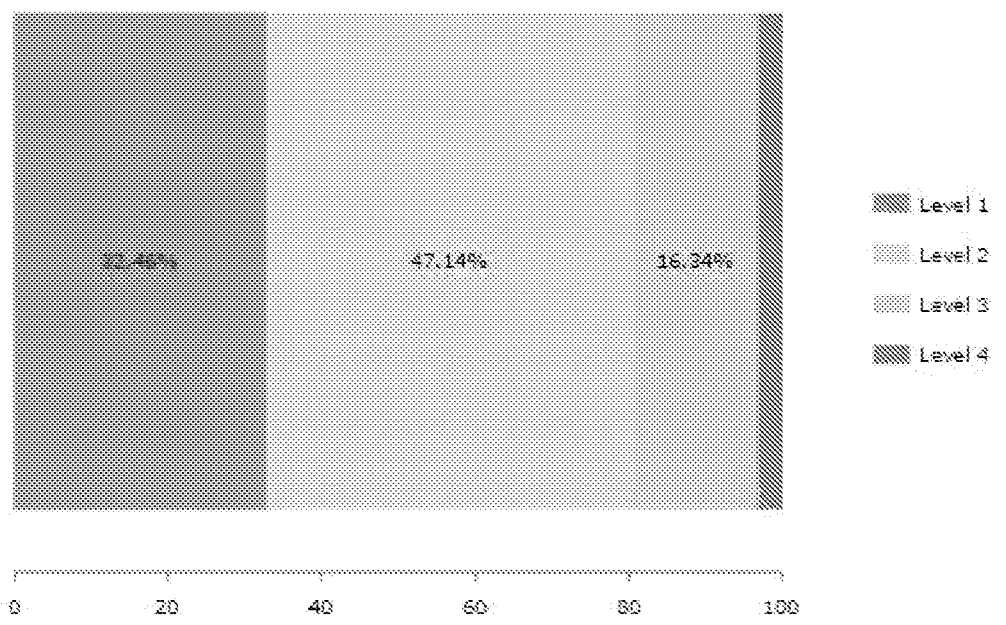
Student Subgroup:

Free and Reduced Lunch

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	32.46	47.14	16.34	2.94	1.1



Kansas Report Card 2014-2015

Home Assessments & Accountability Additional Performance Indicators Teachers Demographics Other Results

State Totals

State

Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

Math

Grade Level:

All Grades

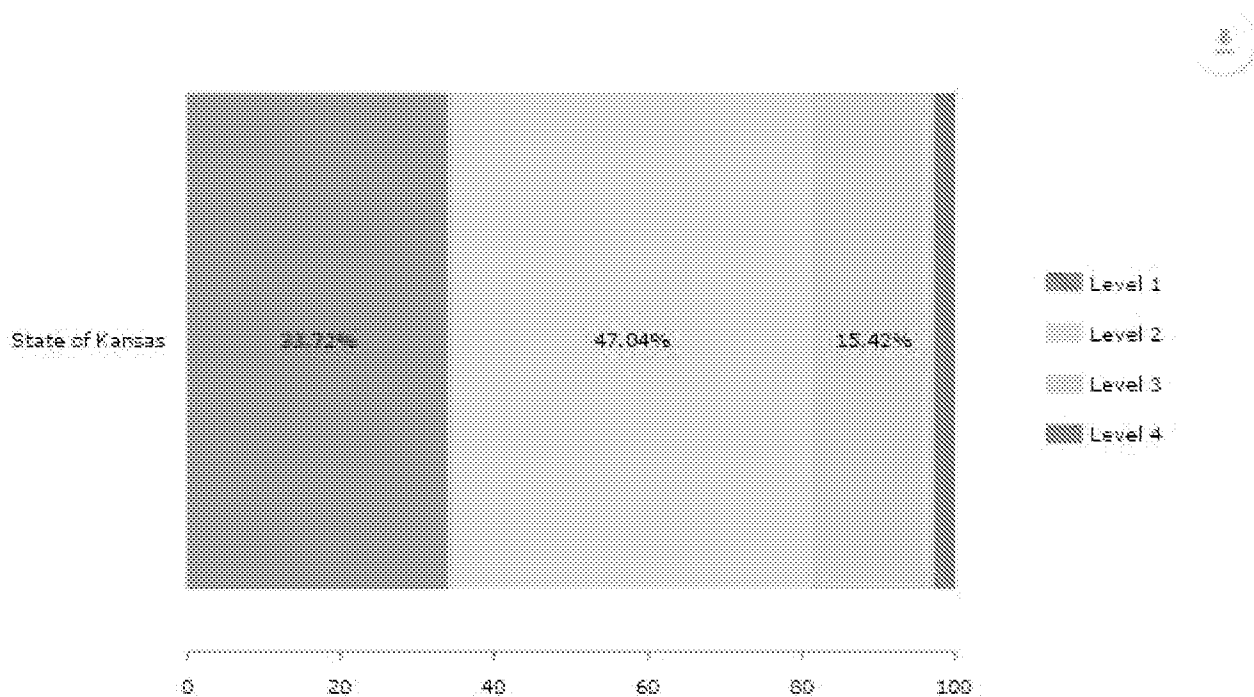
Student Subgroup:

Hispanic

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	33.72	47.04	15.42	2.66	1.13



State Totals

State

Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

Math

Grade Level:

All Grades

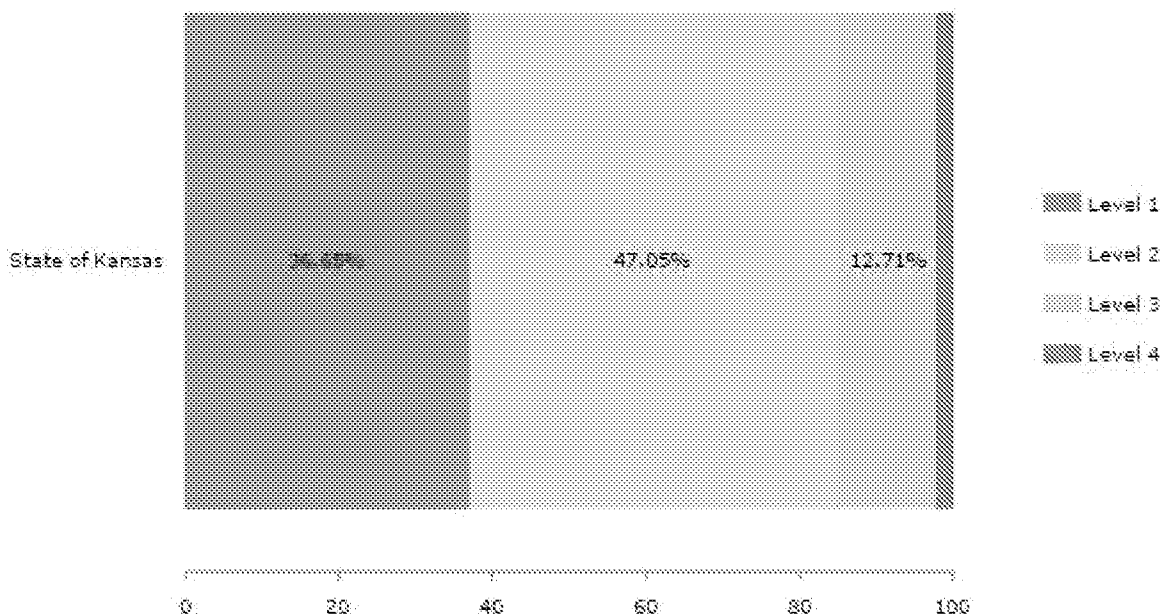
Student Subgroup:

ELL Students

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	36.65	47.05	12.71	2.19	1.38



State Totals

State

Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

Math

Grade Level:

All Grades

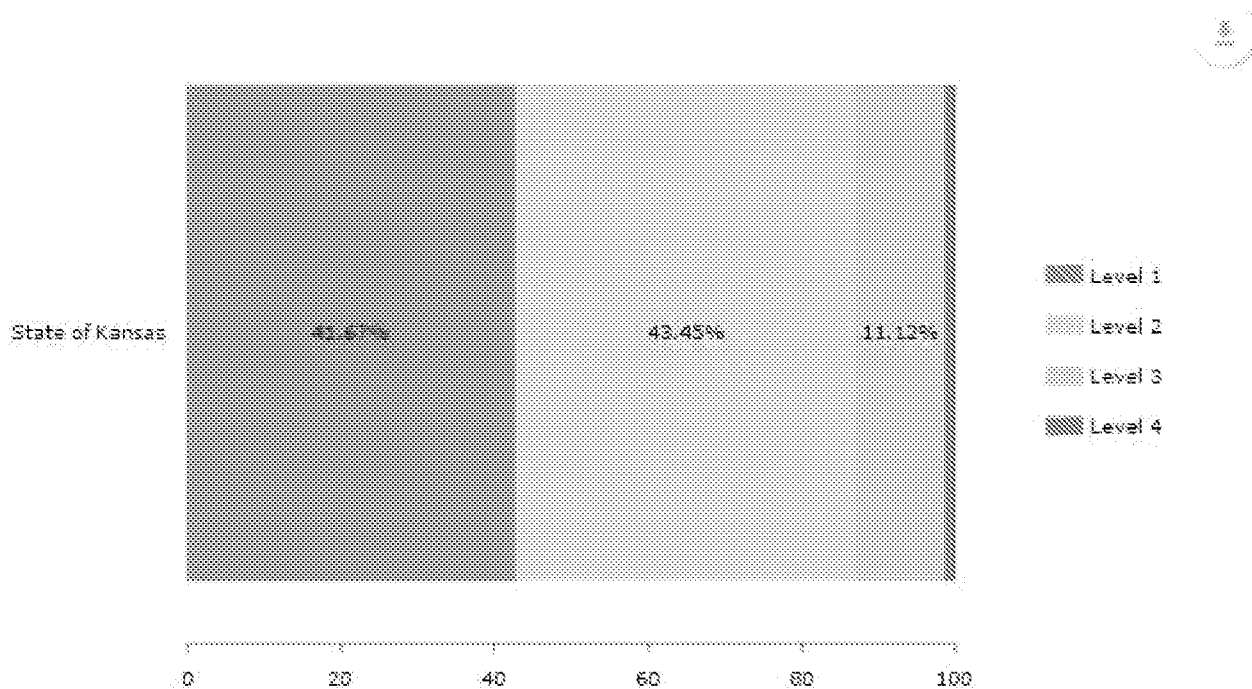
Student Subgroup:

African-American Students

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	41.67	43.45	11.12	1.46	2.28



State Totals

State

Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

ELA

Grade Level:

All Grades

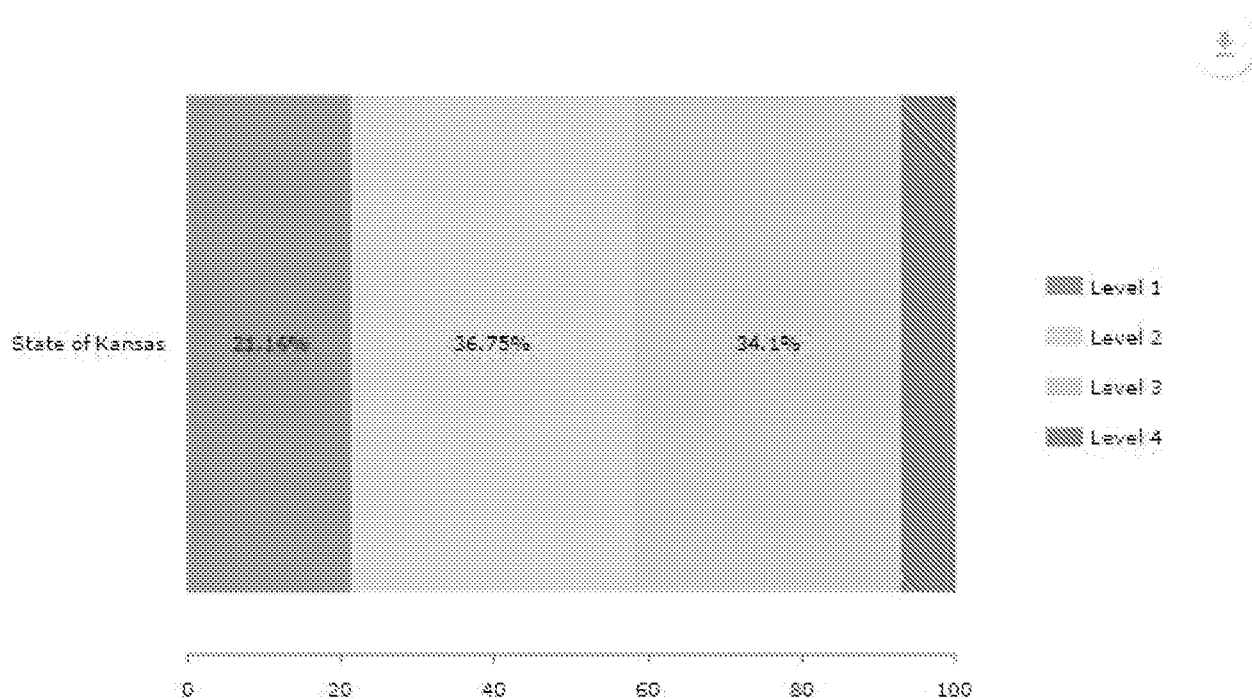
Student Subgroup:

All Students

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	21.16	36.75	34.1	6.92	1.04



State Totals

State

Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

ELA

Grade Level:

All Grades

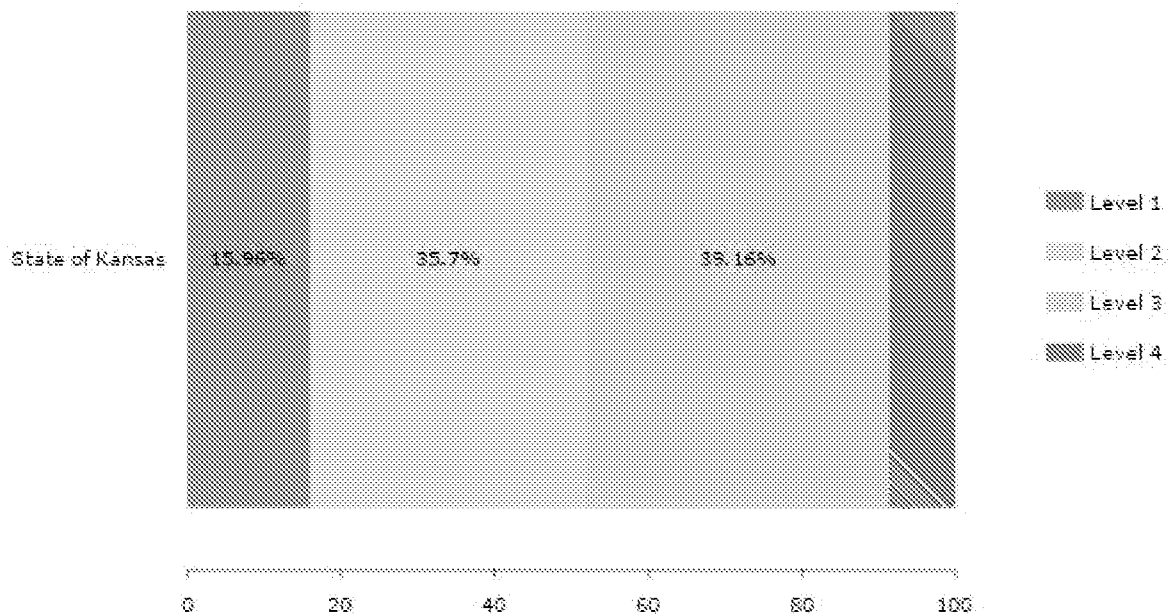
Student Subgroup:

White

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	15.96	35.7	39.16	8.48	0.69



State Totals

State

Grade Range:
 Title I Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

ELA

Grade Level:

All Grades

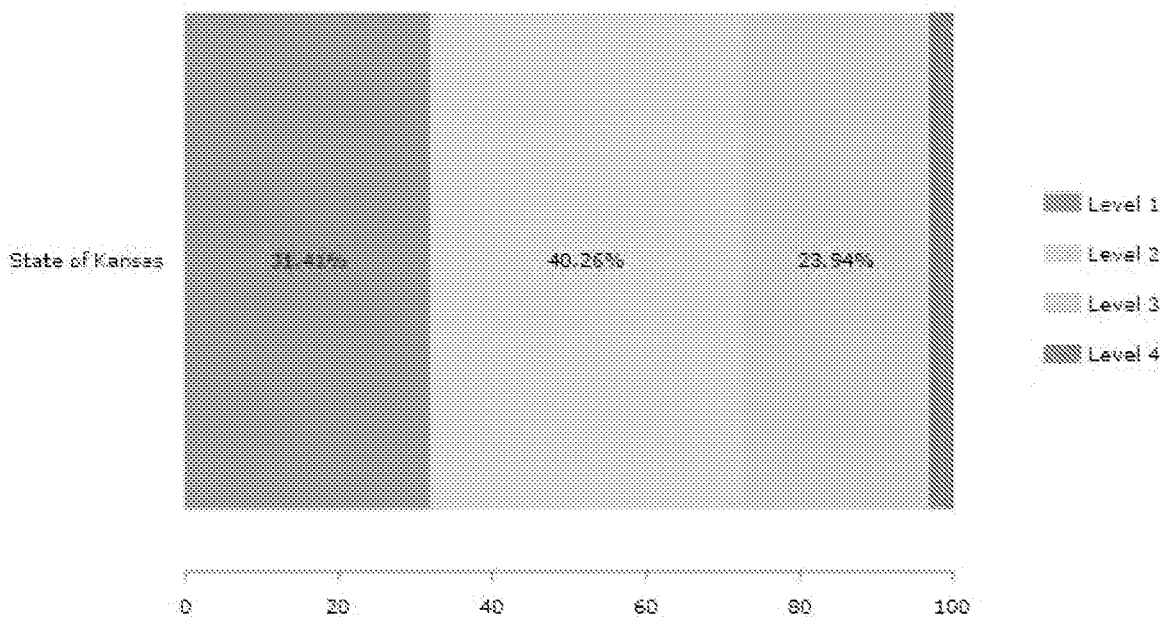
Student Subgroup:

Free and Reduced Lunch

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	31.41	40.26	23.94	3.01	1.35



Kansas Report Card 2014-2015

Home Assessments & Accountability - Additional Performance Indicators - Teachers - Demographics Other Results -

State Totals

State

Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

ELA

Grade Level:

All Grades

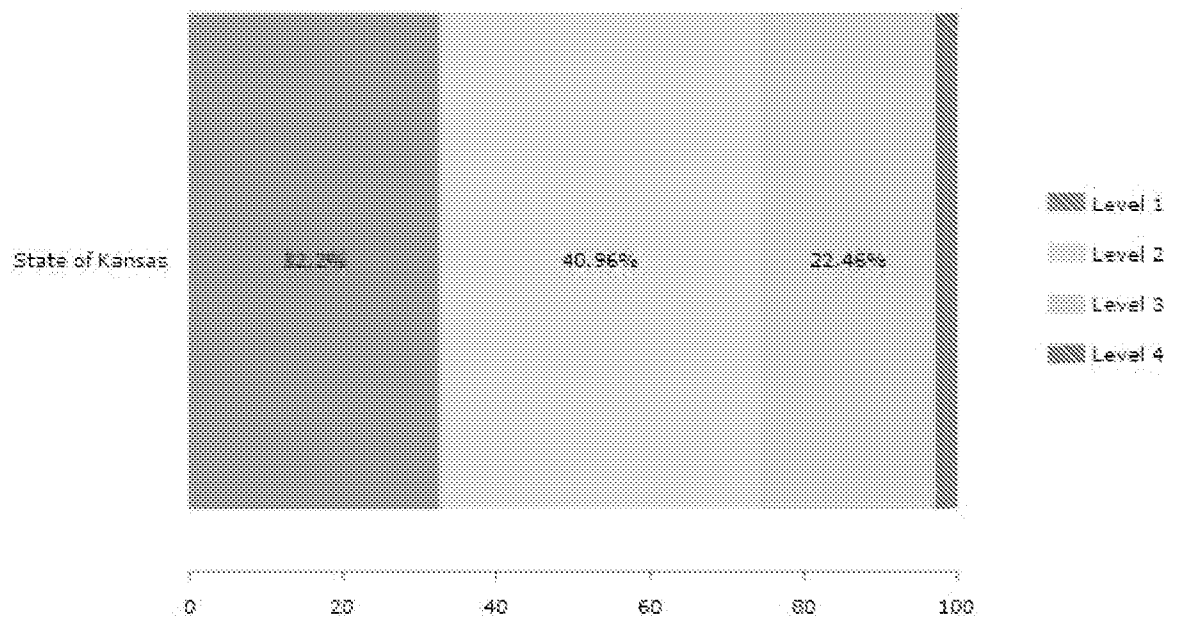
Student Subgroup:

Hispanic

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	32.2	40.96	22.46	2.72	1.64



State Totals

State

Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

ELA

Grade Level:

All Grades

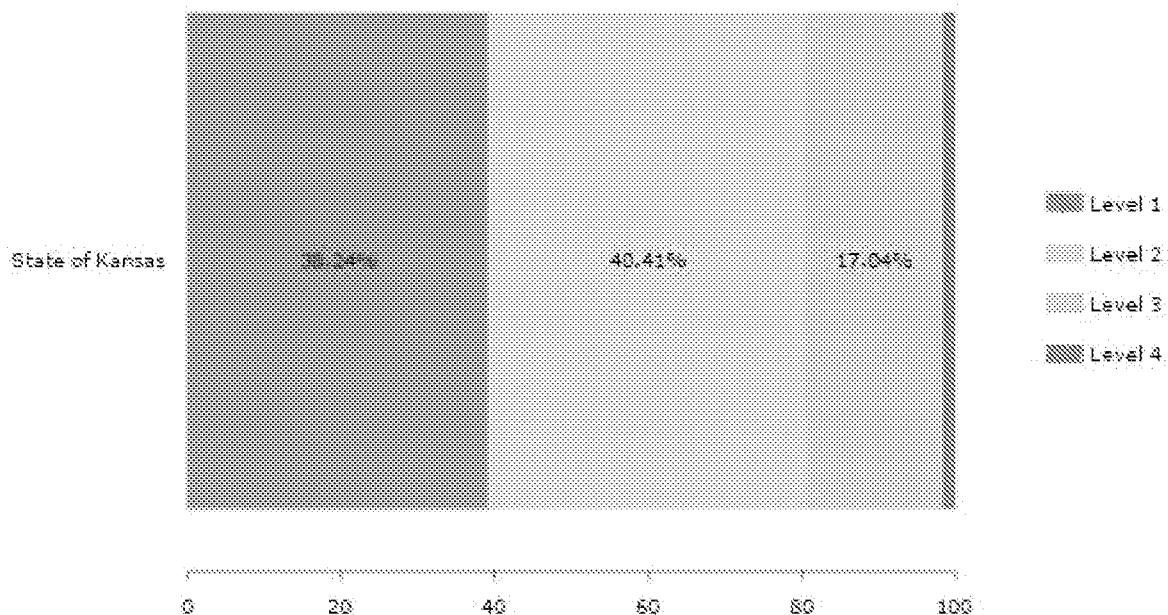
Student Subgroup:

