



Testimony to House K-12 Budget Committee
HB 2270 Creating the Education Finance Act
February 15, 2017
Dave Trabert, President

Chairman Campbell and Members of the Committee,

We appreciate this opportunity to testify in opposition to HB 2270. Our opposition to this bill is primarily due to the following issues:

1. We don't believe the formula meets the Constitutional test of adequacy as set forth in the Supreme Court's March 2014 ruling.
2. The formula does not hold school districts accountable for improving outcomes.
3. The formula does not require districts to make efficient use of taxpayer money and thereby would lead to excess taxation and/or crowding out funding for other services.

Constitutional Test of Adequacy

The Kansas Supreme Court says adequacy of funding "...is met when the public education financing system provided by the legislature for grades K-12—through structure and implementation—is reasonably calculated to have all Kansas public education students meet or exceed..." the Rose standards.¹

The formula proposed in HB 2270 appears to be largely a re-make of the formula abandoned in 2014 with much higher spending levels; there appears to be no effort to address the outcomes-driven basis of the Court's March 2014 ruling and there is no mechanism for reasonably calculating funding levels. New Section 44 of the bill talks about the State Board of Education providing for curriculum standards that reflect high academic standards and statewide assessments, but that's no different than in current statute which pre-dates the Court's new test of adequacy.

There was little, if anything, 'reasonably calculated' about the old formula or any focus on outcomes approaching specific goals. Indeed, the Legislature was repeatedly criticized in the *Montoy* and *Gannon* proceedings for not having any rational basis for its funding decisions. Base state aid, weightings and even eligibility for equity funding were simply determined by picking numbers for which enough votes can be obtained.

Any calculations done by Augenblick & Myers in 2001 