ELL Students

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	38.24	40.41	17.04	1.69	2.59



State Totals

State

Grade Range:
 Title 1 Status:
 Accreditation Status: Accredited
 Website:

Enrollment

Building: N/A District: N/A State: 486922

Selections

Subject:

ELA

Grade Level:

All Grades

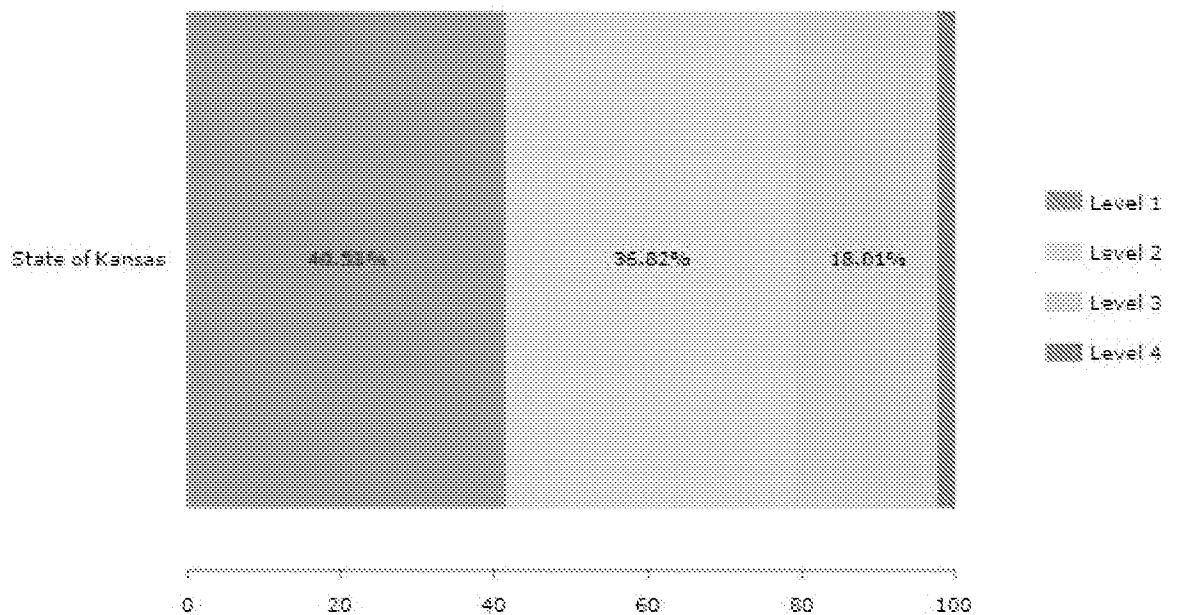
Student Subgroup:

African-American Students

Assessment Results

Assessment Results

*To protect student privacy, when a subgroup has fewer than 10 students the data is not displayed.



Percent in each Performance Category and Percent Not Tested

Print Download

Organization Level	% Level 1	% Level 2	% Level 3	% Level 4	% Not Tested
State of Kansas	40.53	36.82	18.01	2.06	2.56

Appendix D:

Kansas State Department of Education Graduation and Dropout Data

Kansas State Department of Education Graduation and Dropout Data



State-Level Four- and Five-Year Adjusted Cohort Graduation Rates by Subgroup (public schools only)

Student Group	2012 4-year Graduation Rate	2012 5-year Graduation Rate	2013 4-year Graduation Rate	2013 5-year Graduation Rate	2014 4-year Graduation Rate	2014 5-year Graduation Rate
All Students	84.9%	84.4%	85.8%	86.1%	85.8%	86.7%
Students with Disabilities	77.1%	77.7%	78.3%	78.8%	77.2%	80.2%
Migrant	72.3%	71.2%	72.6%	76.3%	68.3%	75.4%
Homeless	63.2%	69.8%	67.5%	69.8%	68.4%	69.4%
Limited English Proficient	74.2%	73.1%	75.7%	74.9%	76.0%	77.7%
Paid Lunch	94.3%	93.1%	94.4%	94.2%	94.2%	94.6%
Free/Red. Lunch	76.0%	75.3%	76.7%	77.0%	77.2%	78.2%
Asian	87.8%	90.8%	89.2%	90.0%	90.8%	90.8%
American Indian/Alaskan Native	78.4%	74.0%	77.5%	79.9%	75.9%	78.4%
Black or African American	75.9%	74.6%	76.7%	77.9%	77.0%	78.5%
Hispanic	76.4%	75.2%	78.9%	78.4%	78.8%	80.9%
Native Hawaiian/Pacific Islander	62.3%	82.1%	79.6%	64.2%	76.8%	83.0%
Multi-Racial	83.8%	82.1%	82.8%	85.2%	84.2%	84.5%
White	87.7%	87.3%	88.2%	88.5%	88.4%	88.8%

When reviewing graduation rates, the current four-year rate should be compared to the previous four-year rate and the current five-year rate should be compared to the previous five-year rate. It is not appropriate to compare the current four-year rate to the current five-year rate. This is because the current four- and five-year rates both ended in 2014, with the four-year rate starting four years earlier and the five-year rate starting five years earlier.

The adjusted cohort graduation rates reflect the percentage of students in a cohort, adjusted for transfers into and out of the school, district, or state, who graduate with a regular high school diploma within four or five years of entering high school.

State-Level Annual Dropout Rates by Subgroup (public schools only)

Student Group	2012 Dropout Rate	2012 Dropout Count	2013 Dropout Rate	2013 Dropout Count	2014 Dropout Rate	2014 Dropout Count
All Students	1.4%	2945	1.6%	3265	1.5%	3221
Students with Disabilities	1.6%	413	1.9%	471	1.9%	475
Limited English Proficient	1.7%	234	2.1%	274	2.6%	364
Paid Lunch	1.1%	1363	1.4%	1597	1.5%	1685
Free/Red. Lunch	1.7%	1582	1.8%	1668	1.6%	1536
Asian/ Native Hawaiian/ Pacific Islander	0.9%	47	1.0%	54	1.0%	60
American Indian/ Alaskan Native	2.6%	66	2.3%	58	1.9%	46
Black or African American	2.4%	368	2.7%	406	2.4%	355
Hispanic	1.9%	604	2.2%	719	2.3%	814
Multi-Racial	1.7%	141	2.1%	182	2.0%	178
White	1.2%	1719	1.3%	1846	1.2%	1768

The dropout rate is calculated annually and reflects the number of seventh– twelfth grade students who drop out in any one school year. A dropout is any student who exits school between October 1 and September 30 with a dropout EXIT code AND does not re-enroll in school by September 30.

The Kansas State Department of Education does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities. The following person has been designated to handle inquiries regarding the non-discrimination policies:
KSDE General Counsel, Landon State Office Building, 900 SW Jackson, Suite 102, Topeka, KS 66612, (785) 296-3201

Appendix E:

Kansas State Department of Education Graduation and Dropout Data



Event Detail

Kansas State Board of Education votes on budget recommendations

Description:

Ann Marie Bush, Communications Specialist (785) 286-2821

FOR IMMEDIATE RELEASE
July 15, 2016

Kansas State Board of Education
votes on budget recommendations

TOPEKA — The Kansas State Board of Education on Tuesday voted to recommend a \$500 million, two-year increase in state school aid to Gov. Sam Brownback.

The board believes this move is essential to provide the resources necessary for the state to achieve the new vision — Kansas leads the world in the success of each student.

The recommendations, which is required by state statute, would increase general fund operating state aid by \$565.6 million for fiscal year 2018 and \$327.8 million for FY 2019.

The board is recommending increasing the base state aid per pupil from \$3,852 to \$4,504 in FY 2018 and \$5,090 in FY 2019. This would require an extra \$519 million in 2018 and \$305 million in 2019.

The board also is recommending special education state aid be increased from \$433.9 million to about \$465 million for FY 2018 and \$474 million for 2019.

Pre-K pilot would gain \$900,000, raising it to nearly \$5 million in 2018. It would remain the same for 2019. This program offers funding for preschool programs operated by public and private agencies. This increase would support the board's five outcomes, which will be used to help measure the progress of the vision.

The five outcomes are kindergarten readiness; Individual Plan of Study (IPS) focused on career interest; high school graduation rates; postsecondary completion/attendance; and social/emotional growth measured locally.

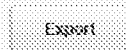
The board also is recommending \$35,000 each for Agriculture in the Classroom, Communities in School and the Kansas Association of Conservation and Environmental Education. These programs haven't been funded in recent years.

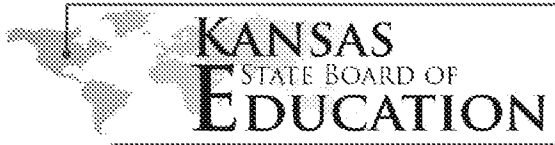
Other recommendations include:

- Adding \$460,000 in 2018 for the Parents as Teachers program, which would allow 1,000 more children to be served. The board is asking for the funds to come from the Children's Initiative Fund, which uses reserves from the state tobacco settlement.
- Restoring funding for the Mentor Teacher Program at an additional cost of \$3 million.
- Restoring funding for the Professional Development program at a cost of \$4.25 million.
- Adding \$800,000 to fully fund the cost of transporting students to technical education programs.

The recommendations will be presented to Shawn Sullivan, the Kansas' budget director. They then will be considered by the governor and the Legislature.

###





Janet Waugh
District 1

Steve Roberts
District 2

John W. Bacon
District 3

Catalyn L. Wims-Campbell
District 4

Sally Casble
District 5

Deena Host
District 6

Kenneth Willard
District 7

Kathy Busch
District 8

Jim Porter
District 9

Jim McHenry
District 10

Great students. Great teachers. Great leaders. Great citizens.

BOARD BRIEFS: A SUMMARY REPORT OF JULY 12 AND 13, 2016 MEETING

Action

- Adopted the findings and recommendations of the Professional Practices Commission on seven cases.
- Scheduled a special Board Meeting via conference call to consider the applications for Extraordinary Need State Aid. The conference call meeting is 2 p.m. Central on Thursday, Aug. 4.
- Approved the following budget recommendations to the state for Fiscal Year 2018 and FY 2019:
 - fund Base State Aid Per Pupil at \$4,604 for FY 2018 and \$5,090 for FY 2019, which includes recommended funding for Special Education at 85 percent of excess cost
 - fund the new law for Supplemental General State Aid (local option budget)
 - fund the law for Capital Outlay State Aid
 - increase Parents as Teachers funding by 1,000 children for an additional cost of \$460,000 and request that Children's Initiative Funds be utilized
 - fund 100 percent of the law for the Mentor Teacher Program
 - fund Professional Development at 50 percent of the law
 - fund Agriculture in the Classroom, Communities in Schools and Kansas Association of Conservation and Environmental Education (KACEE) at \$35,000 each
 - fund the law for National Board Certification
 - fund Pre-K Pilot program at the 2009-10 level for an additional cost of \$900,000 and request that Children's Initiative Funds be utilized
 - fund technical education transportation at original level for an additional cost of \$800,000
 - Note: no action was taken to make new recommendations for all-day kindergarten, transportation, school lunch and discretionary grants

Reports and Presentations

- Received an update on the work to align Kansas to the Every Student Succeeds Act with a goal of full implementation in the 2017-18 school year
- Received a report and recommendations from the Blue Ribbon Task Force charged with studying teacher vacancies and supply in Kansas
- Reviewed an application for Innovative District status from USD 484 Fredonia
- Learned about summer food service programs including multiple projects at Iola USD 257

Work Session on High School Graduation Rates and Postsecondary Completion/Attendance

The five state-level outcomes to drive the *Kansans CAN* vision include a focus on high school graduation rates and postsecondary completion/attendance. KSDE staff members led discussions on graduation and dropout rates, workforce trends and markers for tracking postsecondary attainment.

Next Meeting

- Tuesday, August 9 and Wednesday, August 10 in the Board Room, Suite 102, of the Landon State Office Building.

KANSAS STATE BOARD OF EDUCATION
Meeting Minutes
July 10, 2012

CALL TO ORDER

Chairman Dennis called the July meeting of the State Board of Education to order at 10:01 a.m., July 10, 2012 in the Board Room of the Kansas Education Building, 120 SE 10th Avenue, Topeka, Kansas.

7/10/12 a.m.
 session audio
 archive
 (00:00:08)

ROLL CALL

Members present were:

John Bacon	David Dennis	Sue Storm	Mrs. Wims-Campbell was present by phone.
Sally Cauble	Kathy Martin	Janet Waugh	
Walt Chappell	Jana Shaver	Ken Willard	

STATE BOARD MISSION STATEMENT, MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Chairman Dennis read the Board Mission Statement and then called for a moment of silence. The moment of silence was followed by the recitation of the Pledge of Allegiance.

APPROVAL OF THE AGENDA

Before approval of the agenda Chairman Dennis indicated the executive session later in the day would have to be moved to Wednesday. There being no other changes, Mrs. Cauble made a motion to approve the agenda, with a second by Chairman Dennis. The motion carried 10-0.

(00:02:16)
MOTION
 (00:02:27)

APPROVAL OF THE JUNE MINUTES

Mrs. Cauble moved, with a second by Chairman Dennis, that the June minutes be approved as submitted. Discussion followed the motion and the brevity of Board reports in the minutes was questioned. It was noted that the time on the audio record of the meeting was noted for Board items so that individuals who wanted to hear the whole conversation could. The motion carried 10-0.

MOTION
 (00:02:47)

COMMISSIONER'S REPORT - Teaching In Kansas Commission II (TKCII)

Commissioner DeBacker introduced Scott Myers, the new Director of Title Programs and Services. He took the opportunity to share some of his education background with the Board.

(00:06:47)

The Commissioner gave an update regarding the Teaching In Kansas Commission II (TKCII) which will be charged with addressing the requirements of Principle 3 of the Elementary and Secondary Education Act (ESEA) Flexibility waiver. Principle 3 requires the State Education Agency to develop and adopt guidelines for teacher and principal evaluation systems which include student growth as a significant factor. She made available to the Board members the latest membership list and noted that many positions were yet to be filled, including nominees from several Board members. The proposed timeline included a preliminary report to the Board in December, with the final report in March or April of 2013.

An objection was raised about the whole effort of tying student achievement to teacher evaluations. The validity of the KEEP pilot was also questioned and a suggestion was made to look at other evaluation models. Additionally, the Board member who was speaking in opposition to the proposal, reported that he had spoken with teachers and administrators and they did not like the KEEP system because it took too much time. The Commissioner stressed that the commission's work was not to develop an evaluation instrument, but to investigate how to tie student achievement to teacher evaluation. Regarding the KEEP pilot, Dr. DeBacker stressed it was a model evaluation system that would be available for districts to use and there were no plans for using another pilot. Further, it had been created with the assistance of ETS and was measuring the appropriate things. Mrs. Martin requested that she be allowed to attend the TKCII meetings.

CITIZENS' OPEN FORUM

(00:30:06)

Chairman Dennis declared the Open Forum open at 10:36 a.m. Those addressing the Board included John Richard Schrock, representing the Department Biological Sciences at Emporia State University, who spoke about plagiarism and the importance of integrity in scientific research and writing. He also handed out material regarding integrity in the sciences that would be circulated to science teachers across the state. Peg Dunlap, Topeka, KNEA, spoke about several topics, but primarily about the lack of recompense to participants on the TKCII. She noted how difficult it was for teachers to participate when substitute teacher reimbursement was not covered for them. She also reported on the favorable comments she had heard from the participants in the KEEP pilot. Terry Leatherman, Lawrence, representing Communities in Schools spoke of the organization's effective drop-out prevention work. He requested that the Board support the organization and that it recommend funding at \$100,000 for the organization in the Board's budget request to the Governor. Laura Downey, Manhattan, representing KACEE, spoke about the environmental program and the positive work it does in schools. She asked that the Board recommend funding of \$40,000 for 2013. Chairman Dennis declared the Open Forum closed at 10:44 a.m.

BREAK

(00:48:00)

The Board took a break from 10:49 to 10:57 a.m.

UPDATE ON ESEA FLEXIBILITY WAIVER

(00:48:12)

Assistant Director of Title Programs and Services, Judi Miller, updated the Board on the state's ESEA waiver request which is moving closer to approval. Most of the concerns raised by USDOE have been addressed, but a scheduled conference call with the agency had to be rescheduled until next week due to serious storms causing power outages in the east, including Washington, D.C. Director of Teacher Education and Licensure (TEAL), Pam Coleman participated in the presentation of information regarding Principle 3, educator evaluation that includes a tie to student achievement.

Questions and Board member feedback followed, including discussion of whether the Board should accept the waiver, if approved. Chairman Dennis requested that when the state's ESEA Flexibility Waiver request is approved that a press release be sent out that contains information on why Kansas sought the waiver.

ACT ON PLAN FOR TECHNICAL ASSISTANCE PROVIDER FOR TITLE I SCHOOLS ON IMPROVEMENT AND APPROVAL OF THE CONTRACT WITH CROSS AND JOFTUS, LLC

(01:43:49)

Deputy Commissioner Brad Neuenswander presented a brief review of the plan (presented to the Board in June) for providing technical assistance to Kansas Title I Priority and Focus schools. The new model will shift much of the administration of KLN to the Kansas State Department of Education (KSDE) and the education service centers in the state. Under the model a position will be created at KSDE for a school improvement coordinator, who will oversee the work of KLN. The education service centers will serve as network service providers, completing district needs assessments, assisting in developing and implementing district and school action plans and providing facilitators to districts. KSDE will continue to contract with Cross & Joftus to provide consultation, guidance, data and other resources to the process during the transitioning to a Kansas led Learning Network.

MOTION

(01:57:33)

Mrs. Cauble moved, with a second by Ms. Storm, that Kansas State Board of Education approve the proposed Kansas Learning Network Model and authorize the Commissioner of Education to enter into a contract with Cross and Joftus, LLC to provide technical assistance consultative services to Kansas and the Kansas Network Service Provider's, in an amount not to exceed \$80,000.

July 10, 2012
Minutes

Page 3

Asked about the plan if the ESEA Flexibility Waiver is not approved, Mr. Neuenswander explained that the priority and focus schools would change and schools on improvement would be identified as they have been in the past based on AYP. He assured the Board that though the schools would change the new model for providing technical assistance would go forward. The same amount of Title I funds would be available to the state. One member had questions about the cost data and objected to the use of sub-groups to determine AYP, and the cost/benefit of providing assistance based on it.

(02:08:09)
VOTE

The motion carried 9-1, with Chappell voting in opposition.

The Board recessed for lunch at 12:19 p.m. and returned at 1:32 p.m.

LUNCH

UPDATE ON THE TRANSITION TO KANSAS COMMON CORE STANDARDS AND SMARTER BALANCED ASSESSMENTS

The Board was updated on the transition to the Kansas Common Core Standards (KCCS) for English language arts and mathematics and the work of the SMARTER Balanced Assessment Consortium (SBAC). Tom Foster, Director of Career, Standards and Assessment Services at KSDE, shared information that is being made available to school districts to assist them in the transition to the KCCS and explained that the focus was on providing quality instruction. He noted the shift that is being made with the KCCS is one that moves away from focusing on adequate yearly progress to focusing on ensuring students are college and career ready upon high school graduation. Regarding SBAC, Dr. Foster also reported that items being developed by the consortium include formative and interim assessments, which may be used throughout the year to help teachers improve instruction and gain feedback on student progress, as well as a summative assessment taken at the end of the school year to gauge a student's ability to master the concepts and knowledge aligned to college and career readiness. The consortium is also developing a digital library of tools that will be accessible to teachers to help them transition to the new standards and assessment. He reported that the work of the consortium is on track and is expected to produce an assessment that can be implemented in the 2014-2015 school year.

7/10/12 p.m.
session audio
archive
(00:00:08)

Expressed in the discussion that followed, was a concern about the ownership and maintenance of the SMARTER Balanced Assessment at the end of the consortium grant in 2014. Dr. Foster indicated that the deliverables that will be given to the states at that time will include the item bank and the test application tool. There could also be a role for the consortium in continued support of the assessment. Beyond the concern of ownership was the role of state boards in the review process going forward and uneasiness that the responsibility and decision-making were being taken out of state boards' hands.

The necessity for a change in assessments was also questioned, as well as what standards would be assessed before the SBAC assessments were ready. It was noted that the new standards would be raising the bar and basing curriculum on the new Common Core Standards would prepare students more than adequately for the new assessments when the time comes.

Lastly, the issue of special education students and the assessments was brought up. Dr. Foster said that without the reauthorization of ESEA and federal guidance for handling special ed student assessments, questions still remained unanswered. The discussion led to testing at the end of opportunity to learn and Dr. Foster reported that it would be available at all grade levels. Staff follow up requests included a request from Dr. Chappell for cost information for schools for participation in the 2011 and 2012 for summer academies. Chairman Dennis requested more frequent updates on the development of assessments by the Smarter Balanced Consortium.

The Board took a short break at 2:50 and returned at 3:02 p.m. Mrs. Wims-Campbell had rejoined the presentation and discussion at 2:12 p.m. and John Bacon left at the break.

Break
(01:19:56)

INFORMATION ON THE VISITING SCHOLAR REGULATIONS

(01:20:18)

A discussion of the need for CTE teachers from business and industry at the June meeting resulted in the request for staff to explore the possibility of lengthening the validity period of the Visiting Scholar license, which is currently one year to three to five years, and to bring recommendations to the Board. It was also requested that the pros and cons for changing the regulation be included.

Pam Coleman, Director for Teacher Education and Licensure at KSDE, presented the pros and cons and said that while the extension would result in a small cost savings for the applicants and some savings in time for licensing staff, she was not certain it would be worthwhile to go through the process of changing the licensing regulation given that only three Visiting Scholar licenses were issued last year, out of a total 20,000 teaching licenses. Mrs. Coleman pointed out that the initial teaching license, which is granted to individuals who have completed all of the requirements for a teaching license, is only good for two years and the Board might want to be careful about granting the same privilege to individuals who are not required to have a degree in the subject area or any pedagogy training.

Mr. Willard said he was looking for a way to address the need some businesses have expressed about placing in classrooms individuals who can provide unique instruction that will prepare students for the jobs available in their industry. Several members spoke against changing the license, one noting that it had not been created for the purpose Mr. Willard was suggesting. There was also concern about the lack of pedagogy. Several did not believe the visiting scholar license was the best way to address that need. Mrs. Coleman said work is underway on a means of qualifying individuals to provide career and technical education instruction based on the career pathways and that she was hopeful something could be brought to the Board for consideration later this year.

APPOINTMENT TO THE PROFESSIONAL STANDARDS BOARD

(01:36:42)

MOTION

Mrs. Martin moved, with a second by Mrs. Shaver, that the Board appoint Mike Wilson to fill an unexpired term on the Professional Standards Board to run from July 1, 2012 through June 30, 2014. The motion carried on a vote of 8-1, with Willard voting in opposition.

RECOMMENDATION OF THE PROFESSIONAL PRACTICES COMMISSION

(01:37:52)

MOTION

Mrs. Cauble moved that the state board adopt the findings of fact and conclusions of the Professional Practices Commission and approve the recommendation of the commission in No.12-fc-04, Emily S. Swingle. Ms. Storm seconded the motion which carried on a vote of 9-0.

UPDATE ON THE NEXT GENERATION SCIENCE STANDARDS

(01:38:31)

Matt Krehbiel, KSDE Science Consultant, updated the Board on the Next Generation Science Standards by discussing the core dimensions of the standards – scientific and engineering practices, disciplinary core ideas and cross-cutting concepts. He also took time to explain scientific argument.

Break

(01:54:13)

The Board took a short break from 3:25 to 3:32 p.m. Upon returning from the break, Chairman Dennis had Ross Boden, who was filling in until the end of the day for Attorney Mark Ferguson, introduce himself.

BUDGET REQUEST FOR FISCAL YEAR 2014

(01:55:10)

Deputy Commissioner Dennis handed out a list of the school districts by Board member district and answered questions.

The Deputy Commissioner began the discussion of the FY 2014 budget by reviewing budget line items, indicating which suggested options represented state law. Mr. Willard stated that the best message he was able to get from information coming out of the Governor's office was the

July 10, 2012
Minutes

Page 5

suggestion that the Board send over a budget document stating its top priorities. There was much discussion about Board members' responsibility to serve as advocates for education, balanced against the financial realities facing the state.

Mrs. Waugh moved, with a second by Mrs. Cauble, that the Board request funding for Base State Aid Per Pupil at \$4,492/student, the amount required in statute.

MOTION
(02:33:37)

The motion was followed by discussion of priorities and the impact on the state as whole by the amount spent on education. While many Board members expressed a belief that the requirements of state law should be fully funded, there was also an acknowledgment that a request to do so would be easily dismissed given the significant increase that would be required to provide funding at that level. After much discussion, Board members agreed to identify their top priorities to try to ensure that whatever funding was available to the state would first be directed in those areas.

Mrs. Waugh moved, with a second by Mrs. Cauble, to amend her original motion with the following: That the Kansas State Board of Education submit an FY 2014 budget that would fund BSAPP at \$4,492, Special Education at the level to maintain the effort required by the federal government, and, because all know the most important influence on a student is the classroom teacher, and to impact the effectiveness of teachers, the Board should prioritize those programs that have an impact on teaching, with the number one priority being professional development, followed by teacher mentoring. Further, other programs that have funding required by law are extremely important, however instead of prioritizing them, they should be included all together. For those programs not in law, the Board would encourage funding for Ag in the Classroom, KACEE and Communities in Schools as requested.

AMENDED MOTION
(03:17:15)

Discussion followed about whether dollar amounts should be included in the motion. It was suggested that the motion be divided, with BSAPP voted on first, followed by the Boards' other priorities. The motion was again amended by Mrs. Waugh to include only vote on BSAPP at the amount to fund the law, \$4,492/pupil. The motion carried 7-2, with Martin and Chappell voting in opposition.

AMENDED MOTION
(03:33:08)

The Board then moved through its priorities.

Mrs. Waugh moved, with a second by Ms. Storm that Special Education be funded in the amount to fund the law, at approximately \$450,000. Discussion followed about the increase over the current year and what would fund the level to maintain the effort required by the federal government. Mrs. Waugh amended her motion, with second by Ms. Storm, to fund maintenance of effort for special education. The motion carried 9-0.

MOTION
(03:34:00)

AMENDED MOTION
(03:36:36)

Mrs. Waugh moved that the Mentor Teacher Program be funded at the FY 2010 level, \$1,450,000. Mrs. Wiims-Campbell provided a second. The motion carried 7-2, with Willard and Martin voting in opposition.

MOTION
(03:37:13)

Mrs. Cauble moved, with a second by Mrs. Waugh, that the Board fund the law for Professional Development, or \$8,500,000. Discussion followed about the need for professional development in schools. The motion carried 6-3, with Chappell, Willard and Martin voting in opposition.

MOTION
(03:38:13)

Mrs. Waugh moved, with a second by Ms. Storm, that Ag in the Classroom be funded at \$35,000; KACEE funded at \$40,000; and Communities in Schools at \$100,000. After discussion about the differences in funding for the three programs, the motion carried 9-0.

MOTION
(03:38:13)

It was clarified that the programs voted on represented the Board's priorities and that all other programs would remain at the FY 2013 funding level. Dr. Chappell asked for the total amount of the Board's budget request at the meeting on Wednesday morning.

CONSENT AGENDA

(03:47:19)

Mrs. Cauble moved, with a second by Ms. Storm, that the consent agenda be approved as submitted. Dr. Chappell objected to the total amount being funded. The motion carried on a vote of 8-1, with Chappell voting in opposition. In the consent agenda the Board:

- Received the monthly personnel report.
- Confirmed the appointments of: Krista Beckley to the position of Education Program Consultant on the Teacher Education and Licensure team effective June 1, 2012 at an annual salary of \$53,414.40; Diana Floyd to the position of Registered Dietitian on the Child Nutrition and Wellness team effective June 14, 2012, at an annual salary of \$53,414.40; Lynette Osner to the position of School Food Service Consultant on the Child Nutrition and Wellness team effective June 21, 2012, at an annual salary of \$43,950.40; Lee Jones to the position of Education Program Consultant on the Career, Standards, and Assessment team effective June 25, 2012, at an annual salary of \$53,414.40; and Pam Lamb to the position of Public Service Executive I on the Career, Standards, and Assessment team effective August 13, 2012, at an annual salary of \$46,092.80.
- Approved the Education Flexibility Partnership (Ed-Flex) waiver request for Valley Center Intermediate School Elementary in USD 262 Valley Center;
- Approved charter schools requests for renewal from Turning Point Learning Center, USD 253, Emporia; Pleasantview Academy, USD 312, Haven; Walton Rural Life Center, USD 373, Newton; Lawrence Virtual School, USD 497, Lawrence; West Franklin Learning Center, USD 287, West Franklin; Yoder Charter School, USD 312, Haven; Smoky Valley Virtual Charter School, USD 400, Smoky Valley; and Hope Street Academy, USD 501, Topeka.
- Adopted and set cut scores as follows for regenerated and new Praxis II licensure assessments: Special Education: Education of Deaf and Hard of Hearing Students (Test #0272) recommended score 160; Special Education: Teaching Students with Visual Impairments (Test #0282) recommended score 163; Reading Specialist (Test #5301) recommended score 164; Professional School Counselor (Test #0421) recommended cut score 156; School Superintendent Assessment (Test #6021) recommended score 160; new test Chinese (Mandarin): World Language (test #5665) recommended score 164.
- Accepted the recommendations for approval from the Licensure Review Committee for cases 2756, Erin Meyer; 2760, Cassandra Arnold; 2775, Shirin Rupshi; 2776, Mariuschka Lovera and USD 265 Goddard; 2778, Brian Campbell; 2781, Jeffrey Lutt; 2786, Martha Corbett; and denial for cases 2770, Kristen Worthington; 2771, Robert Rocha; 2773, Charles Davis; 2774, Terra Mathers; 2780, Lucille Drum; and 2784, Scott Jones.
- Approved Charter School Dissemination Grants for USD 253 Emporia and USD 400 Smoky Valley for Charter in the amount of \$77,000 each.
- Approved funding for new Kansas 21st Century Community Learning Centers Grants for 2012-2013 for USD 216, Deer field, \$164,549; USD 232, De Soto, \$114,251; USD 280, Liberal (SOAR), \$124,363; USD 290, Ottawa (Field/Lincoln), \$145,279; USD 349, Stafford, \$86,911; and USD 366, Woodson County, \$144,427.
- Approved the 2012-2013 AmeriCorps Kansas subgrantees as recommended: Boys & Girls Clubs of Greater Kansas City, \$61,493; Boys & Girls Club of Lawrence, \$133,000; Catholic Charities of Salina, Inc., \$33,250; Coffeyville USD 445, \$53,200; Communities in Schools of Kansas, \$48,400; Harvesters - The Community Food Network, \$53,041; Kansas Department of Health & Environment, \$26,400; Kansas Department of Wildlife & Parks, \$477,980; Kansas State University, Kansas Campus Compact, \$86,357; Labette County Medical Center, \$12,960; United Way of Douglas County, \$266,100; and Youth Volunteer Corps of Kansas City, \$66,473.
- Approved funding Title I School Improvement Grants 1003(g) for *Continuation Grants: Year 3*: USD 247, Cherokee, South East High School, \$328,153; USD 259, Wichita, Curtis Middle School, \$1,882,946; USD 480, Liberal, South Middle School, \$1,000,000; USD 500, Kansas City, Northwest Middle School, \$1,024,000; USD 500, Kansas City, Emerson Elementary School, \$630,000; and USD 501, Topeka, Highland Park High School,

July 10, 2012
Minutes

Page 7

\$1,970,000; Year 2: USD 259, Wichita, Pleasant Valley Middle School, \$689,060; New Grants: USD 500, Kansas City, Douglass Elementary School, \$1,165,155; and USD 500, Kansas City, New Stanley Elementary School, \$1,337,026.

Authorized the Superintendent of the Kansas School for the Deaf and the Kansas State School for the Blind to:

- continue a contract with the Kansas Department of Health and Environment to continue a hearing aid loan bank with the contract amount to be received by KSSD not to exceed \$45,000;
- to renew contracts with: Ron Wilson, LCSW, for Counseling/Evaluation Services in the amount of \$15,000; and USD 500 School District, for Speech Therapy Services, in the amount of \$32,000;
- contract for out-of-state tuition for the 2012-2013 school year for students attending Kansas State School for the Blind (KSSB) and receive tuition from: Liberty, Missouri School District, Day Student for the Regular School Year 2012-2013 at \$17,000 and Smithville, Missouri School District, Regular School Year 2012-2013, Day Student for the Regular School Year 2012-2013 at \$17,000

Authorized the Commissioner of Education to negotiate and:

- continue a contract with Coyote Consulting, LLC to provide statewide coordination services for the Partnership in Character Education grant at the rate of \$44 per hour; plus reimbursement for reasonable and necessary expenses incurred as a direct result of providing the requested services including in-state and out-of-state travel in an amount not to exceed \$9,720.00. Provided, the total amount of this contract not exceed \$59,000.00;
- contract with the Institute for Excellence & Ethics, as part of the Partnerships in Character Education Program grant, in an amount not to exceed \$43,000.00.

There being no further business Chairman Dennis recessed the meeting at 5:35 p.m.

RECESS
(03:49:12)

David Dennis, Chairman

Penny Plamann, Secretary

APPROVED

**KANSAS STATE BOARD OF EDUCATION
Meeting Minutes**

July 11, 2012

CALL TO ORDER

Chairman Dennis called the second day of the July meeting of the State Board of Education to order at 9:00 a.m., July 11, 2012 in the Board Room of the Kansas Education Building, 120 SE 10th Avenue, Topeka, Kansas.

7/11/12 a.m.
session audio
archive
(00:00:06)

ROLL CALL

John Bacon	David Dennis	Sue Storm	Mrs. Wims-Campbell joined the meeting by phone at 9:03 a.m.
Sally Cauble	Kathy Martin	Janet Waugh	
Walt Chappell	Jana Shaver	Ken Willard	

APPROVAL OF THE AGENDA

Mrs. Cauble made a motion to approve the agenda with the addition of an executive session. Chairman Dennis seconded the motion which carried 9-0.

MOTION
(00:01:44)

RESOLUTION ACKNOWLEDGING THE KANSAS ALLIANCE FOR THE ARTS IN EDUCATION

At the June meeting Ms. Storm asked the Board to consider a resolution that would acknowledge the formation of the Kansas Alliance for the Arts in Education, as well as recognize the efforts of the Alliance to keep the arts part of K-12 education. Kathy Toelkes, KSDE Director of Communications presented the resolution to the Board. Joyce Huser, KSDE Fine Arts Consultant, discussed the impact made on students who were given the opportunity to be exposed to and participate in the arts. President of the Board of the Alliance, Barbara Warrity, and Sandy Goetcher, a classroom teacher in Overland Park, introduced by Ms. Storm at the beginning of the meeting, spoke about the need for arts education to help promote creativity and innovation. They also noted that the group's focus was on providing professional development opportunities for educators and teaching artists.

(00:02:17)

After several Board members spoke in support of the resolution, Mrs. Waugh moved, with a second by Mrs. Martin, that the Board adopt the resolution. The motion carried 10-0. A copy of the resolution is included with these minutes.

MOTION
(00:10:33)

The Board took a short break from 9:13 to 9:16 a.m. while pictures were taken. Mrs. Wims-Campbell dropped out of the meeting with plans to again be present by phone when it came time to vote on the waiver requests.

BREAK
(00:11:42)

ASSESSMENT WAIVER REQUESTS FROM USD 224 CLIFTON-CLYDE, USD 418 MCPHERSON AND USD 500 KANSAS CITY

Representatives of the three school districts, USD 418 McPherson, USD 500 Kansas City Kansas and USD 224 Clifton-Clyde, seeking a waiver from the US Department of Education from the state assessments, made presentations on what they hoped the waiver would accomplish.

After Board member questions, Mrs. Cauble moved, with a second by Mrs. Martin, that the Kansas State Board of Education approve the waiver requests from USD 224 Clifton-Clyde, USD 418 McPherson and USD 500 Kansas City to use ACT and Explore assessments in place of state assessments in 2012-2013. After further discussion, the motion carried 10-0. Mrs. Wims-Campbell had rejoined the Board meeting 10:25 a.m.

MOTION
(01:15:35)

The McPherson district waiver will allow it to use the ACT Explore exam in place of state assessments for accountability purposes in grades 6-8, and the ACT exam in high school. The Kansas City Kansas and Clifton-Clyde school districts' waiver will allow the districts to use the ACT Explore exam in place of state assessments at grade 8 and the ACT college entrance exam in high school.

July 11, 2012
Minutes

Page 2

Break (01:21:50) The Board took a short break from 10:27 to 10:35 a.m. Mrs. Wims-Campbell left the meeting for the remainder of the day.

BOARD REPORTS

(01:22:27)

Spec Comm on KSBE's role with KSSD/KSSB

Commissioner DeBacker reviewed a written preliminary report of the Special Committee on Governance of KSSD and KSSB. Discussion followed and Board members were invited to make additional recommendations. Several Board members and committee members responded to criticism from one Board member because oversight tasks that he felt should be included were not recommended. Mrs. Cauble asked for more information about the items in a table provided under the heading "Required by Statute, Regulation or Policy". Mr. Bacon asked that items on the Consent Agenda dealing with KSSD and KSSB be put together separated from other items in order to bring them to board members' attention. Additionally, information was sought about how effective efforts to identify students not attending either of the two schools were and if they were being adequately served.

Chairman

Chairman Dennis updated Board members on several issues regarding NASBE finances. He asked for Board consensus on an incentive that was being considered to bring back states that were no longer paying dues or participating in NASBE. The incentive would be to grant a 20 percent reduction in the cost of having one additional member attend the NASBE New Member Institute and a similar reduction in the cost for attending the annual meeting. The Board agreed.

Attorney

Mr. Ferguson indicated that he didn't have anything to add to his written report that was sent to the Board earlier.

Other Board Member Reports

In other Board member reports members reported on meetings attended during the past month, including an update from Mrs. Shaver on activity of the KAACTE. She indicated she was disappointed in the lack of information going to businesses regarding the career pathways. Mrs. Cable reported on two NASBE Governmental Affairs Committee phone calls and noted that there had not been much change in movement on the ESAE reauthorization.

Requests for Future Agenda Items

Dr. Chappell asked for a presentation by TOPS, a preschool program in Wichita. Dr. DeBacker indicated that a presentation on pre-K was scheduled for September and that innovative programs would be highlighted. She added that the Wichita program could be included. Mrs. Shaver noted that was the reason she had asked that a pre-K item be included on an upcoming agenda was to look at outstanding program models.

REQUESTS FOR STATE BOARD TRAVEL

MOTION

(01:34:28)

Mr. Willard moved, with a second by Ms. Storm that Board travel requests be approved. Dr. Chappell asked to add salary, per diem and mileage for the KACEE conference in Topeka on 7/27. The motion carried 8-1, with Cauble voting in opposition.

EXECUTIVE SESSION

MOTION

(01:36:14)

Mr. Willard moved, with a second by Mr. Bacon, that after a break the Board recess into Executive Session at 11:45 a.m. for 20 minutes under the provisions of executive sessions to discuss negotiated agreements; with the open meeting of the Board to resume in the Board Room at 12:05 p.m. No action would be taken after the session. Commissioner DeBacker was invited to remain. The open meeting resumed at 12:03 p.m.

July 11, 2012
Minutes

Page 3

ADJOURNMENT

A summary of the Board's 2014 budget request totaling \$450.267 million in new funding was given to Board members. There being no further business, Chairman Dennis adjourned the meeting at 12:05 p.m. (02:05:18)

David Dennis, Chairman

Penny Plamann, Secretary

RESOLUTION
IN SUPPORT OF THE
KANSAS ALLIANCE FOR THE ARTS IN EDUCATION

WHEREAS, the Kansas State Board of Education is dedicated to preparing Kansas students for lifelong success through rigorous academic instruction, 21st century career training and character development according to each student's gifts and talents; and

WHEREAS, students with an education rich in the arts – regardless of their socioeconomic status - have higher GPAs and standardized test scores, lower dropout rates and better attitudes about community service; and

WHEREAS, a strong relationship between learning in the arts and fundamental cognitive skills and capacities used to master other core subjects, such as reading, writing and mathematics, has been demonstrated; and

WHEREAS, students with four years of arts or music in high school average 100 points better on their SAT scores than students with one-half year or less; and

WHEREAS, The Conference Board reports that creativity is among the top five applied skills sought by business leaders, with 72 percent saying creativity is of high importance when hiring; and

WHEREAS, the Kansas Alliance for the Arts in Education was formed in January 2012 to ensure that arts are an integral part of quality preK-12 education in order to promote students' personal development and academic performance; and

WHEREAS, the Kansas Alliance for the Arts in Education seeks to provide professional development opportunities statewide for educators and teaching artists through workshops, symposiums, and an annual conference; and

WHEREAS, the Kansas Alliance for the Arts in Education aims to work directly with district curriculum and fine arts coordinators to develop meaningful integration strategies for effective teacher training; and

WHEREAS, the Kansas Alliance for the Arts in Education is committed to identifying and prioritizing key arts education issues in the state of Kansas and basing policy recommendations on research and assessment related to the benefit of the arts and student achievement; and

WHEREAS, the Kansas Alliance for the Arts in Education advocates for the development and sustainability of policy that positions the arts as a core academic subject;

NOW, THEREFORE, BE IT RESOLVED, that the Kansas State Board of Education acknowledges the formation of the Kansas Alliance for the Arts in Education and applauds the efforts of the association to ensure the arts remain a viable part of preK-12 education in Kansas to improve the achievement of Kansas students.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the Kansas State Board of Education on the 11th day of June, 2012.

s/ Penny Plamann

Penny Plamann,
Secretary of the Kansas State Board of Education

KANSAS STATE BOARD OF EDUCATION

Meeting Minutes July 9, 2013

CALL TO ORDER

Chairman Jana Shaver called the monthly meeting of the State Board of Education to order at 10 a.m. Tuesday, July 9, 2013 in the Board Room of the Kansas State Education Building, 120 SE 10th Ave., Topeka, Kansas.

7/09/2013
A.M. Session

ROLL CALL

Members present were:

Kathy Busch	Steve Roberts
Carolyn Wims-Campbell	Jana Shaver
Sally Cauble	Janet Waugh
Deena Horst	Ken Willard
Jim McNiece	

Member John Bacon was absent for the morning session.

STATE BOARD MISSION STATEMENT, MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Chairman Shaver read the Board Mission Statement. She then asked for a moment of silence after which the Pledge of Allegiance was recited.

APPROVAL OF AGENDA

Mrs. Horst moved to approve the July 9 agenda as presented. Mrs. Waugh seconded. Motion carried 9-0 with Mr. Bacon absent.

MOTION

APPROVAL OF THE JUNE MEETING MINUTES

Mrs. Wims-Campbell moved to approve the minutes of the June Board Meeting. Mrs. Busch seconded. Motion carried 9-0 with Mr. Bacon absent.

MOTION

COMMISSIONER'S REPORT

Commissioner Diane DeBacker introduced Jason Jones, a doctorate student through St. Louis University, who was job shadowing her for the day. In her report to the Board, she discussed the Governor's statewide tour to present checks to school districts that participated in the Career and Technical Education program. Upcoming presentations are July 11 in Pittsburg, Andale and Hutchinson, and July 23 in Garden City. She announced her appointment to the Digital Learning Task Force for CCSSO and her placement on the nominating committee for the Education Commission of the States (ECS). She currently serves on the ECS finance committee and the executive committee. At the organization's national forum in June, Dr. DeBacker co-presented "Closing the Gap in What High Schoolers Read and What College Expects" along with Malbert Smith of Metametrics. She then shared a video clip from the School Improvement Network showing one kindergarten teacher's strategy to blend math and language arts within the Common Core Standards.

AUDIO BEGAN
(00:00:07)

CITIZENS' OPEN FORUM

Chairman Shaver declared the Citizens' Forum open at 10:32 a.m. Those speaking were: Charles Cozad, Topeka, discussing the idea of teaching labor insurance law in schools; A.J. Cameron, Roeland Park, about retaining the University of Kansas assessment testing for students; Kristin George, Pratt, support for current Kansas assessments and a plea to withdraw from the Smarter Balanced Assessment Consortium (SBAC); Walt Chappell, Wichita, representing Educational Management Consultants,

(00:28:53)

support of CETE services and retaining current assessments; Rep. Allan Rothlisberg, Grandview Plaza, retaining current assessment programs and delaying other implementation; Megan King, Lawrence, opposed to Common Core and SBAC assessments; Harry McDonald, Olathe, representing Kansas Citizens for Science, support and thanks for adopting science standards.

Chairman Shaver declared the Citizens' Open Forum closed at 10:56 a.m.

BREAK
(00:52:37)

The Board took a break from 10:56 to 11:05 a.m.

(00:53:19)

LICENSURE REVIEW PROCESS

Dr. Scott Myers, KSDE Director of Teacher Licensure and Accreditation, briefly explained about his department and introduced Susan Helbert, TLA Assistant Director, who gave an overview of the licensure application process, including documentation needed and the various license levels. Ed Raines, principal at Washburn Rural High School and a former member of the Licensure Review Committee, described the committee's functions and the review process. He also noted the appeal steps.

LUNCH
(01:56:51)

The Chairman recessed the meeting for lunch at 12:10 p.m. The Board reconvened at 1:30 p.m. Member John Bacon joined the group for the afternoon session.

7/09/13 P.M. Session Audio
(00:00:45)

KANSAS EDUCATOR CODE OF CONDUCT

Following several years of study and development, the Professional Standards Board has adopted a Kansas Educator Code of Conduct. Dr. Scott Myers, Director of Teacher Licensure and Accreditation, presented information that summarized educator responsibilities to students, districts and the profession. He shared literature that will communicate the Code of Conduct to educators. He also explained the differences between a Code of Ethics and a Code of Conduct. Next steps include marketing the information and incorporating the Code of Conduct into pre-service programs and professional development training.

(00:26:15)

UPDATE ON KANSAS LEARNING NETWORK

The Kansas Learning Network assists Title I schools identified as Priority or Focus Schools based on achievement data. There are 33 Priority schools and 66 Focus schools. Colleen Riley, Early Childhood Special Education and Title Services Director, and Sandy Guidry, ECSET Assistant Director, updated the Board on KLN activities during Year 1 of implementing the Kansas ESEA Flexibility Waiver. Ms. Guidry talked about ways KLN has assisted with needs assessments, provided implementation coaches and district facilitators, and conducted progress monitoring. Both presenters shared student performance data and some of the resources KLN utilizes, such as the KansaStar Tool.

BREAK
(01:24:48)

The Board took a break from 2:55 to 3 p.m.

(01:25:07)

ASSESSMENT UPDATE

Scott Smith, Assessments Assistant Director, updated the Board on waiver option considerations. This applies to states that would like to avoid double testing students while the random sampling (10 percent) of Smarter Balanced Assessment Consortium (SBAC) tests are being conducted. The waiver would provide that students take only one end-of-year test. The 90 percent remainder will take the transitional assessment, which is required by the accountability waiver and will allow districts to use the new browser-based KITE test engine that all students will use in 2015. Earlier in the year, 68 districts participated in a SBAC pilot. Mr. Smith addressed technology requirements and then answered concerns from Board members that some schools might encounter computer compatibility problems. Mrs. Horst, Mrs. Cauble, Mr. Willard and Mr. Bacon inquired about Broadband width and the inability to preview practice questions from less well known Internet browsers. Mr. McNiece asked

for a list of the pilot districts and a assessment timetable chart. Dr. DeBacker noted that no recommendation has been brought forth yet for a statewide summative assessment; research is still being conducted. Mrs. Busch and Mrs. Cauble both commented that the assessments need to be instructionally based. Mr. Willard asked for assurance that Personally Identifiable Information will not be released and that computer capability will not be an issue with new assessments.

LEGISLATIVE MATTERS: FY 2015 BUDGET OPTION DISCUSSION

Deputy Commissioner Dale Dennis provided the Board with budget options to consider for FY 2015. He explained that the State Board has the opportunity to recommend amended budget changes to the Governor at this time. The Board’s decisions are to assist KSDE staff in preparing a final budget by Sept. 15. Mr. Dennis gave historical background of educational funding as well as 2014-15 figures for meeting statutory amounts. Mrs. Cauble moved to ask the Legislature for the resources to fund the Kansas statutes that they adopted. Mrs. Waugh seconded. Discussion followed. Mr. McNiece stated that the National Board Certified Teachers Program has the power to change the culture of an educational environment. He also said that not funding programs and cutting the Base State Aid Per Pupil (BSAPP) has hurt schools. Mrs. Horst asked for clarification on the motion that funding was for all statutes and not just some. Mrs. Busch commented that schools are a huge economic driver and that the Legislature should fund what was approved by law. Mrs. Waugh agreed that the law should be funded and stated that businesses move to states with excellent schools. Mr. Roberts indicated that he supports restoration of the full supplemental general state aid, but doesn’t support the broad motion. Mr. Willard expressed his opposition because this funding would be in the neighborhood of a 20 percent tax increase to the parents in his district. Mrs. Wims-Campbell said that she particularly supports the base state aid and special education funding. Mrs. Horst said that it was time to encourage the Governor and Legislature to phase in what the law says. Mr. Dennis reiterated which areas were statutory: BSAPP at \$4,492, Supplemental General (Local Option Budget), Special Education at 92 percent excess cost, Parents as Teachers, Teacher Mentoring Program, Professional Development, School Lunch, Capital Outlay, and National Board Certification. With no further discussion, the motion carried 7-3, with Bacon, Willard and Roberts in opposition.

(02:27:54)

MOTION
(03:01:19)

Mrs. Shaver asked members to reference the approved Board goals for consideration of additional funding by the Governor. Mrs. Busch moved to support all-day kindergarten over a five-year implementation period. Mrs. Waugh seconded. Motion carried 7-3, with Bacon, Willard and Roberts in opposition.

MOTION
(03:30:04)

Mrs. Waugh moved to support Agriculture in the Classroom at the 2010-11 level and the Kansas Association of Conservation and Environmental Education at the 2008-09 level. Mr. McNiece seconded. Motion carried 9-1 with Busch in opposition.

MOTION
(03:40:52)

At the end of Mr. Dennis’ report, he indicated that a list of interim legislative study committees and their memberships was not yet available to share.

The Board took a break from 5:20 to 5:25 p.m.

BREAK
(03:42:53)

APPOINTMENTS TO SPECIAL EDUCATION ADVISORY COUNCIL

Colleen Riley requested that the Board ratify the nominees as presented to fill two of the three open positions on the Special Education Advisory Council (SEAC). She noted that at this time no qualified nominees have been submitted for the Adult Corrections vacancy. In the search for a replacement, several questions surfaced — Mrs. Horst asked if the candidate had to be from a penal institution, Mr. McNiece asked if the candidate could be retired, and Mrs. Wims-Campbell asked if someone from a Sheriff’s office could be eligible. These questions would be researched. Mrs. Wims-Campbell then moved to approve the nominations of Judy Martin, Gardner, to represent homeless children, and

MOTION
(03:49:47)

Dr. Rob Scott, Hays, to represent a vocational, community or business organization concerned with provision of transition services. Mrs. Waugh seconded. Motion carried 10-0. These appointments are from July 2013 through June 2016.

(03:50:41)

NEXT STEPS FOR KANSAS COLLEGE AND CAREER READY STANDARDS FOR SCIENCE

Matt Krehbiel, Education Program Consultant for Math and Science, outlined the plans for supporting implementation of Kansas' new science standards. The plan's four phases begin with Year Zero (2013-14) and continue yearly until Phase IV at 2016-17 and beyond. He explained the basics of what would occur in the classroom and behind the scenes during the multi-year implementation period. This also includes an assessment timeline and collaboration with other states that have adopted new science standards. Mr. Krehbiel added that districts need to be fearless in what they want for science and to set grand aspirations.

(04:08:09)

ESEA WAIVER UPDATE

Deputy Commissioner Brad Neuenswander updated the Board on the state's progress in reaching several of the main components of the Elementary and Secondary Education Act (ESEA) Flexibility Waiver. Principle 1 involves College and Career Ready Standards and Assessments. The first year of full implementation for KCCRS in Math and English Language Arts will be 2013-14. Transitional assessments will occur then as well. Principle 2 focuses on Accountability and Support for Schools as achievement and growth over time are evaluated. Principle 3 considers Teacher and Leader Evaluations. KSDE staff is currently working on amending the Kansas ESEA Flexibility Waiver for approval in 2013-14 with no conditions.

MOTION
(04:22:29)

CONSENT AGENDA

Mrs. Horst moved and Mr. McNiece seconded a motion to approve the Consent Agenda. Motion carried 10-0. In the Consent Agenda, the Board:

- Received the monthly Personnel Report.
- Confirmed appointments of the following unclassified special projects personnel: Kevin Fross as Enterprise Support Specialist on the Information Technology team effective May 13, 2013 at an annual salary of \$68,000; Christopher Scott as Quality Assurance Technician on the IT team effective May 13, 2013 at an annual salary of \$48,484.80; Victoria Seeger as Education Program Consultant on the Teacher Licensure and Accreditation team at an annual salary of \$56,118.40; and Michael Wallis as Public Service Executive II on the Research and Evaluation team effective June 23, 2013 at an annual salary of \$53,414.40.
- Approved the Education Flexibility Partnership (Ed-Flex) waiver requests of USD 233 Olathe, USD 259 Wichita Public Schools, USD 305 Salina Public Schools, and USD 443 Dodge City Public Schools.
- Approved granting Visiting Scholar licenses for the 2013-14 school year to Janet Graham as CAPS Instructor for Global Business courses, and to Robin Bacon (renewal) as CAPS Medical Simulation Instructor, both for Blue Valley USD 229.
- Approved the adoption of new cut scores for regenerated and new Praxis II licensure assessments as follows: Psychology Test 0391/5391 score 154, Journalism Test 0223 score 150, English/Language Arts: Content Knowledge Test 5038 score 162, Middle School English Language Arts Test 5047 score 158, Mathematics: Content Knowledge Test 5161 score 152, and Middle School Mathematics Test 5169 score 157.
- Approved the in-service education plans for USD 107 Rock Hills, USD 261 Haysville, USD 269 Palco, USD 275 Triplains, USD 315 Colby, USD 335 North Jackson, USD 351 Macksville, USD 357 Belle Plaine, USD 388 Ellis, USD 393 Solomon, USD 405 Lyons, USD 428 Great Bend, USD 437

Auburn Washburn, USD 439 Sedgwick Public Schools, USD 454 Burlingame, USD 458 Basehor-Linwood, USD 475 Geary County Schools, USD 502 Lewis, USD 512 Shawnee Mission Public Schools.

- Accepted recommendations of the Licensure Review Committee as follows: Approved Cases -- 2828 Sabrina Madison, 2856 Stephen Disbrow, 2861 Howard Barton, 2865 Tiffany Wafer, 2868 Ali Fant, 2876 Patricia Kullback, 2883 Heather Davis, 2887 Joyce Gourley, 2888 James Casey, 2891 Lynda Holder, 2892 Tiffany Richards, 2893 Renee Waters, 2894 Janet Williams; and Denied Cases — 2848 Loretta Klamik and 2863 Neil Trottier.
- Accepted the following recommendations of the Evaluation Review Committee for program approval: **Associated Colleges of Central Kansas** — Adaptive Special Education (A, K-6, 6-12) approved with stipulation through Dec. 31, 2020; **Bethel College** — Biology (I, 6-12) approved with stipulation through Dec. 31, 2018; **University of Kansas** — Art (I, PreK-12, Adaptive Special Education (A, K-6, 6-12), Building Leadership (A, P-12), District Leadership (A, P-12), Early Childhood Unified (I, B-K), Early to Late Childhood (I, K-6), English Language Arts (I, 6-12), Functional Special Education (A, P-12), Music (I, PreK-12), Reading Specialist (A, P-12), School Psychology (A, P-12) all approved with stipulation through Dec. 31, 2021.
- Accepted the recommendation for accreditation from the Evaluation Review Committee for Haskell Indian Nations University through Dec. 31, 2014.
- Approved renewal of charter school status for Insight School of Kansas (USD 230 Spring Hill) and Service Valley Charter Academy (USD 504 Oswego). The charter status is renewable for five years.
- Approved amended IDEA Title VI-B Special Education Targeted Improvement Plan grant amounts for Garden City USD 457 (\$85,032) and for High Plains Coop-Ulysses (\$87,860) for FY 2014.
- Approved an Interlocal Agreement to create and manage the Northwest Kansas Educational Service Center with these participating Unified School Districts: 103, 105, 208, 241, 242, 274, 275, 281, 291, 292, 293, 294, 297, 314, 315, 316, 352, 412 and 468.

Authorized the Commissioner of Education to negotiate and

- * authorize the Kansas State School for the Blind's Superintendent to enter into 2013-14 school year contracts for out-of-state tuition with the Liberty (Missouri) School District at \$17,000 for one student and the Smithville (Missouri) School District at \$17,000 for one student;
- * authorize the Kansas State School for the Deaf's Superintendent to enter into 2013-14 school year contracts for out-of-state tuition with the Central School District (Missouri) at \$36,000 for two students plus additional services not to exceed \$2,340, and the North Kansas City School District (Missouri) at \$40,000 for one student plus additional services not to exceed \$3,510;
- * enter into a contract with a vendor to be determined to recover and repair the Body Venture Exhibit in an amount not to exceed \$150,000;
- * enter into a contract with the Kansas Association of Broadcasters for the purpose of disseminating public service announcements about the Eat Smart, Play Hard Video News and to encourage healthy eating and physical activity at school and at home in an amount not to exceed \$40,000;
- * enter into a contract with a vendor for the physical move of the KSDE data center. KSDE will work with the Department of Administration to evaluate bids and negotiate a contract. The final cost will not be known until late July.
- * continue a contract with the Kansas Department of Health and Environment and the Kansas Department for Children and Families to support the Coordinating Council on Early Childhood Development Services in an amount no to exceed \$43,000;
- * continue a contract with the Kansas Department of Health and Environment for the continued support of an interagency information/resource service for persons with disabilities to provide

toll-free telephone access to information on health, social service and education services and resources available from public supported programs and special grant projects in an amount not to exceed \$25,000;

- * select a vendor to assist KSDE in the development of a state teacher mentoring and induction model including the curriculum for and training of teacher mentors in a contract amount not to exceed \$88,000 with the ability to renew annually through June 30, 2016.

RECESS

Chairman Shaver recessed Tuesday's Board meeting until 9 a.m. Wednesday.

RECESS
(04:22:43)

Jana Shaver, Chairman

Peggy Hill, Secretary

KANSAS STATE BOARD OF EDUCATION

Meeting Minutes July 10, 2013

CALL TO ORDER

Chairman Shaver called the Wednesday meeting of the State Board of Education to order at 9 a.m. on July 10, 2013 in the Board Room of the Kansas State Education Building, 120 SE 10th Ave., Topeka, Kansas.

**7/10/2013
A.M. Session
audio**
(00:00:07)

ROLL CALL

Members present were:

John Bacon	Jim McNiece
Kathy Busch	Steve Roberts
Carolyn Wims-Campbell	Jana Shaver
Sally Cauble	Janet Waugh
Deena Horst	Ken Willard

APPROVAL OF AMENDED AGENDA

Chairman Shaver stated the need to add a "Receive Item" to the day's agenda concerning Celebrate Freedom Week. Mr. Willard moved to approve the amended agenda. Mrs. Horst seconded. Motion carried 10-0.

MOTION
(00:00:53)

CELEBRATE FREEDOM WEEK

House Bill 2261 designates the week containing Sept. 17 as Celebrate Freedom Week during which public schools are required to teach the history of the country's founding to grades kindergarten through eighth. Deputy Commissioner Brad Neuenswander explained to the Board that this entails amending current performance and quality criteria regulations to include the specific curriculum changes. The Board received the proposed language changes to 91-31-32(c)(9)(J) this month, which included wording straight from the bill to emphasize the original intent, meaning, and importance of the *Declaration of Independence* and the *United States Constitution*. The Board will vote on including Celebrate Freedom Week as part of the curriculum for K-8 in August. Mr. Neuenswander stated that since HB 2261 starts this fall, his team is helping to locate publicly available resources and curriculum teachers may use at no cost.

(00:01:39)

COMMUNICATIONS COMMITTEE REPORT

The State Board of Education Communications Committee of Jim McNiece and Sally Cauble prepared the beginnings of a Communications Plan that targets Board Goal #5 "To develop active communication and partnerships with families, communities, business stakeholders, constituents and policy partners." Mr. McNiece presented a Power Point outlining the plan's purpose and suggestions for reaching the Board's target audiences. Among the areas to address are building a positive image for public education in Kansas, establishing the Board's identity, and advocacy. He discussed possible avenues for accomplishing the plan and received suggestions from Board members. The information gathered will be developed into a more specific plan and brought to the Board again.

(00:20:17)

The Board took a break from 10:23 to 10:30 a.m.

BREAK
(01:21:32)

BOARD REPORTS

In her Chairman's Report, Mrs. Shaver reminded members that the October meeting will need to be in a new location due to the agency's transition to the Landon State Office Building. She asked for alternate location suggestions which will be researched for availability. A recommendation will be

**CHAIRMAN'S
REPORT**
(01:21:57)

presented in August. Her recent activities included the Kansas Career Technical Education quarterly meeting, noting that the group strives to have all career pathways represented. She shared data relevant to the recent distribution of certification incentive checks: 108 school districts and four private schools are participating, and 711 certificates were earned by students.

**LEGISLATIVE
REPORT**

None.

**ATTORNEY'S
REPORT**

Board Attorney Mark Ferguson referenced his summary submitted to the Board outlining his monthly activities. He will be attending the National Council of State Education Attorneys' annual meeting July 27-30 in Arlington, which coincides with the NASBE annual conference.

**OTHER
BOARD
MEMBER
REPORTS**

In other reports — Mrs. Busch will be participating in the Kansas Learning First Alliance webinar in August. She also reported that the Education Coordinating Council continues to work on developing relationships within the field. Mr. McNiece attended the Kansas Volunteer Commission meeting and two Summer Advocacy Meetings through the Kansas Association of School Boards. Mrs. Horst was at the KSDE Summer Academy held in Junction City, then traveled to the Governor's Career Technical Education check presentation in Concordia where she watched welding demonstrations and spoke with students. Mrs. Wims-Campbell attended the National Federation of State High Schools Association conference in Denver. One of the sessions addressed heat acclimatization/heat illness prevention and she distributed information on this topic. Mrs. Wims-Campbell also mentioned the Federation's Spirit of Sport Award and that Justin Volkman from Chapman High School in Kansas was the Section Five winner this year. Mrs. Cauble attended the Education Commission of the States conference in St. Louis and several of the KASB summer meetings throughout the state. Mrs. Waugh briefly reported on work of the Board's Policy Committee which plans to present an initial draft of changes in August. Mr. Bacon discussed meeting with a deaf student whose family was displeased with the services in Kansas and sought training elsewhere. Mr. Bacon would like the Board to meet this student and think about the services provided to deaf students. He also noted that it would be helpful to have a list of Senate districts within the Board districts. Mr. Willard and Mr. Roberts visited Heartspring School in Wichita and met with staff who are working on suggested wording within the Emergency Safety Intervention (ESI) regulations. He shared the list of nominees for NASBE's Policy Leader of the Year and Friend of Education awards. He plans to be at the CTE check presentation in Hutchinson July 11. In addition to visiting Heartspring with Mr. Willard, Mr. Roberts visited Lakemary Center in Paola to discuss ESI regulations and attended the KU Summer Conference. He stated that he advocated for an aspirational vs. prescriptive version of the Professional Standards Board Code of Conduct.

**REQUESTS
FOR FUTURE
AGENDA
ITEMS**

Board members requesting future agenda items were: Mr. Roberts would like to discuss adding a required course in religious education or ethics to student curriculum. He also commented on a recent *60 Minutes* segment with David McCullough which he included in a *YouTube* video about teacher preparation. Mr. Willard requested a CETE presentation about the interim assessment and to inquire if CETE/KU can develop the full assessment product for the state. Mrs. Campbell asked for a curriculum overview to see if labor insurance laws are covered in middle school/high school. Mrs. Horst would like to have conversations with Department of Commerce and Department of Labor representatives on how the Board can assist with economic development efforts. She also wants to hear more about the challenges local districts have in implementing CTE opportunities, particularly licensure qualifications and vo-tech involvement. Mr. Bacon asked that there be a review of services provided to deaf students in Kansas as compared to other states.

BOARD TRAVEL REQUESTS

Additions to the list for approved Board travel are as follows: Mrs. Cauble will attend the CTE check presentation in Garden City; Mrs. Shaver will attend the CTE check presentation in Pittsburg and a Common Core Forum in Admire. Mrs. Horst moved to approve the updated list of Board travel requests. Mrs. Waugh seconded. Motion carried 10-0.

ADJOURNMENT

Chairman adjourned the meeting at 11:55 a.m.

MOTION
(02:46:42)

ADJOURN
(02:47:00)

Jana Shaver, Chairman

Peggy Hill, Secretary

KANSAS STATE BOARD OF EDUCATION

Meeting Minutes July 8, 2014

CALL TO ORDER

Chairman Jana Shaver called the monthly meeting of the State Board of Education to order at 10 a.m. Tuesday, July 8, 2014, in the Board Room at the Landon State Office Building, 900 SW Jackson St., Topeka, Kansas.

**7/08/2014
A.M. Session
(00:00:05)**

ROLL CALL

The following members were present:

John Bacon	Sally Cauble	Steve Roberts
Kathy Busch	Deena Horst	Jana Shaver
Carolyn Wims-Campbell	Jim McNiece	Janet Waugh

Board member Ken Willard was absent.

STATE BOARD MISSION STATEMENT, MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Chairman Shaver read the Board Mission Statement. She then asked for a moment of silence after which the Pledge of Allegiance was recited.

APPROVAL OF AGENDA

Mrs. Waugh moved to approve the agenda as presented. Mrs. Busch seconded. Motion carried 9-0.

**MOTION
(00:02:27)**

APPROVAL OF THE JUNE MINUTES

Mrs. Horst moved to approve the minutes of the June regular Board meeting. Mrs. Cauble seconded. Motion carried 9-0. Ms. Wims-Campbell moved to approve the minutes of the June 25 Special Board meeting. Mr. McNiece seconded. Motion carried 9-0.

**MOTION
(00:02:47)**

COMMISSIONER'S REPORT

Brad Neuenswander, who is serving as Interim Commissioner, reported on developments with the state's ESEA Flexibility Waiver. Current amendments to the waiver focus on working with the Center for Educational Testing and Evaluation (CETE) to develop assessments, allowing multiple assessments at the high school level for accountability, and implementing a new model for teacher/leader evaluations. The U.S. Department of Education invited states to extend their original waivers into the 2014-15 school year since Congress has not yet reauthorized ESEA, which was to have occurred in 2007. He reminded members of the three principles in the waiver — college and career ready standards and assessments, accountability with Annual Measurable Objectives, and teacher/leader evaluations. Mr. Neuenswander also mentioned progress on two other topics — continued work with higher education officials on preparing students for post-secondary and efforts to partner with such groups as the Kansas Highway Patrol to help schools develop good crisis management plans.

(00:03:40)

CITIZENS' OPEN FORUM

Chairman Shaver declared the Citizens' Forum open at 10:25 a.m. Those speaking were: Catherine Johnson of the Disability Rights Center of Kansas regarding a draft proposal for a dispute resolution process to aid parents with complaints about use of Emergency Safety Interventions. Chairman Shaver declared the Citizens' Open Forum closed at 10:32 a.m.

(00:24:52)

ACTION ON RECOMMENDATION REGARDING 2014 STATE ASSESSMENTS

(00:33:39)

Dr. Scott Smith, Director of Career Standards and Assessments, reviewed accomplishments from the transitional assessments in 2014 which used new technology-enhanced questions and a new interactive test engine. He also reviewed some of the difficulties school districts encountered, particularly in the first half of the testing window. Dr. Marianne Perie with CETE shared sample reports that could be given to teachers and parents that generalized strengths and weaknesses by subject and grade. She also previewed enhancements to the 2015 assessments. Both the Kansas Technical Advisory Council and the Kansas Assessment Advisory Council recommended against releasing specific data during the 2014 transitional year. George Abel, 2013-14 KAAC Chair, spoke in support of that group's recommendation with assurance that the assessment provided valuable experience. Board members discussed work of CETE and developing a recommendation that was more informative. After considering changes to a suggested motion, Mrs. Cauble moved that KSDE will not produce or report any individual-, building-, district- or state-level assessment scores for 2014 and CETE will move forward with providing score-free grade and subject-specific reports for students, parents and teachers on lessons learned including released items from the 2014 assessment and conduct focus groups with all audiences for reporting scores meaningfully in 2015. Mrs. Horst seconded. Motion carried 9-0.

MOTION
(01:09:07)

RECEIVE RECOMMENDED AMENDMENT TO ESI REGULATIONS AS PROPOSAL 91-42-3

(01:46:46)

Bryan Wilson, current outgoing chair of the Special Education Advisory Council (SEAC), introduced proposed K.A.R. 91-42-3 which would only exempt certified law enforcement officers from the Emergency Safety Intervention regulations. The need to exempt certified law enforcement officers stems from the direct conflict between the ESI regulations' prohibition on prone (facedown) restraint and a sworn, certified law enforcement officer's need to use prone restraint when effectuating an arrest. The Board will vote on the proposal in August. Colleen Riley, Director of Early Childhood, Special Education and Title Services, answered questions about the recommended amendment to regulations as well as efforts to improve the complaints/appeals process. Next, Jana Rosborough, Assistant Director of ECSETS, reported on the first full year of implementation of ESI regulations, addressing technical assistance, training and reporting procedures.

LUNCH

At 12:25 p.m., Chairman Shaver recessed the meeting for lunch until 1:30 p.m.

**7/08/2014
P.M. Session**
(00:00:14)

RECOGNIZE KANSAS INDUCTEES INTO THE NATIONAL TEACHERS HALL OF FAME

Deputy Commissioner Dale Dennis introduced Kansas' two inductees into the National Teachers Hall of Fame. Jan Alderson, a science teacher at Shawnee Mission South High School, and Cindy Couchman, a mathematics teacher at Buhler High School, are the eighth and ninth Kansas teachers inducted into the National Teachers Hall of Fame since its founding in 1989. The program each year honors five of the nation's most outstanding educators. Both women shared their views on educational opportunities and the need for collaboration among educators.

BREAK

The Board took a photo break with the inductees from 2:10 to 2:15 p.m.

ACTION ON PROFESSIONAL PRACTICES COMMISSION RECOMMENDATIONS

(00:46:47)

Professional Practices Commission Chairman Calin Kendall presented the recommendations for 10 cases brought before the PPC in hearings April 21 and 22, and on May 12 to address applications for teacher licensure. Board members discussed voting on five of the cases separately. The remaining five would be voted on as a group as has been previous practice. Mrs. Waugh moved to adopt the findings of fact and conclusions of the PPC and approve their recommendations on cases 14-PPC-21 Kayla Thornton, 14-PPC-23 Trina Reed, 14-PPC-16 Yvonne Rigsby, 13-PPC-09, 14-PPC-14 Samantha Johnson, and 13-PPC-09 Jerry Daskoski. Mrs. Busch seconded. Motion carried 9-0.

MOTION
(00:51:52)

SEPARATE ACTION ON PROFESSIONAL PRACTICES COMMISSION RECOMMENDATIONS

The five remaining cases were voted on individually. Case 14-PPC-22 — Mrs. Horst moved to deny Lacie Dunn’s application for a license. Mr. Roberts seconded. The vote was 4 -4 with Mrs. Cauble, Ms. Wims-Campbell, Mr. Bacon and Mrs. Waugh voting in opposition. Mrs. Busch recused herself from the vote. Motion failed for lack of the necessary six votes for passage. Then, Ms. Wims-Campbell moved to adopt the PPC’s recommendation that Ms. Dunn should receive a license. Mrs. Waugh seconded. The vote was 5-3 with Mr. Roberts, Mrs. Horst and Mr. McNiece voting in opposition. Mrs. Busch recused herself from the vote. Motion failed for lack of the necessary six votes for passage.

MOTION
(01:05:17)

Case 14-PPC-17 Terry Terrell — Mr. McNiece moved to adopt the findings of fact and conclusions of the PPC and approve their recommendation. Mr. Bacon seconded. Motion carried 9-0. Case 14-PPC-19 Raul De La Torre — Mrs. Cauble moved to adopt the findings of fact and conclusions of the PPC and approve their recommendation. Mrs. Busch seconded. Motion carried 7-2 with Mr. Roberts and Mrs. Horst in opposition. Case 14-PPC-15 Alissa Miller—Mr. McNiece moved to adopt the findings of fact and conclusions of the PPC and approve their recommendation. Mrs. Busch seconded. Motion carried 7-2 with Ms. Wims-Campbell and Mrs. Horst in opposition. Case 14-PPC-18 Nichole Hill — Mrs. Cauble moved to adopt the findings of fact and conclusions of the PPC and approve their recommendation. Mr. McNiece seconded. Motion carried 6-3 with Mr. Roberts, Mrs. Horst and Ms. Wims-Campbell in opposition.

MOTIONS
(01:11:50)
(01:15:06)

(01:17:23)

(01:24:53)

ACTION ON RECOMMENDATION FOR REVIEW OF LICENSURE/RENEWAL APPLICATIONS

KSDE Attorney Scott Gordon reviewed a proposed policy that would give Office of the General Counsel staff the discretion to clear applicants for teacher licensure if, after sufficient review of the applicant’s criminal history, staff finds it appropriate to issue the requested license within specific guidelines. This will reduce the number of cases presented to the Professional Practices Commission. Staff will update the Board within six months on the number and types of licenses issued under the exception, and then provide an update annually. Mr. Roberts moved that the Kansas State Board of Education give legal staff such discretion to clear applicants for teacher licensure following the suggested framework. Mrs. Busch seconded. Motion carried 9-0.

MOTION
(01:40:04)

Mr. Gordon also discussed that once the final adoption occurs of amendments to the regulation regarding fingerprinting and criminal history records check, there will not be a need to include criminal history questions on licensure applications. Mrs. Busch moved to approve removal of criminal history questions from all licensure applications upon final adoption of K.A.R. 91-1-214 as amended. Ms. Wims-Campbell seconded. Motion carried 7-2 with Mr. Bacon and Mrs. Horst in opposition.

MOTION
(01:40:38)

The Board took a break from 3:15 to 3:25 p.m.

BREAK

UPDATE ON COALITION OF INNOVATIVE DISTRICTS

Mr. McNiece and Mrs. Horst, Board members who are working with the Coalition of Innovative Districts Board, reported on the group’s July 1 meeting and composition of the Coalition’s bylaws. The draft bylaws were presented to State Board members for review before a vote in August. The bylaws include information on purpose, structure, membership and required reports. The Coalition’s next meeting is July 17.

(01:41:46)

LEGISLATIVE MATTERS: ACTION ON FY 2016 AND FY 2017 BUDGET OPTIONS

Deputy Commissioner Dale Dennis provided the Board with budget options to consider for FY 2016 and 2017 as the state continues its two-year budget format. He reviewed the history of educational funding as well as figures for meeting statutory amounts in the various categories. Discussion followed on variables for Base State Aid Per Pupil (BSAPP). Mrs. Shaver moved to establish BSAPP of \$4,000 for 2015-16 and \$4,200 for 2016-17. The motion died for lack of a second. Ms. Wims-Campbell

(02:03:31)

MOTION
(03:03:51)

MOTION
(03:12:52)

moved to establish BSAPP at \$4,200 for 2015-16 and \$4,400 for 2016-17. Mrs. Waugh seconded. More discussion occurred, including considerations to phase in an increase over multiple years. Ms. Campbell reluctantly agreed to amend the motion and establish the BSAPP at \$4,200 for 2015-16 and phase in a \$100 increase each year for three more years. Mrs. Waugh agreed to second. Motion carried 6-3 with Mrs. Horst, Mr. Bacon and Mr. Roberts in opposition.

In other budgetary recommendations:

- Mrs. Busch moved to fund Special Education at the 85 percent level for 2015-16 and at the 92 percent level in 2016-17. Mrs. Horst seconded. Motion carried 7-2 with Mr. Bacon and Mr. Roberts in opposition.
- Mr. McNiece moved to fund all-day kindergarten over a five-year implementation period. Mrs. Cauble seconded. Motion carried 7-2 with Mr. Bacon and Mr. Roberts in opposition.
- Mrs. Shaver moved to increase Parents as Teachers funding by 1,000 children for an additional cost of \$460,000 in 2015-16. Ms. Wims-Campbell seconded. Motion carried 7-2 with Mrs. Busch and Mr. Bacon in opposition.
- Mrs. Horst moved to fund 50 percent of the law for the Mentor Teacher Program in 2015-16 and 2016-17, and to review the qualifications of mentors as well as the training. Mrs. Busch seconded. Motion carried 7-2 with Mr. Bacon and Mr. Roberts in opposition.
- Ms. Wims-Campbell moved to fund Professional Development at 50 percent of the law for 2015-16 and 2016-17. Mrs. Horst seconded. Motion carried 7-2 with Mr. Bacon and Mr. Roberts in opposition.
- Mr. Bacon moved to fund Agriculture in the Classroom at \$35,000, the 2010-11 level. Mr. McNiece seconded. Motion carried 9-0.
- Mrs. Waugh moved to fund Kansas Association of Conservation and Environmental Education at \$35,000, the 2008-09 level. Ms. Wims-Campbell seconded. Motion carried 9-0.
- Mr. McNiece moved to fund the law for National Board Certification with an additional cost of \$47,500 in 2015-16. Mrs. Busch seconded. Motion carried 7-2 with Mr. Bacon and Mr. Roberts in opposition.
- Mrs. Waugh moved to fund Pre-K Pilot at the 2009-10 level for 2015-16 and 2016-17 which will require an additional \$200,188 each year. Mrs. Shaver seconded. Motion carried 7-2 with Mr. Bacon and Mr. Roberts in opposition.
- Mrs. Cauble moved to fund technical education transportation with an additional cost of \$50,000 in both 2015-16 and 2016-17. Mr. McNiece seconded. Motion carried 7-2 with Mr. Bacon and Mr. Roberts in opposition.

MOTION
(03:54:22)

CONSENT AGENDA

Mrs. Busch moved to approve the consent agenda. Mrs. Horst seconded. Motion carried 9-0. In the Consent Agenda, the Board:

- Received the monthly Personnel Report
- Approved renewal of a Visiting Scholar license for the 2014-15 school year to Janet Graham as CAPS instructor responsible for Global Business courses at Blue Valley USD 229
- Approved the in-service education plans for USD 102 Cimarron, USD 203 Piper, USD 210 Hugoton, USD 215 Lakin, USD 225 Fowler, USD 226 Meade, USD 244 Burlington, USD 248 Girard, USD 252 Southern Lyon County, USD 257 Iola, USD 258 Humboldt, USD 286 Chautauqua County, USD 289 Wellsville, USD 338 Valley Falls, USD 342 McLouth, USD 343 Perry, USD 363 Holcomb, USD 368 Paola, USD 371 Montezuma, USD 374 Sublette, USD 378 Riley County, USD 393 Solomon, USD 400 Smoky Valley, USD 404 Riverton, USD 412 Hoxie, USD 416 Louisburg, USD 420 Osage City, USD 462 Central, USD 467 Leoti, USD 476 Copeland, USD 482 Dighton, USD 498 Valley Heights, #607 Tri County Special Education Cooperative, #609 Southeast Kansas Education

Service Center (Greenbush), #615 Brown County Special Education Interlocal, #636 North Central Kansas Special Education Cooperative, Brookridge Day School, Kickapoo Nation School.

- Approved the adoption of new qualifying scores as follows for regenerated Praxis II licensure assessments: Agriculture (Test #5701) recommended score 147; Education of Young Children (Test #5021) recommended score 160; Elementary Education: Curriculum, Instruction, and Assessment (Test #5017) recommended score 153; Family and Consumer Sciences (Test #5122) recommended score 153; Gifted Education (Test #5358) recommended score 157; Middle School Science (Test #5440) recommended score 150; School Psychologist (Test #5322) recommended score 147.
- Accepted the recommendations of the Licensure Review Committee as follows: *Approved Cases* — 2947 Kimmie Conlon, 2960 Mary Rice, 2962 Caitlin Sheedy, 2969 Anthony Crough, 2971 Terryi Zehr and USD 261 Haysville, 2973 Jennifer Monroe, 2974 Mary Ann Hotaling, 2975 Shane Haley, 2976 Peggy Moberly and USD 297 St. Francis, 2977 Heather Stoker and USD 480 Liberal, 2978 Jeffrey Lutt and USD 233 Olathe, 2979 Cynthia Wagers, 2990 Leah Jabbie. *Denied Cases* — 2953 Amanda Tubre, 2966 Linda Hawkins, 2970 Erin Vidal, 2972 Lisa Churchill, 2977 Heather Stoker (K-6 elementary).
- Approved the Kansas 21st Century Community Learning Centers Continuation Grants for 2014-15 as follows: USD 435 Abilene \$50,000; USD 470 Arkansas City \$100,000; Asbury United Methodist Church \$60,000; Big Brothers/Big Sisters \$60,000; Boys & Girls Club of Lawrence (Cordley) \$60,000; Boys & Girls Club of Lawrence (Kennedy) \$60,000; Boys & Girls Club of Lawrence (New York) \$75,000; Boys & Girls Club of Lawrence (Pinckney) \$60,000; Boys & Girls Club of Lawrence (Schwegler) \$60,000; Boys & Girls Club of Lawrence (Woodlawn) \$60,000; Boys & Girls Club of Manhattan \$60,000; Boys & Girls Club of Manhattan (Bluemont) \$75,000; Boys & Girls Club of Manhattan (Lee) \$60,000; Boys & Girls Club of Topeka (Logan) \$200,000; USD 244 Burlington \$60,000; Catholic Charities of Wichita (Holy Savior) \$50,000; Catholic Charities of Wichita (St. Patrick's) \$75,000; USD 247 Cherokee \$60,000; USD 379 Clay Center (Lincoln/Garfield) \$60,000; USD 379 Clay Center (Middle School) \$100,000; USD 379 Clay Center (Wakefield) \$60,000; USD 315 Colby \$75,000; USD 232 De Soto \$60,000; USD 216 Deerfield \$60,000; USD 111 Doniphan West \$100,000; USD 283 Elk Valley \$100,000; USD 218 Elkhart \$60,000; USD 253 Emporia (District) \$500,000; USD 253 Emporia (Middle School) \$60,000; USD 101 Erie \$75,000; USD 225 Fowler \$75,000; USD 499 Galena \$60,000; USD 475 Geary County (Ware) \$75,000; USD 248 Girard \$100,000; USD 352 Goodland \$60,000; USD 428 Great Bend \$60,000; USD 261 Haysville (Middle School) \$60,000; USD 261 Haysville (Prairie/Freeman) \$60,000; USD 336 Holton \$60,000; USD 210 Hugoton \$60,000; USD 258 Humboldt \$60,000; USD 446 Independence \$60,000; USD 257 Iola \$60,000; USD 257 Iola \$100,000; USD 500 Kansas City (Frances Willard) \$60,000; USD 500 Kansas City (Banneker) \$60,000; USD 500 Kansas City (ME Pearson) \$100,000; USD 500 Kansas City (New Chelsea) \$100,000; USD 500 Kansas City (New Stanley) \$60,000; USD 500 Kansas City (Silver City) \$60,000; USD 500 Kansas City (Whittier) \$60,000; Kansas City Kansas Community College \$60,000; USD 480 Liberal (Sunflower/Cottonwood) \$60,000; USD 480 Liberal (Garfield, Lincoln, McKinley) \$60,000; USD 480 Liberal (McDermott-Southlawn) \$60,000; USD 298 Lincoln \$75,000; USD 383 Manhattan-Ogden (Bergman) \$60,000; USD 383 Manhattan-Ogden (Northview) \$60,000; USD 383 Manhattan-Ogden (Ogden) \$60,000; USD 209 Moscow \$60,000; USD 290 Ottawa (Middle School) \$60,000; USD 290 Ottawa (Field/Lincoln) \$60,000; USD 290 Ottawa (Garfield) \$59,907; USD 343 Perry \$56,973; USD 250 Pittsburg \$75,000; USD 344 Pleasanton \$100,000; USD 217 Rolla \$60,000; USD 305 Salina (Oakdale) \$75,000; USD 305 Salina (Sunset) \$50,041; Save the Children (Coffeyville) \$60,000; Save the Children (Pittsburg) \$60,000; USD 334 Southern Cloud \$75,000; USD 350 St. John/Hudson \$60,000; USD 349 Stafford \$60,000; USD 374 Sublette \$60,000; USD 501 Topeka (Jardine/French) \$100,000; USD 501 Topeka (Quincy) \$60,000; USD 501

Topeka (Rescue Mission) \$60,000; USD 501 Topeka (Robinson) \$60,000; USD 501 Topeka (Ross) \$100,000; USD 501 Topeka (Scott) \$100,000; USD 501 Topeka (Topeka West High School) \$60,000; USD 501 Topeka (Williams Science and Fine Arts Magnet Elementary) \$60,000; USD 501 Topeka (High School) \$60,000; USD 214 Ulysses \$60,000; USD 498 Valley Heights \$60,000; USD 353 Wellington \$75,000; USD 287 West Franklin \$60,000; USD 259 Wichita \$60,000; USD 366 Woodson \$75,000; USD 366 Woodson County \$60,000; YMCA of Greater Kansas City (Ridgeview) \$100,000; YMCA of Greater Kansas City (Rosehill) \$100,000; YMCA of SW KS (Dodge City) \$200,000. Total \$7,621,921.

Authorized the Commissioner of Education to negotiate and

- enter into a contract with Human Kinetics to provide technical support services for Fitnessgram® for the purpose of continuing the Kansas Fitness Information Tracking project (K-FIT) as funded by the Kansas Health Foundation for the contract period Aug. 1, 2014 to June 30, 2015 with a contract amount not to exceed \$51,100;
- enter into a contract with the Kansas Association of Independent and Religious Schools for the reimbursement of funds for professional development of non-public school teachers and leaders, in an amount not to exceed \$29,000;
- authorize the Superintendent of the Kansas State School for the Deaf to enter into a contract for out-of-state tuition with Center School District in Missouri for the 2014-15 regular school year plus extended day programs for a total cost of \$36,000 for two students, plus additional services as listed on the IEPs at a cost not to exceed \$2,340 for the year;
- authorize the Superintendent of the Kansas State School for the Blind to enter into contracts for out-of-state tuition for the 2014-15 regular school year with the following school districts in Missouri: Liberty —not to exceed \$17,000 for one student, Smithville—not to exceed \$17,000 for one student, Hardin-Central — not to exceed \$56,068 for two students;
- authorize the KSSD Superintendent to continue a contract with the Kansas Department of Health and Environment for a Hearing Aid Loan Bank with the contract amount to be received by KSSD not to exceed \$45,000.

RECESS

At 5:38 p.m., Chairman Shaver recessed Tuesday's board meeting until 9 a.m. Wednesday.

Jana Shaver, Chairman

Peggy Hill, Secretary

KANSAS STATE BOARD OF EDUCATION

Meeting Minutes July 9, 2014

CALL TO ORDER

Chairman Jana Shaver called the Wednesday meeting of the State Board of Education to order at 9 a.m. on July 9, 2014 in the Board Room at the Landon State Office Building, 900 SW Jackson St., Topeka, Kansas.

7/09/2014
A.M. Session
(00:00:05)

ROLL CALL

The following members were present:

John Bacon	Sally Cauble	Steve Roberts
Kathy Busch	Deena Horst	Jana Shaver
Carolyn Wims-Campbell	Jim McNiece	Janet Waugh

Board member Ken Willard was absent.

APPROVAL OF AGENDA

Mrs. Cauble moved to approve the agenda as presented. Ms. Wims-Campbell seconded. Motion carried 9-0.

MOTION
(00:00:31)

UPDATE ON TEACHER/LEADER EVALUATION PROGRAM

Dr. Scott Myers, Director of Teacher Licensure and Accreditation, shared an overview of the last three years' work on teacher leader evaluations and development of the Kansas Educator Evaluation Protocol. KEEP has been piloted for the past three years within school districts and will be fully implemented in 2014-15. The process focuses on multiple student growth measures plus instructional practices to provide a final summative rating for educators. Bill Bagshaw, TLA assistant director, explained that the purpose of the evaluation system is to help all educators improve from where they are. Student growth must be shown in at least two ways and can be accomplished through state assessments, other commercially developed assessments or locally created measures. He answered questions regarding effectiveness of the evaluation model and defining expectations for continued improvement.

(00:00:54)

QUARTERLY UPDATE ON IMPLEMENTATION OF SCIENCE STANDARDS

KSDE Science Consultant Matt Krehbiel described progress on the vision for science education in Kansas project through the implementation of Kansas College and Career Ready Standards. He noted that trainings were part of the summer academies where participants focus on ways to weave science into other subject areas. Other achievements include reaching out to curriculum leaders, facilitating work across districts, and collaborating with course sequences. Mr. Krehbiel also talked about the involvement of business and industry to support science education. By 2016-17, the full summative science assessment will be in place. Work continues on the formative processes as well.

(01:14:32)

The Board took a break from 10:30 to 10:40 a.m.

BREAK

ACTION ON NASBE MEMBERSHIP DUES

Ms. Wims-Campbell moved to authorize payment of dues for calendar year 2015 for membership in the National Association of State Boards of Education, which includes dues for the National Council of State Education Attorneys, at a cost of \$24,985. Mrs. Horst seconded. Motion carried 9-0.

MOTION
(01:32:24)

BOARD REPORTS & REQUESTS FOR FUTURE AGENDA ITEMS

**CHAIRMAN'S
REPORT**
(01:33:57)

Chairman Shaver provided an update on the Commissioner search including opportunities KSDE staff will have to visit with consultants from McPherson and Jacobson recruiting firm on July 22 and 23. There will be a Special Board meeting from 9 a.m. to noon on Wednesday, Oct. 29 for the presentation of applications. In addition, she asked members to confirm whether a doctorate degree would be required or preferred for candidates since this needed to be clarified for the printed position announcement. The consensus was "preferred" on a 8-1 vote with Ms. Wims-Campbell in opposition.

Mrs. Shaver then asked for a motion regarding the official appointment of two Board representatives to serve on the Innovative Districts Coalition Board. Term length was discussed. Mrs. Busch moved to appoint Jim McNiece and Deena Horst as representatives to the Coalition for the rest of this year and for the next two years until the cycle of Board appointments in January 2017. Mrs. Cauble seconded. Motion carried 8-1 with Mr. Bacon in opposition.

**ATTORNEY'S
REPORT**
(01:45:32)

Board Attorney Mark Ferguson stated that the temporary licensure regulations adopted in response to new legislation have been approved by the Rules and Regulations Committee and are in effect. He noted that a July 14 meeting was set to address the fingerprinting regulations and most of the other licensure regulations. Mr. Ferguson's monthly summary was presented to the Board.

During Committee Reports, Mr. McNiece informed Board members that the Communications Committee will give a more extensive report in August, but for now he encouraged them to review their bios on the Board's web page and to be thinking about potential outreach activities.

**BOARD
REPORTS**
(01:57:44)

For Board reports, Ms. Wims-Campbell attended the National Federation of State High School Associations annual meeting; Mrs. Shaver attended the June KACCTE meeting where work continues on career pathways and courses of study relevant to the workplace; Mrs. Cauble attended the Education Commission of the States national forum and reported on several of the topics covered, many of which Kansas has already been addressing.

There were no requests for Future Agenda Items.

BOARD MEMBER TRAVEL

Ms. Wims-Campbell asked to add her attendance at the TASN summer leadership conference to the Board travel requests. Mrs. Cauble moved to approve Board travel with this addition. Mr. McNiece seconded. Motion carried 9-0.

MOTION
(02:20:38)

ADJOURNMENT

Chairman Shaver adjourned the meeting at 11:35 a.m.

Jana Shaver, Chair

Peggy Hill, Secretary

KANSAS STATE BOARD OF EDUCATION

Meeting Minutes July 14, 2015

CALL TO ORDER

Chairman Jim McNiece called the monthly meeting of the State Board of Education to order at 10 a.m. Tuesday, July 14, 2015, in the Board Room at the Landon State Office Building, 900 SW Jackson St., Topeka, Kansas. He welcomed new Commissioner of Education Dr. Randy Watson to his place at the Board table representing the Kansas State Department of Education. A welcome reception was held for Dr. Watson and his family immediately preceding the meeting.

7/14/2015
A.M. Session
(00:00:03)

ROLL CALL

The following Board members were present:

John Bacon	Jim McNiece
Kathy Busch	Steve Roberts
Carolyn Wims-Campbell	Janet Waugh
Sally Cauble	Ken Willard
Deena Horst	

Board member Jim Porter was delayed and arrived at 10:15 a.m.

STATE BOARD MISSION STATEMENT, MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Chairman McNiece read the Board's Mission Statement. Vice Chair Wims-Campbell led the moment of silence reflecting first on the nine individuals killed last month at the Charleston, South Carolina Emanuel AME Church. The Pledge of Allegiance was then recited.

APPROVAL OF AMENDED AGENDA

Chairman McNiece requested the addition of two Executive Sessions to the day's agenda — Item 17 for the purpose of consulting with the Board Attorney and Item 18 for personnel matters of non-elected personnel. Ms. Wims-Campbell moved to approve the amended agenda. Mrs. Horst seconded. Motion carried 9-0 with Mr. Porter absent.

MOTION
(00:05:59)

APPROVAL OF THE JUNE MEETING MINUTES

Mrs. Horst moved to approve the minutes of the June Board meeting. Mrs. Cauble seconded. Motion carried 9-0.

MOTION
(00:06:32)

COMMISSIONER'S REPORT

Dr. Randy Watson, who officially began his duties as Commissioner on July 1, expressed gratitude to Brad Neuenswander for serving as Interim Commissioner and to KSDE staff for their assistance during the transition. In his report to Board members, Dr. Watson mentioned the volume of public responses received through the online invitation to "Join the Conversation" about the pending revision of math and English language arts curriculum standards. This opportunity to provide feedback continues until October. He also noted that data compiled from the community visioning tour is being organized and will be shared with Board members at the August retreat. He ended with comments about attending EdCamp in Kansas City.

(00:07:02)

CITIZENS' OPEN FORUM

Chairman McNiece declared the Citizens' Forum open at 10:17 a.m. Speakers and their topics were: John Morton, Emporia — introducing G.A. Buie, new Executive Director of United School Administrators of Kansas, and Chris Modelmogg, new Director of Smoky Hill Education Service Center; Ginger

(00:16:37)

Riddle of Leavenworth, Dom DeRosa of Bonner Springs, Bradley Weaver of Kansas City, Ruth Goff of Spring Hill, Mike Wilson of Hutchinson, Mary Williams of Meriden, Glennie Buckley of Topeka, Chris Huntsman of Topeka, Cheron Tiffany of Olathe, James Neff of Manhattan — all in opposition to the Coalition of Innovative School Districts’ (CISD) proposal to waive teacher licensure requirements; Tammy Bartels, Tonganoxie — introducing new Kansas PTA President Denise Sultz; Denise Sultz, representing Kansas PTA — support of current licensure structure; John Richard Schrock, Emporia — China’s teacher shortage and opposition to CISD proposal; Laurie Curtis, Manhattan — concerns with CISD certification; Marie Carter, Topeka — recruitment obstacles and teacher retention.

Chairman McNiece declared the Citizens’ Forum closed at 11:05 a.m.

(01:05:58)

RECOGNITION OF NATIONAL TEACHERS HALL OF FAME INDUCTEE FROM KANSAS

Susan Rippe, a science teacher at Olathe Northwest High School, is the 2015 Kansas inductee into the National Teachers Hall of Fame. Ms. Rippe was introduced to the Board and talked about opportunities and initiatives taking place within her classroom. These include development of a robotics team, promoting STEM education, and adapting practices to help students benefit from new resources. She also emphasized the importance of a mentoring program for teachers. Ms. Rippe is the 10th Kansas teacher inducted into the National Teachers Hall of Fame since it was founded in 1989. The program each year honors five of the nation’s most outstanding educators.

The Board took a break until 11:30 a.m. for a photo and certificate presentation.

(01:21:19)

RECEIVE ANNUAL LICENSED PERSONNEL REPORT

Teacher Licensure and Accreditation staff member Lori Adams summarized the 2014-15 school year information compiled in the annual Licensed Personnel Report. Each year, state accredited schools across Kansas report professional and demographic characteristics of licensed personnel. The information is categorized by such areas as age, years of experience, ethnicity, educator type, teaching assignments and salary. Additional categories convey entrance/exit and retention data. The information is utilized to meet KSDE, state and federal reporting requirements.

Assistant Director of TLA Susan Helbert reviewed types and totals of licenses issued as reported in the LPR. She also presented a proposal to address a licensure need concerning who should be allowed to teach kindergarten and prekindergarten (4-year-olds). A proposal based on recommendations from the Professional Standards Board (PSB) requests the State Board to implement a permanent policy that elementary licensed teachers are allowed to teach prekindergarten and early childhood general education teachers are allowed to teach kindergarten. This proposal was presented as a receive item with the action item to be submitted for the August meeting. Additional options proposed by the PSB will be presented in the future as regulation changes, and include changing the level for elementary education to PreK – 6 and creating an add-on endorsement for Prekindergarten that could be added to an elementary license.

LUNCH

At 12:23 p.m. , Chairman McNiece recessed the meeting for lunch until 1:30 p.m.

(01:21:19)

RECEIVE EMERGENCY SAFETY INTERVENTION DRAFT REGULATIONS TO COMPLY WITH NEW LEGISLATION

Senate Substitute for Substitute for House Bill 2170, the Freedom from Unsafe Restraint and Seclusion Act, became law on June 4, 2015. To comply with the new law, changes are required to the Kansas State Board of Education’s Emergency Safety Intervention regulations, K.A.R. 91-42-1 to –2. KSDE staff members Laura Jurgensen and Julie Ehler presented a draft version of regulations to the Board for consideration, explaining that changes were made for clarity or to conform with the new statute. Mrs. Jurgensen outlined the next steps in the process, including required Board action in August to

submit the amended ESI regulations to the Department of Administration and the Office of the Attorney General. Ms. Ehler highlighted areas that address parent notification and student protection. The new regulations must be in place by March 1.

ACTION ON APPOINTMENT OF ESI TASK FORCE MEMBERS

Mrs. Waugh moved to appoint Jim Porter and Laura Jurgensen to serve on the new Emergency Safety Intervention Task Force, which was created as a requirement of the Freedom from Unsafe Restraint and Seclusion Act. Mrs. Busch seconded. Motion carried 10-0. Mr. Porter will represent the Kansas State Board of Education and Mrs. Jurgensen will represent legal counsel from the Kansas State Department of Education on the 17-member task force to meet criteria outlined in the Act.

MOTION
(00:25:28)

ACTION ON KANSAS CURRICULAR STANDARDS FOR VISUAL ARTS

Recommendations for revisions to the state’s visual arts standards were presented to the Kansas State Board of Education for review in June. These standards were updated to align with the national visual arts standards and to address what students in Kansas should know and understand to prepare for college and careers beyond high school. Mrs. Horst moved to approve the 2015 Kansas Curricular Standards for Visual Arts. Mr. Willard seconded. Motion carried 10-0.

MOTION
(00:28:07)

ACTION ON INNOVATIVE DISTRICTS’ SPECIALIZED CERTIFICATE RECOMMENDATION

Dr. Cindy Lane, representing the Coalition of Innovative School Districts, reiterated the purpose of the specialized teaching certificate for use by approved Innovative Districts seeking a waiver from Kansas teacher licensure. The current six approved Innovative School Districts are: USD 418 McPherson, USD 333 Concordia, USD 500 Kansas City Kansas, USD 229 Blue Valley, USD 201 Hugoton and USD 364 Marysville. Dr. Lane and Concordia Superintendent Beverly Mortimer highlighted specifics in the specialized certificate position statement and outlined hiring procedures. Discussion followed, including opportunities for Board members to ask questions, express comments and seek clarification. Mr. Willard moved that the Kansas State Board of Education approve the Coalition of Innovative Districts’ Specialized Teaching Certificate application and process for use by approved Innovative Districts to hire non-licensed professional employees or licensed professional employees in areas outside of their area(s) of licensure. Mr. Roberts seconded.

(00:29:05)

MOTION
(01:19:32)

Additional discussion followed. Mr. Willard proposed modifications to his original motion that would impose limitations and further define the process. He moved that the Kansas State Board of Education approve the Coalition of Innovative Districts’ Specialized Teaching Certificate application and process for use by the current six approved Innovative Districts for one year to hire non-licensed professional employees or licensed professional employees in areas outside of their area(s) of licensure with the following amendments to the process: allow the Kansas State Board of Education to give final approval and change professional degree in the position statement to college degree or equivalent professional degree. Mr. Roberts seconded the modifications. Motion carried 6-4, with Mr. Porter, Mrs. Waugh, Ms. Wims-Campbell and Mrs. Cauble in opposition.

AMENDED MOTION
(01:38:46)

The Board took a 10-minute break until 3:30 p.m.

BREAK

IMPLEMENTATION OF KCCR SCIENCE STANDARDS QUARTERLY UPDATE

The 2015 Kansas Excellence in Math and Science Teaching Conference held in June was the focus of Matt Krehbiel’s quarterly update on implementation of the Kansas College and Career Ready Science Standards. Approximately 180 participants were at the event in Hutchinson. He described the building- and district-level movement that is occurring through implementation of the new standards by focusing beyond the single classroom. The conference, which featured a variety of presenters, addressed ways to advance instruction and stressed more professional learning.

(01:44:54)

(01:59:36)

LEGISLATIVE MATTERS: ACTION ON FY 2017 BUDGET OPTIONS

Deputy Commissioner Dale Dennis provided summaries of enrolled bills passed into law during the 2015 legislative session. He reported on budget workshops that have been scheduled around the state and the need to update budget software for school districts to use. Mr. Dennis provided Board members with budget options to consider for FY 2017. Even though the state now implements a two-year budget format, Board members have an opportunity to make recommendations toward preparation of the KSDE budget. He reviewed the history of educational funding as well as figures for meeting statutory amounts in the various categories.

**MOTION
SERIES**
(02:44:24)

Action on the Board's budgetary recommendations occurred as follows:

- Mrs. Busch moved to increase Block Grant funding by 3 percent for 2016-17. Ms. Wims-Campbell seconded. Motion carried 8-2 with Mr. McNiece and Mrs. Cauble in opposition.
- Mr. Willard moved to support Maintenance of Effort for Special Education for no additional cost. Mrs. Cauble seconded. Motion failed 4-6, with Mrs. Horst, Mr. Porter, Mrs. Waugh, Ms. Wims-Campbell, Mr. McNiece and Mrs. Busch in opposition.
- Mrs. Busch moved to fund the current law for Special Education, which is 92 percent of excess cost. Mrs. Horst seconded. Motion carried 7-3 with Mr. Roberts, Mr. Bacon and Mr. Willard in opposition.
- Mr. Willard moved to phase in all-day kindergarten over a five-year implementation period at an estimated cost of \$19 million per year. Mr. Porter seconded. Motion carried 9-1 with Mr. Bacon in opposition.
- Ms. Wims-Campbell moved to increase Parents as Teachers funding by 1,000 children for an additional cost of \$460,000. Mr. Roberts seconded. Motion carried 7-3 with Mr. Bacon, Mrs. Horst and Mr. Willard in opposition.
- Mrs. Busch moved to fund 100 percent of the law for the Mentor Teacher Program at \$3 million. Mr. McNiece seconded. Motion carried 7-3 with Mr. Roberts, Mr. Bacon and Mr. Willard in opposition.
- Ms. Wims-Campbell moved to fund Professional Development at 100 percent of the law. Mrs. Cauble seconded. On a vote of 5-5, there were not the required six votes for passage. Those in opposition were Mr. Roberts, Mrs. Horst, Mr. Bacon, Mr. Willard and Mrs. Busch.
- Mrs. Busch moved to fund Professional Development at 50 percent of the law at an additional cost of \$5 million. Mrs. Horst seconded. Motion carried 7-3 with Mr. Willard, Mr. Bacon and Mr. Roberts in opposition.
- Mrs. Busch moved to support Maintenance of Effort for funding school lunch at no additional cost. Mr. Willard seconded. Motion carried 7-2-1 with Mrs. Waugh and Ms. Wims-Campbell in opposition, and Mrs. Cauble abstaining.
- Mr. McNiece moved to fund Agriculture in the Classroom at \$50,000. Mr. Roberts seconded. Motion carried 7-3 with Mr. Bacon, Mrs. Cauble and Ms. Wims-Campbell in opposition.
- Mrs. Busch moved to fund Communities in Schools at \$50,000. Ms. Wims-Campbell seconded. Motion carried 8-2 with Mr. Bacon and Mr. Willard in opposition.
- Mrs. Waugh moved to fund Kansas Association of Conservation and Environmental Education at \$50,000. Mrs. Busch seconded. Motion carried 7-3 with Mr. Bacon, Mr. Willard and Mrs. Horst in opposition.
- Mr. Willard moved to fund the Pre-K Pilot program at the 2015-16 level at no additional cost. Mrs. Horst seconded. Motion carried 8-2 with Mrs. Cauble and Mrs. Waugh in opposition.
- Mr. Willard moved to increase technical education transportation funding to \$1,350,000 at an additional cost of \$700,000. Mr. Porter seconded. Motion carried 9-1 with Mr. Bacon in opposition.
- Mr. Willard moved to maintain discretionary grant funding at the 2015-16 level. Mrs. Horst seconded. Motion carried 9-1 with Mrs. Waugh in opposition.

CONSENT AGENDA

Mrs. Cauble moved to approve the Consent Agenda. Mrs. Horst seconded. Motion carried 9-1 with Mr. Roberts in opposition. In the Consent Agenda, the Board:

- received the monthly Personnel Report for June.
- confirmed these unclassified special project personnel appointments to the Information Technology team — Claude Collins as Applications Developer III effective May 26, 2015 at an annual salary of \$50,918.40; Tracy Gallaway as Senior Trainer effective June 8, 2015 at an annual salary of \$50,918.40; and Sarah Vanderpool as Public Service Executive II (Data Compliance Officer) effective June 8, 2015 at an annual salary of \$53,414.40; as well as the appointment of Julie Ewing as Education Program Consultant on the Early Childhood, Special Education, and Title Services team effective July 5, 2015 at an annual salary of \$56, 118.40.
- approved the local in-service education plans for USD 204 Bonner Springs, USD 300 Comanche, USD 316 Golden Plains, USD 466 Scott County and USD 480 Liberal.
- approved renewal of Visiting Scholar licenses for Janet Graham, Robin Bacon and Marjorie Holloway, all for USD 229 Blue Valley's Center for Advanced Professional Studies (CAPS) program, valid for the 2015-16 school year.
- accepted recommendations of the Licensure Review Committee as follows: *Approved Cases* — 3015 Precious Clark (Pre-K-12 high incidence special education), 3030 Joseph Janner (6-12 English language arts and 5-8 English language arts), 3031 Mahmoud Al-Hini, 3038 Connie Redic, 3045 Richard Geraci, 3046 Bonnie Ray, 3047 Scott Palich. *Denied Cases* — 3029 Emily McCall, 3033 Megan Burleson, 3035 Tamara Williams, and 3039 Debra White.
- accepted the following recommendations of the Evaluation Review Committee for program approval: **Kansas State University** — Elementary (I, K-6), Biology (I, 6-12), Chemistry (I,6-12), Earth and Space Science (I, 6-12), Physics (I, 6-12), Business (I, 6-12), English (I, 6-12), Family and Consumer Science (I, 6-12), Journalism (I, 6-12), History, Government and Social Studies (I, 6-12), Speech/Theatre (I, 6-12), Art (I, PreK-12), Music (I, PreK-12), High Incidence Special Ed (A, K-6, 6-12), Low Incidence Special Ed (A, K-6, 6-12), Building Leadership (A, PreK-12), District Leadership (A, PreK-12), School Counselor (A, PreK-12), Reading Specialist (A, PreK-12), all continuing programs approved through Dec. 31, 2022; **McPherson College** — Psychology (I, 6-12) continuing program approved through June 30, 2022; **Ottawa University** — ECU (I, B-Gr3) and Gifted (A, PreK-12), both new programs approved with stipulation through June 30, 2017; **Southwestern College** — High Incidence Special Education (A, K-6, 6-12) and Restricted (I, 5-8, 6-12, PreK-12), both continuing programs approved through June 30, 2022; **University of Saint Mary** — Gifted (A, K-6, 5-8, 6-12) new program approved with stipulation through June 30, 2017.
- approved the Interlocal Agreements to create the South Central Kansas Education Service Center with participating school districts (USDs 263, 264, 357, 358, 359, 385 and 396).
- approved recommendations for funding Migrant Family Literacy Grants for the following districts in the amounts listed: USD 102 Cimarron \$78,000; USD 214 Ulysses \$70,000; USD 215 Lakin \$70,000; USD 216 Deerfield \$72,000; USD 218 Elkhart \$65,117; USD 233 Olathe/Johnson County Community College \$130,000; USD 445 Coffeyville \$20,000; USD 457 Garden City \$100,000; USD 500 Kansas City \$73,405.
- approved funding a Kansas 21st Century Community Learning Center Supplemental Award to USD 379 Clay Center (Wakefield) in the amount of \$25,286.

authorized the Commissioner of Education to negotiate and

- enter into a contract with the Kansas Association of Independent and Religious Schools for the

MOTION
(03:30:41)

reimbursement of funds for professional development of non-public school teachers and leaders in an amount not to exceed \$29,000;

- authorize the Superintendent of the Kansas State School for the Deaf to enter into a contact for out-of-state tuition with the Center School District in Missouri for the 2015-16 regular school year plus extended day programs for a total cost of \$37,200 for two students , plus additional services as listed on the IEPs at a cost not to exceed \$2,880 for the year;
- authorize the Superintendent of the Kansas State School for the Blind to enter into contracts for out-of-state tuition for the 2015-16 regular school year with the following school districts in Missouri: Liberty — not to exceed \$20,000 for one day student, Hardin — not to exceed \$56,068 for two day students, Lawson — not to exceed \$40,000 for one day student, Center — not to exceed \$20,000 for one day student half time;
- authorize the Superintendent of the Kansas State School for the Blind to renew a contract with Accessible Arts, Inc. for arts-related services for students attending KSSB in exchange for KSSB facility use and statewide outreach services in the Arts for Kansas individuals with disabilities in an amount not to exceed \$134,000;
- authorize the Superintendent of the Kansas State School for the Deaf to renew a contract with the Helen Keller Regional Office for Deaf-Blind Adults for rental of office space at KSSD for three years at a monthly charge of \$993.75 totaling \$11,925 annually;
- authorize the Superintendent of the Kansas State School for the Deaf to renew a contract with the Kansas Department of Health and Environment to continue a hearing aid loan bank with the contract amount to be received by KSSD not to exceed \$45,000.

EXECUTIVE SESSION

MOTION
(03:31:17)

Ms. Wims-Campbell moved to enter into executive session for the purpose of consultation with an attorney which would be deemed privileged in the Attorney-Client relationship, in order to protect the privilege and the Board's communications with its attorney on legal matters. Randy Watson, Dale Dennis, Mark Ferguson, Scott Gordon and Brad Neuenswander were invited to join the session, which would start at 5:25 p.m. for 20 minutes. At the conclusion, the Board would immediately enter into an executive session for 10 minutes for personnel matters of non-elected personnel, in order to protect the privacy interests of the individual(s) to be discussed, excusing all other invitees except Dr. Watson. Mr. Porter seconded. Motion carried 9-0 with Mrs. Cauble absent for the vote.

RECESS

The Board reconvened at 5:55 p.m. at which time Chairman McNiece recessed Tuesday's Board meeting until 9 a.m. Wednesday.

Jim McNiece, Chairman

Peggy Hill, Secretary

KANSAS STATE BOARD OF EDUCATION

Meeting Minutes July 15, 2015

CALL TO ORDER

Chairman Jim McNiece called the Wednesday, July 15, 2015 meeting of the State Board of Education to order at 9 a.m. in the Board Room at the Landon State Office Building, 900 SW Jackson St., Topeka, Kansas.

7/15/2015
A.M. Session
(00:00:0)

ROLL CALL

All members were present:

John Bacon	Jim McNiece
Kathy Busch	Jim Porter
Carolyn Wims-Campbell	Steve Roberts
Sally Cauble	Janet Waugh
Deena Horst	Ken Willard

APPROVAL OF AGENDA

Mrs. Busch moved to approve the agenda as presented. Mrs. Horst seconded. Motion carried 9-0 with Mrs. Cauble absent for the vote.

MOTION
(00:00:04)

ACTION ON RECOMMENDATIONS OF THE PROFESSIONAL PRACTICES COMMISSION

Case 15-PPC-06 Gabriel Moyer was presented again to the Kansas State Board of Education because in June the Board did not adopt the Professional Practices Commission's findings or recommendations and therefore this application for licensure remained pending. Mrs. Busch moved to accept the PPC's recommendation to issue Mr. Moyer an initial teaching license. Mrs. Waugh seconded. Discussion followed, with PPC member Jessica Snider and KSDE legal counsel Kelli Broers answering questions. Motion carried 6-4 with Mr. Roberts, Mrs. Horst, Mr. Bacon and Mr. Willard in opposition.

(00:01:22)

MOTION
(00:03:28)

Ms. Snider then presented the recommendations of the PPC following hearings conducted June 15, 2015 on these licensure cases: 15-PPC-03 Lance Howard, 15-PPC-14 Nosaze Enoma, 15-PPC-15 Patrick Amaro, 15-PPC-18 Heather Steiner, 15-PPC-22 Marshal Miller. Mrs. Cauble moved to adopt the findings of the Professional Practices Commission on these cases. Mrs. Busch seconded. Discussion followed. Motion carried 7-3 with Mr. Roberts, Mrs. Horst and Mr. Willard in opposition. It was noted that recommendations for both approval and denial of licensure applications were presented together for consideration and "no" votes should not be viewed in favor of the denied recommendations.

MOTION
(00:15:59)

REPORT ON SURVEY CONCERNING RECESS IN ELEMENTARY SCHOOLS

As a follow-up request from the June Board meeting, results were shared from a survey of physical education teachers on recess practices, policies and viewpoints at Kansas elementary schools. Presenters were Dr. Mark Thompson of KSDE's Healthy Kansas Schools and Rick Pappas of Wichita State University. They gave an overview of the survey questions and responses as well as provided recommendations. Discussion followed on the benefits of scheduling recess before lunch and distribution of the survey information.

(00:25:04)

The Board took a break from 10 to 10:05 a.m.

(00:57:54) **DISCUSSION OF PROCESS FOR ESTABLISHING CUT SCORES FOR KANSAS ASSESSMENTS**
Dr. Marianne Perie from the Center for Educational Testing and Evaluation (CETE) described the methodology for setting cut scores on Kansas Assessment Programs. She explained that cut scores are set based on Performance Level Descriptors, which are written to be fully aligned to Kansas standards and are specific to each grade and subject. The descriptors articulate how much students should know and be able to do at each performance level. She talked about the work of educator panelists who evaluate the difficulty of subject matter in math and English language arts. On July 30, a policy committee will convene to review panelist recommendations on cut scores. CETE and KSDE will then present the results of the standard setting to State Board members at their August meeting. Impact data will be based on data from the Spring 2015 state assessments.

(01:51:10) **COMMITTEE & BOARD ATTORNEY REPORTS**
Policy — Mrs. Waugh announced that the Policy Committee would meet that afternoon and continue reviewing the policy guidelines.

Communication — Mr. McNiece discussed evaluating the communications committee’s strategic agenda, including past successes and new ideas. He asked Board members to share names of potential education partners in their areas who should be informed of vision tour results. He also called attention to a list of upcoming events for consideration.

Other — Mrs. Busch talked about ongoing activities associated with the NASBE leadership stipend. She invited Board members to join new principals in workshops July 31 sponsored by affiliate groups of United School Administrators of Kansas.

ATTORNEY’S REPORT
(02:05:16)
Board Attorney Mark Ferguson reminded Board members that they may ask for a separate vote on cases from the Professional Practices Commission when they are grouped for action collectively. Mr. Willard suggested in the future separating recommendations for denial and those for approval. Mr. Ferguson provided insight into the entry of appearance filed regarding the school finance case and offered to receive questions on his monthly summary.

MOTIONS
(02:16:12)
(02:17:16)
ACTION ON APPOINTMENT OF DELEGATE TO NASBE ANNUAL CONFERENCE
The annual conference of the National Association of State Boards of Education (NASBE) is scheduled Oct. 22-24, 2015 in Baltimore, Maryland. Kansas is a member of NASBE. Mr. McNiece moved to appoint Carolyn Wims-Campbell as Kansas’ voting delegate at the conference. Mr. Porter seconded. Motion carried 10-0. Mrs. Cauble moved to appoint Mrs. Horst as an alternate delegate. Mr. Roberts seconded. Motion carried 10-0.

MOTION
(02:19:18)
ACTION ON COMPENSATION ADJUSTMENT
Mr. McNiece reminded Board members that compensation to Deputy Commissioner Brad Neuenswander was increased during the 14 months he served as Interim Commissioner. He recommended splitting the difference between Mr. Neuenswander’s current salary and his interim salary. Mrs. Horst moved to adjust Brad Neuenswander’s compensation to \$146,000 retroactive to July 1. Ms. Wims-Campbell seconded. Motion carried 9-1 with Mr. Bacon in opposition.

MOTION
(02:28:41)
ACTION ON LETTER OF SUPPORT
Staff from KSDE Child Nutrition and Wellness proposed that the State Board provide a letter of support to Congressmen for the reauthorization of the Child Nutrition Programs and the role of USDA in setting nutrition standards and maintaining flexibility. Consultant Kelly Chanay explained the importance of the letter and that previous flexibility allowed by USDA aids with local control. Discussion followed with two recommendations noted: change the date of the proposed letter and specify the purpose as two part. Ms. Wims-Campbell moved to approve sending the letter with the adjustments.

Mrs. Waugh seconded. Motion carried 8-1-1 with Mr. Roberts in opposition and Mrs. Cauble abstaining.

BOARD REPORTS & FUTURE AGENDA ITEMS

Chairman McNiece reported that he will help facilitate NASBE’s New Member Institute this month. He then asked Dr. Watson to update the Board on the vision planning retreat scheduled to begin in August. Mr. McNiece left the meeting at noon and Vice Chair Wims-Campbell assumed leadership.

During individual Board reports, Mr. Roberts met with former Commissioner of Education Dr. Diane DeBacker; Mrs. Horst attended the New Superintendent Workshop at KSDE; Mr. Porter reported on the Professional Standards Board meeting, plus his attendance at the Impact Institute and New Superintendent Workshop; Mrs. Waugh participated in the visioning session with Lawrence’s Chamber of Commerce and attended the retirement reception for Dr. Andy Tompkins; Mrs. Cauble joined Dr. Ed Berger and Tracey Tomme from the Kansas Cosmosphere to visit with western Kansas curriculum directors. Mrs. Cauble also attended the New Superintendent Workshop and reported on the Education Commission of the States’ 50th anniversary convention in Denver. She serves as a member of the ECS Steering Committee and provided Board members with a summary of the convention presentations. Ms. Wims-Campbell attended the visioning session in Lawrence, the KASB Advocacy Meeting, the New Superintendent Workshop and the NASBE Nominating Committee meeting.

Requests for Future Agenda Items: Mrs. Busch would like more information on best practices within wellness policies and recommendations from physical education teachers that the Board could support. Mr. Willard requested that Dr. Ed Berger be invited a second time to present on the educational initiatives taking place at the Kansas Cosmosphere. Ms. Wims-Campbell asked that the Board discuss the upcoming NASBE officer elections and provide guidance to her as the voting delegate.

BOARD MEMBER TRAVEL

Additions to the travel requests were: Mr. Bacon July 21 Kansas Agriculture in the Classroom, Mrs. Horst July 31 Beginning Principals Workshop, Ms. Wims-Campbell and Mr. Willard Aug. 13 Kansas Volunteer Commission. Mrs. Cauble moved to approve the travel list and additions. Mrs. Horst seconded. Motion carried 9-0 with Mr. McNiece absent.

ADJOURNMENT

Vice Chair Wims-Campbell adjourned the meeting at 12:45 p.m.

Jim McNiece, Chairman

Peggy Hill, Secretary

**INDIVIDUAL
MEMBER
REPORTS**
(02:35:05)

MOTION

KANSAS STATE BOARD OF EDUCATION

Meeting Minutes

July 12, 2016

CALL TO ORDER

Chairman Jim McNiece called the monthly meeting of the State Board of Education to order at 10 a.m. Tuesday, July 12, 2016, in the Board Room at the Landon State Office Building, 900 SW Jackson St., Topeka, Kansas. Mr. McNiece welcomed those in attendance, including participants in the Professional Educational Leadership Academy.

7/12/2016
A.M. Session
(00:00:08)

ROLL CALL

All members were present:

John Bacon	Jim McNiece
Kathy Busch	Jim Porter
Carolyn Wims-Campbell	Steve Roberts
Sally Cauble	Janet Waugh
Deena Horst	Ken Willard

STATE BOARD MISSION STATEMENT, MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Chairman McNiece read both the Board's Mission Statement and *Kansans CAN* Vision Statement. He then asked for a moment of silence after which the Pledge of Allegiance was recited.

APPROVAL OF AGENDA

Mrs. Horst moved to approve the July 12 agenda as presented. Mrs. Busch seconded. Motion carried 9-1 with Mr. Roberts in opposition.

MOTION
(00:01:44)

APPROVAL OF THE JUNE MEETING MINUTES

Mrs. Waugh moved to approve the minutes of the June Board meeting. Ms. Wims-Campbell seconded. Motion carried 10-0.

MOTION
(00:02:37)

COMMISSIONER'S REPORT

As the *Kansans CAN* vision nears its one-year mark, Commissioner Randy Watson re-emphasized creating a cohesive message about balancing the academic and non-academic needs of students. He reported on a third-party review of the Kansas State Department of Education to evaluate its current capacity to meet the delivery challenges and achieve the goals of leading the world in the success of each student. He invited representatives from the Council of Chief State School Officers (CCSSO) and Education Delivery Institute (EDI) to conduct the review. The team interviewed staff and key stakeholders during a series of focus groups last month. Four key areas of work were identified centering on plan development, organizational structure, communication and organizational effectiveness. Dr. Watson outlined some of the review team's recommendations preparing for the second year of vision work, focus on the outcomes and tightening the relationship between KSDE and the State Board.

(00:03:17)

CITIZENS' OPEN FORUM

Chairman McNiece declared the Citizens' Forum open at 10:32 a.m. There were no speakers for public comment. The forum was closed at 10:33 a.m.

(00:30:51)

UPDATE ON TRANSITION TO EVERY STUDENT SUCCEEDS ACT

The Every Student Succeeds Act (ESSA) arose out of the reauthorization of the federal Elementary and Secondary Education Act. ESSA replaced No Child Left Behind. Several changes will occur under the new act, and the transition is ongoing. Full implementation is scheduled for 2017-18 which aligns with

(00:32:18)

Year Zero of the new Kansas accreditation model. Deputy Commissioner Brad Neuenswander presented information on ESSA's proposed rulemaking, the deadlines to submit state plans and the advisory council's work on different components of ESSA. The next council meeting is July 26 in Wichita to continue work on the Kansas plan. Mr. Neuenswander answered questions about Annual Measures of Student Success (AMOSS) and the monitoring of student growth over time.

BREAK

Board members took a break until 11:20 a.m.

RECEIVE BLUE RIBBON TASK FORCE REPORT AND RECOMMENDATIONS ON TEACHER VACANCIES AND SUPPLY

(01:07:07)

Commissioner Watson this spring assembled a Blue Ribbon Task Force to study teacher vacancies and supply in Kansas. The task force was comprised of 28 education professionals representing various stakeholders, including higher education and public schools. They met four times. Dr. Ken Weaver, Dean of The Teachers College at Emporia State University, and Rudy Perez, Principal at Norton Community High School, co-chaired the task force. They presented the group's findings on trends and patterns to the State Board. The report included information on unfilled vacancies, educators leaving the teaching profession, those moving to other school districts, number of teacher education majors vs completers, and retention. Comparison data was shown according to regions of the state. As part of the report, recommendations were provided and divided into the categories of immediate, intermediate and long-term implementation. Board members discussed the task force's findings and the national concern for educator shortages, asked for additional research comparing Kansas' data to that of other states including salaries, and offered suggestions for follow-up. The Board is expected to act upon the recommendations at the August meeting.

LUNCH

Chairman McNiece recessed for lunch at 12:32 p.m. The afternoon session resumed at 1:30 p.m.

RECEIVE RECOMMENDATION FOR APPROVAL OF INNOVATIVE DISTRICT APPLICANT

P.M. SESSION
(00:00:30)

The Coalition of Innovative Districts Act, created by the legislature in 2013, allows a percentage of the state's school districts to opt out of most state laws, rules and regulations in order to improve student achievement. USD 484 Fredonia has applied for Innovative District status. Coalition chair Bill Mullins, Superintendent of USD 364 Marysville, noted that applications are now being accepted throughout the year, rather than just during one month. Brian Smith, Superintendent of USD 484 Fredonia, reviewed the reasons his district seeks to join the six other districts in the Coalition. He and two USD 484 staff members explained the goals within their application and then answered questions. The Coalition unanimously approved the request so now the State Board has 90 days to either grant or deny the granting of authority to operate as an Innovative District.

ACTION ON RECOMMENDATIONS OF THE PROFESSIONAL PRACTICES COMMISSION

MOTION
(00:38:16)

The Professional Practices Commission was represented by Chair Linda Sieck, who brought forth four cases that have been before the PPC. She answered questions about the hearing proceedings. Ms. Wims-Campbell suggested more details be included in the PPC report. Mrs. Cauble moved to adopt the findings of the Professional Practices Commission and its recommendations that Lucas Catloth and Brett Gehrler receive no formal discipline as a result of their conduct and Todd Clark's and Tahra Arnold's applications for licensure be approved. Mrs. Busch seconded. Motion carried 9-1 with Mr. Willard in opposition.

MOTION
(00:47:38)

Ms. Sieck presented a second set of cases from hearings on June 1. Mr. Porter moved to adopt the findings and recommendations of the PPC and revoke the licenses of Matthew DeMoss and Katie Rufener, and suspend the license of Christian McKim until June 30, 2017. Mrs. Busch seconded. Motion carried 10-0.

INFORMATION ON SUMMER FOOD SERVICE PROGRAMS

KSDE’s division of Child Nutrition and Wellness oversees summer food service programs in Kansas, which are federally funded and serve low-income areas. CNW Assistant Director Kelly Chanay provided information about the meal service sites, sponsoring organizations such as school districts or churches, and other community partners. Many of the programs also include a learning component with mealtime. Kathy Koehn, nutrition and wellness coordinator with USD 257 Iola, was present to talk about the summer food programs operated in this district. One project was to convert a former school bus into a mobile diner and reading vehicle. She described several other activities used to bring summer meals to children in their community.

(00:49:24)

Board members took a break at 2:42 p.m.

BREAK

LEGISLATIVE MATTERS : ACTION ON FY 2018 AND FY 2019 BUDGET OPTIONS

Deputy Commissioner Dale Dennis distributed a summary of enrolled bills passed into law during the 2016 Legislative session and referenced changes to the rules for working after retirement. He also described the steps that a newly formed review committee will take to consider school districts’ Extraordinary Need State Aid applications, which are to be submitted by July 15. Hearings on those applications will take place Aug. 2 and 3. A special Board meeting will be conducted via conference call at 2 p.m. Aug. 4 to take action on the applications.

(01:12:14)

Mr. Dennis led the Board through the annual practice of making education funding recommendations as required by statute. He provided a history of educational funding, category amounts based on law, and options to consider for the next two-year budget (Fiscal Year 2018 and Fiscal Year 2019). Mr. Dennis answered questions throughout the process.

The following discussions and/or actions occurred:

- Mrs. Busch moved to set Base State Aid Per Pupil at \$4,650 for FY 2018 with a \$500 increase to \$5,150 in FY 2019. Mrs. Waugh seconded. Motion carried 7-3 with Mr. Roberts, Mr. Bacon and Mr. Willard in opposition. (Note: A subsequent vote on special education funding would change the BSAPP recommendation to \$4,604 FY18 and \$5,090 FY19)
- Mrs. Busch moved to fund Special Education at 85 percent of excess cost, but subtract the amount from the BSAPP amount originally approved. Mrs. Horst seconded. Motion carried 6-4 with Mr. Roberts, Mr. Bacon, Mr. Willard and Mrs. Cauble in opposition.
- Mrs. Horst moved to fully implement all-day kindergarten all at once for an additional cost of \$90 million to be subtracted from the base. Mrs. Busch suggested amending the motion to implement all-day kindergarten over a two-year period with the additional cost subtracted from the base. Mrs. Horst accepted the amendment. Mrs. Busch seconded. Motion failed 2-8 with Mr. Roberts, Mr. Porter, Mrs. Waugh, Ms. Wims-Campbell, Mr. McNiece, Mrs. Cauble, Mr. Bacon and Mr. Willard in opposition. Mrs. Waugh moved to fund implementation of all-day kindergarten over a five-year period. Discussion continued and Mrs. Waugh withdrew the motion.
- Ms. Wims-Campbell moved to increase Parents as Teachers funding by 1,000 children for an additional cost of \$460,000 and requested that Children’s Initiative Funds be utilized, not federal funds. Mr. Porter seconded. Motion carried 8-2 with Mr. Bacon and Mr. Willard in opposition.
- Ms. Wims-Campbell moved to fund 100 percent of the law for the Teacher Mentor Program for an additional cost of \$3 million. Mr. Porter seconded. Motion carried 7-3 with Mr. Roberts, Mr. Bacon and Mr. Willard in opposition.
- Ms. Wims-Campbell moved to fund Professional Development at 25 percent of the law. Mrs. Cauble seconded. Motion failed to receive the necessary six votes for passage with a vote of 5-5. Mr. Roberts, Mr. Bacon, Mr. Willard, Mr. McNiece and Mrs. Horst were in opposition. Mrs. Waugh then moved to fund Professional Development at 50 percent of the law. Mr. Porter seconded. Motion carried 6-4 with Mr. Roberts, Mr. Bacon, Mr. Willard and Mrs. Horst in opposition.

SERIES OF MOTIONS
(01:44:32)

- Mrs. Waugh moved to fund \$35,000 each for Agriculture in the Classroom, Communities in Schools and Kansas Association of Conservation and Environmental Education. Mr. Bacon seconded. Motion carried 10-0.
- Mr. McNiece moved to fund the law for National Board Certification for an additional cost of \$47,500. Ms. Wims-Campbell seconded. Motion carried 8-2 with Mr. Roberts and Mr. Bacon in opposition.
- Mrs. Waugh moved to fund the Pre-K Pilot program at the 2009-10 level for an additional cost of \$900,000 and request that Children's Initiative Funds be utilized. Mr. Roberts seconded. Motion carried 8-2 with Mr. Bacon and Mr. Willard in opposition.
- Mr. Willard moved to fund technical education transportation at original level for an additional cost of \$800,000. Motion carried 9-1 with Mr. Bacon in opposition.
- Board members agreed to recommend that the state fund the law for Supplemental General State Aid (local option budget) and fund the law for Capital Outlay State Aid, but no formal vote was taken. There was no change in amounts for all-day kindergarten, transportation, school lunch and discretionary grants.

CONSENT AGENDA

MOTION
(03:21:03)

Mrs. Horst moved to approve the Consent Agenda as presented. Ms. Wims-Campbell seconded. Motion carried 9-1 with Mr. Roberts in opposition. In the Consent Agenda, the Board:

- received the monthly Personnel Report for June.
- confirmed the unclassified special projects personnel appointment of Ashley Christiansen as Senior Administrative Assistant on the Teacher Licensure and Accreditation team effective July 3, 2016, at an annual salary of \$28,308.80.
- approved local in-service education plans for USD 209 Moscow Public Schools and USD 211 Norton Community Schools.
- approved granting the renewal of Visiting Scholar licenses to Joseph Williams and USD 481 Rural Vista for music education; plus the following instructors with USD 229 Blue Valley Center for Advanced Professional Studies (CAPS) program — Janet Graham for global business courses; Robin Bacon for Foundations of Medicine courses; and Marjorie Holloway for Foundations of Medicine II. These licenses are valid for the 2016-17 school year.
- accepted recommendations of the Licensure Review Committee as follows: *Approved Cases* — 3071 Garrett Griffin (PreK-12 high incidence special education), 3075 Melissa Thorsell, 3082 Karen Francis (K-6 elementary education), 3086 Bevin Noack, 3090 Jace' Karmon Thomas, 3095 Michael Padow, 3096 Kari Taylor, 3099 Derick Reid, 3100 Clorie Broadbent. *Denied Cases* — 3071 Garrett Griffin (middle level 5-8 English language arts).
- accepted recommendations of the Evaluation Review Committee for continuing accreditation of McPherson College and Southwestern College, both through Dec. 31, 2022.
- accepted the following recommendations of the Evaluation Review Committee for program approval: **Associated Colleges of Central Kansas** — High Incidence Special Education (A, K-6, 6-12, PreK-12) Master's new program through Dec. 31, 2018; **Baker University** — Business (I, 6-12), Elementary (I, K-6), Health (I, PreK-12), History, Government and Social Studies (I, 6-12), Mathematics (I, 5-8), Mathematics (I, 6-12), Music (I, PreK-12), Instrumental Music (I, PreK-12), Vocal Music (I, PreK-12), Physical Education (I, PreK-12), Restricted (I, 5-8, 6-12, PreK-12) all continuing programs through Dec. 31, 2023; **Fort Hays State University** — Art (I, PreK-12), Business (I, 6-12), Early Childhood Unified (I, B-Gr3), Earth and Space Science (I, 6-12), Journalism (I, 6-12), Mathematics (I, 6-12), Music (I, PreK-12), Instrumental Music (I, PreK-12), Vocal Music (I, PreK-12) English for Speakers of Other Languages (A, PreK-12), Building Leadership (A, PreK-12), District Leadership (A, PreK-12), Reading Specialist (A, PreK-12), Restricted (I, 5-8, 6-12, PreK-12) all

continuing programs through Dec. 31, 2024, and Mathematics (I, 5-8) dormant program; **Friends University** — High Incidence Special Education (A, PreK-12) new program through Dec. 31, 2018, and Art (I, PreK-12), Mathematics (I, 6-12), Physical Education (I, PreK-12), Speech/Theatre (I, PreK-12) all continuing programs through Dec. 31, 2023; **Ottawa University** — Restricted (I, 5-8, 6-12, PreK-12) new program through Dec. 31, 2018; **Wichita State University** — Physics (I, 6-12), Speech/Theatre (I, PreK-12), English for Speakers of Other Languages (A, PreK-12) all continuing programs through Dec. 31, 2024.

- awarded supplemental funding in the amount of \$2,534 for Rosedale Development Association as a subgrantee of the 2016-17 Kansas AmeriCorps program for a total award of \$63,380.
- authorized USD 230, Spring Hill, Johnson County, to hold an election on the question of issuing bonds in excess of the district’s general bond debt limitation.
- authorized USD 230, Spring Hill, Johnson County, to receive capital improvement (bond and interest) state aid as authorized by law.
- approved School Improvement Grant continuation awards, 1003(g), for FY 2016 as follows: USD 500 Kansas City Kansas, Douglass Elementary \$760,000; USD 500 New Stanley Elementary \$760,000; USD 501 Topeka, Quincy Elementary \$1,094,290; USD 501 Ross Elementary \$1,324,274; USD 501, Scott Elementary \$1,411,286; USD 501, Shaner Elementary \$1,440,295.
- defined Extraordinary Enrollment Growth under KSA 72-6441 (ancillary facilities) as a three-year average of at least six percent increase in enrollment, or an increase of 1,500 or more students over the past three years, or an increase of 750 or more students over three of the last six years if the new facilities being constructed are not replacement.

authorized the Commissioner of Education to negotiate and

- continue a contract with North Central Kansas Technical College to provide services to manage, implement and lead the Microsoft Imagine Academy program for secondary schools in Kansas in an amount not to exceed \$32,000 for 2016-17.

Board members took a 10-minute break at 5:05 p.m. Mrs. Busch left the meeting.

BREAK

REPORT ON NASBE MIDWEST REGIONAL CONFERENCE

Board members Jim McNiece, Carolyn Wims-Campbell and Deena Horst represented Kansas as they joined members of other state boards of education for a regional meeting June 24 and 25 at Little Rock Central High School in Little Rock, Arkansas. They each reported on highlights of the event, sponsored by the National Association of State Boards of Education (NASBE). Topics included implementation of ESSA, student-focused education and networking with other regional State Boards members.

(03:23:28)

BOARD REPORTS AND REQUESTS FOR FUTURE AGENDA ITEMS

Communications — Mrs. Cauble said the committee plans to contact the state’s colleges of education and offer for Board members to visit teacher preparation classes as in the past. Letters would be sent this fall. She asked for names of those available to speak to the college classes. Mrs. Cauble suggested that the Blue Ribbon Task Force present its report on teacher vacancies and supply to the House and Senate Education committees.

COMMITTEE REPORTS
(03:41:03)

Policy Committee — Mrs. Waugh asked for input on whether Board members wanted to continue tracking travel expenses by categories following the year-long trial period. It was decided to return to the standard method of separating Board meetings and other activities, but not assigned or legislative.

Student Voice — Mr. McNiece announced that questions were provided to KSHSAA for its Student Council Workshop in July. However, the itinerary was already full and it wouldn't work for Board members to be on the agenda. The student responses will be shared with the Board at a later time.

ATTORNEY'S REPORT

Board Attorney Mark Ferguson referenced his monthly summary and offered to answer questions.

INDIVIDUAL MEMBER REPORTS (03:50:02)

During individual Board member reports, Mrs. Horst and Mr. Willard attended the NASBE nomination committee meeting in Washington D.C. Mrs. Horst also was at the Coalition of Innovative School Districts meeting. Mr. Porter reported on the NASBE conference call for members of the Government Affairs Committee and expressed interest of the Professional Standards Board he serves on to help with teacher vacancy issues and solutions. Mrs. Waugh attended an open house for the new Lansing superintendent and a ceremony marking the 150th year of the Kansas State School for the Blind. Ms. Wims-Campbell participated in her last KSHSAA meetings as a State Board representative on the Board of Directors and Executive Board. Mrs. Cauble reported on the Education Commission of the States National Forum and visits by the Commissioner in her district.

In his Chairman's Report, Mr. McNiece noted that the Commissioner's annual evaluation would take place in October to comply with Board policy and the state's performance review schedule. He reminded members of the next day's work session.

Requests for Future Agenda Items:

Mr. Roberts asked for discussion about labeling children by race. Mrs. Waugh requested a presentation from the Kansas Association of Conservation and Environmental Education organization.

BOARD MEMBER TRAVEL

MOTION (04:03:49)

Additions to the travel requests were: Mr. McNiece July 26 ESEA Advisory Council meeting and July 27 Summer Leadership Conference in Wichita. Mrs. Cauble moved to approve the travel requests and additions. Mrs. Horst seconded. Motion carried 9-0 with Mrs. Busch absent.

ADJOURNMENT

Chairman McNiece adjourned the meeting at 5:57 p.m. The next regular State Board meeting will be Aug. 9 and 10 in Topeka.

Jim McNiece, Chairman

Peggy Hill, Secretary

WORK SESSION ON ACCREDITATION — WEDNESDAY, JULY 13, 2016

The Kansas State Board of Education convened at 9 a.m. on Wednesday, July 13, 2016 , in Room 509 of the Landon State Office Building, 900 SW Jackson, Topeka. Board members in attendance were: Chairman McNiece, Vice Chair Wims-Campbell, Mr. Bacon, Mrs. Cauble, Mrs. Horst, Mr. Porter, Mr. Roberts, Mrs. Waugh and Mr. Willard. Member Kathy Busch was absent.

Commissioner Randy Watson began the session by sharing information from Georgetown University about employment growth and recovery. He pointed out the percentage of jobs requiring only a high school education that were lost during the recession and not recovered. He also discussed the vision goal of leading the world in high school graduation rates and what it would take to reach that target.

Several KSDE staff members addressed topics related to the session's theme and vision outcome — high school graduation rates and postsecondary attendance/completion. Jessica Noble explained how graduation rates are determined and tracked, as well as the difference between non-graduates and dropouts. Scott Smith and Jay Scott led discussions about the changing job market, when K-12 might hand over the tracking of high school graduates who attend college or trade schools, markers for postsecondary attainment and data collection. At the conclusion of the work session, Mr. Roberts presented three draft policy proposals he created for not labeling children in school by race or ethnicity.

Information technology staff assisted Board members in the transition to KSDE email accounts for education-related correspondence.

Appendix F:

Updated Information Regarding Effect of Tax Cuts

FY 2016 State General Fund Receipts

Final Report: June 2016

Revenue Source	FY 2016 Cumulative Est.	FY 2016 Cumulative Actual	Dollar Change From Estimate	Percent Change From Estimate	FY 2015 Cumulative Actual	Dollar Change From Prior FY	Percent Change From Prior FY
Property Tax/Fee: Motor Carrier	\$11,500,000	\$11,375,890	(\$124,110)	(1.08) %	\$11,144,646	\$231,243	2.07 %
Income Taxes:							
Individual	\$2,325,000,000	\$2,248,935,698	(\$76,064,302)	(3.27) %	\$2,277,540,834	(\$28,605,136)	(1.26) %
Corporate	390,000,000	354,725,600	(35,274,400)	(9.04)	417,399,546	(62,673,946)	(15.02)
Financial Inst.	37,000,000	37,151,150	151,150	0.41	40,545,772	(3,394,622)	(8.37)
Total	\$2,752,000,000	\$2,640,812,447	(\$111,187,553)	(4.04) %	\$2,735,486,152	(\$94,673,705)	(3.46) %
Excise Taxes:							
Retail Sales	\$2,270,000,000	\$2,273,941,412	\$3,941,412	0.17 %	\$2,132,776,805	\$141,164,607	6.62 %
Compensating Use	385,000,000	384,992,097	(7,903)	(0.00)	352,175,951	32,816,146	9.32
Cigarette	138,000,000	138,511,828	511,828	0.37	88,820,830	49,690,998	55.95
Tobacco Products	8,000,000	8,040,450	40,450	0.51	7,481,708	558,742	7.47
Cereal Malt Beverage	1,400,000	1,409,987	9,987	0.71	1,566,164	(156,177)	(9.97)
Liquor Gallonage	19,300,000	19,713,650	413,650	2.14	19,318,680	394,970	2.04
Liquor Enforcement	67,000,000	67,729,833	729,833	1.09	68,505,241	(775,409)	(1.13)
Liquor Drink	11,000,000	10,940,654	(59,346)	(0.54)	10,537,343	403,311	3.83
Severance	24,000,000	22,395,002	(1,604,998)	(6.69)	93,213,027	(70,818,025)	(75.97)
Gas	4,000,000	5,974,906	1,974,906	49.37	26,301,711	(20,326,806)	(77.28)
Oil	20,000,000	16,420,096	(3,579,904)	(17.90)	66,911,315	(50,491,219)	(75.46)
Total	\$2,923,700,000	\$2,927,674,914	\$3,974,914	0.14 %	\$2,774,395,750	\$153,279,164	5.52 %
Subtotal - KDOR Tax Collections	\$5,687,200,000	\$5,579,863,251	(\$107,336,749)	(1.89) %	\$5,521,026,548	\$58,836,703	1.07 %
Other Taxes:							
Insurance Premiums	\$169,000,000	\$170,202,474	\$1,202,474	0.71 %	\$187,642,623	(\$17,440,150)	(9.29) %
Miscellaneous *	8,500,000	8,278,894	(221,106)	(2.60)	8,683,675	(404,782)	(4.66)
Total	\$177,500,000	\$178,481,367	\$981,367	0.55 %	\$196,326,298	(\$17,844,931)	(9.09) %
Total Taxes	\$5,864,700,000	\$5,758,344,618	(\$106,355,382)	(1.81) %	\$5,717,352,846	\$40,991,771	0.72 %
<i>% of Total Received:</i>			98.19%			100.72%	
Other Revenues:							
Interest	\$26,300,000	\$28,121,053	\$1,821,053	6.92 %	\$12,319,532	\$15,801,521	128.26 %
Net Transfers	217,630,000	239,341,401	21,711,401	9.98	143,596,598	95,744,803	66.68
Agency Earnings	41,000,000	47,667,264	6,667,264	16.26	55,512,284	(7,845,019)	(14.13)
Total	\$284,930,000	\$315,129,719	\$30,199,719	10.60 %	\$211,428,414	\$103,701,305	49.05 %
Total Receipts	\$6,149,630,000	\$6,073,474,336	(\$76,155,664)	(1.24) %	\$5,928,781,260	\$144,693,076	2.44 %
<i>% of Total Received:</i>			98.76%			102.44%	

* Miscellaneous taxes now include corporate franchise taxes and fees.

FY 2016 State General Fund Receipts

Final Report: June 2016

Revenue Source	FY 2016 June Estimate	FY 2016 June Actual	Dollar Change From Estimate	Percent Change From Estimate	FY 2015 June Actual	Dollar Change From Prior FY Month	Percent Change From Prior FY Month
Property Tax/Fee:							
Motor Carrier	\$750,000	\$641,237	(\$108,763)	(14.50) %	\$1,013,644	(\$372,408)	(36.74) %
Income Taxes:							
Individual	\$223,000,000	\$205,019,975	(\$17,980,025)	(8.06) %	\$210,562,391	(\$5,542,416)	(2.63) %
Corporate	81,000,000	60,693,548	(20,306,452)	(25.07)	79,030,097	(18,336,549)	(23.20)
Financial Inst.	8,000,000	9,506,543	1,506,543	18.83	9,747,063	(240,521)	(2.47)
Total	\$312,000,000	\$275,220,066	(\$36,779,934)	(11.79) %	\$299,339,551	(\$24,119,485)	(8.06) %
Excise Taxes:							
Retail Sales	\$186,500,000	\$186,504,083	\$4,083	0.00 %	\$175,238,371	\$11,265,712	6.43 %
Compensating Use	30,000,000	31,434,324	1,434,324	4.78	27,420,118	4,014,207	14.64
Cigarette	11,500,000	12,388,122	888,122	7.72	8,700,546	3,687,576	42.38
Tobacco Products	750,000	644,352	(105,648)	(14.09)	682,694	(38,342)	(5.62)
Cereal Malt Beverage	130,000	154,505	24,505	18.85	157,984	(3,479)	(2.20)
Liquor Gallonage	1,600,000	2,047,124	447,124	27.95	1,705,870	341,254	20.00
Liquor Enforcement	5,450,000	6,636,231	1,186,231	21.77	8,687,579	(2,051,348)	(23.61)
Liquor Drink	980,000	968,584	(11,416)	(1.16)	998,499	(29,916)	(3.00)
Severance	2,700,000	2,160,810	(539,190)	(19.97)	5,201,320	(3,040,510)	(58.46)
Gas	700,000	274,381	(425,619)	(60.80)	1,208,360	(933,979)	(77.29)
Oil	2,000,000	1,886,429	(113,571)	(5.68)	3,992,960	(2,106,531)	(52.76)
Total	\$239,610,000	\$242,938,134	\$3,328,134	1.39 %	\$228,792,980	\$14,145,154	6.18 %
Subtotal - KDOR Tax Collections	\$552,360,000	\$518,799,436	(\$33,560,564)	(6.08) %	\$529,146,175	(\$10,346,739)	(1.96) %
Other Taxes:							
Insurance Premiums	\$56,800,000	\$55,648,682	(\$1,151,318)	(2.03) %	\$54,578,592	\$1,070,090	1.96 %
Miscellaneous *	750,000	985,933	235,933	31.46	916,027	69,906	7.63
Total	\$57,550,000	\$56,634,615	(\$915,385)	(1.59) %	\$55,494,619	\$1,139,996	2.05 %
Total Taxes	\$609,910,000	\$575,434,051	(\$34,475,949)	(5.65) %	\$584,640,795	(\$9,206,743)	(1.57) %
<i>% of Total Received:</i>			94.35%			98.43%	
Other Revenues:							
Interest	\$900,000	\$1,980,571	\$1,080,571	120.06 %	\$943,500	\$1,037,071	109.92 %
Net Transfers	125,980,000	146,824,149	20,844,149	16.55	31,792,970	115,031,179	361.81
Agency Earnings	500,000	3,557,368	3,057,368	611.47	1,660,200	1,897,168	114.27
Total	\$127,380,000	\$152,362,088	\$24,982,088	19.61 %	\$34,396,670	\$117,965,418	342.96 %
Total Receipts	\$737,290,000	\$727,796,140	(\$9,493,860)	(1.29) %	\$619,037,465	\$108,758,675	17.57 %
<i>% of Total Received:</i>			98.71%			117.57%	

* Miscellaneous taxes now include corporate franchise taxes and fees.



Photo by Edward C. Rezkop III

Welcome to the Kansas Budget blog. Author Duane Goossen writes and speaks about the Kansas budget and state finances as a Senior Fellow with the Kansas Center for Economic Growth (KCEG). He is a former Kansas Budget Director (1998-2010), and former 7-term member of the Kansas House of Representatives (1983-1997). New blog entries are first published by KCEG and later re-posted here. Duane welcomes your inquiries: duanegoossen@gmail.com

Wednesday, July 28, 2016

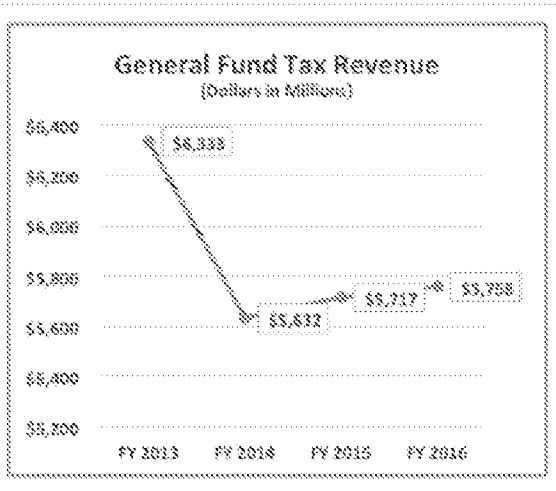
Income Tax Cuts Broke the Kansas Budget

By Duane Goossen

Another year of revenue data just went into the statistics books. The 2016 fiscal-year-end revenue report offers more evidence of how dramatically the 2012 income tax cuts have affected the Kansas budget.

Kansas does not receive nearly enough revenue to pay bills.

In FY 2014, general fund tax revenue fell \$701 million, immediately destabilizing the budget. The revenue stream never recovered. Even after sales and cigarette tax rates were increased for FY 2016, tax revenue has not come close to reaching pre-tax cut levels



Individual income tax receipts have been the key driver in the revenue loss, with FY 2016 collections \$28 million below FY 2015, and \$683 million less than in FY 2013. FY 2016 became the third year in a row in which a huge hunk of general fund tax receipts simply disappeared. Normally, income tax receipts would grow, but while other states were experiencing post-recession receipt growth, Kansas income tax revenue fell backward dramatically and stayed down. Had Kansas income tax receipts

Get Kansas Budget blog updates via email

Submit

About the Kansas Budget blog's author



Duane Goossen

[Follow](#) 70

Duane Goossen writes and speaks about Kansas budget and financial matters. He welcomes inquiries and questions. Reach him at duane.goossen@gmail.com.

Goossen served as the Kansas Budget Director for 12 years in the administrations of three governors -- Republican Bill Graves and Democrats Kathleen Sebelius and Mark Parkinson. He was appointed by Sebelius in 2004 to concurrently serve as Secretary of the Kansas Department of Administration, the agency that manages state facilities, accounting, information services and employee programs.

Goossen is also a former 7-term member of the Kansas House of Representatives (1983-1997). Most recently he worked as the Vice President for Fiscal and Health Policy at the Kansas Health Institute in Topeka, from which he retired in July, 2014.

In 2009, Goossen received the National Association of State Budget Directors' Gloria Timmer Award for career achievements in a state budget office. Duane graduated from Bethel College in North Newton, Kansas, and holds a master's degree in public administration from the Kennedy School of Government at Harvard University.

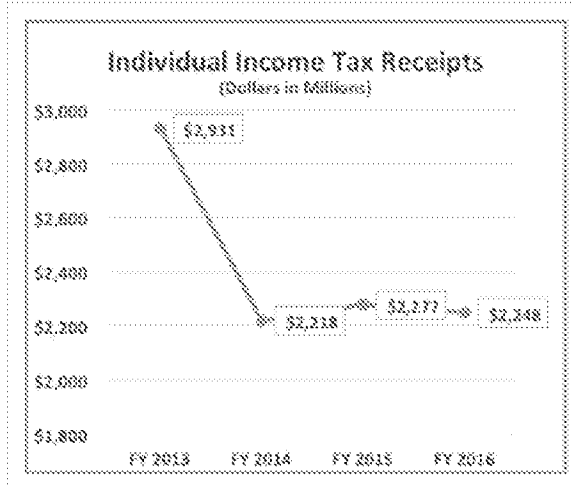
Drawing on his long experience in both Republican and Democratic administrations, author Duane Goossen currently writes and speaks with news reporters, civic organizations and other Kansans on issues related to the Kansas budget.

[View my complete profile](#)

Search the Kansas Budget blog

Search

grown in a similar way to the rest of the nation, Kansas collections would have been more than a \$1 billion higher in FY 2016.



Sales/use tax and cigarette tax receipts both rose in FY 2016, but as a result of rate hikes. Pushing the state sales tax rate to 6.5 % was projected to raise \$176 million. In FY 2016, sales/use tax receipts were \$174 million higher. Moving the per-pack cigarette tax from 79 cents to \$1.29 was predicted to bring in \$41 million, and actual collections grew \$50 million.

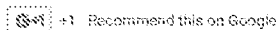
Corporate income tax (tax on full corporations) fell backward by \$63 million in FY 2016, but no one should be very surprised. Corporate income tax receipts are quite volatile, moving up and down, depending on economic conditions. Likewise, receipts from the severance tax on oil and gas are tied to price. With oil prices low, FY 2016 severance tax receipts ended up \$71 million lower than the year before. States must plan and be prepared for variations in tax receipts from these sources. But Kansas has been left unprepared for even small variations in tax receipts because of the damage done by income tax cuts.

Certainly the reduced collections from corporate income tax and severance tax contributed to the dismal FY 2016 revenue results, but they pale in comparison to the income tax collection loss.

To deal with the severe budget problems created by the income tax cuts, lawmakers have blown through reserves, borrowed, raided the highway fund, taken money from children's programs, cut services, and raised the sales tax rate. But they have not addressed the source of the problem—unaffordable income tax cuts. As a result, Kansas literally scrapes by financially, day by day, unable to invest in the future.

---This post originally appeared on the Kansas Center for Economic Growth website.

Posted by Duane Goossen at 6:16 PM



Links to this post

Create a Link

[Home](#)

[Older Post](#)

Total Pageviews



Contact Duane

Name

Popular Posts

[Now It's Official: The Kansas Budget is Crashing](#)

Blog Archive

- 2016 (14)
 - July (3)
 - [Income Tax Cuts Broke the Kansas Budget A Special Session That Should Not Have Been The Big Stuff](#)
 - June (1)
 - May (1)
 - April (3)
 - March (1)
 - February (2)
 - January (3)
- 2015 (28)
- 2014 (27)

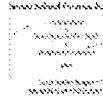
Email *

Message *

Send



By Duane Goossen It is now official: Kansas must make deep budget cuts yet this fiscal year just to stay financially solvent. The sta...



Woe to Education Finance

By Duane Goossen Funding for public education in Kansas is in big trouble! Costs for supplies, electricity, transportation, and teachers...



A Regressive, Math-Challenged, Five-Year Plan

By Duane Goossen Kansas revenue has dropped dramatically and no longer comes close to covering expenses. Standard & Poor's and...

Banner photograph by Edward C. Robinson III (Purchase). Simple template. Powered by Blogger.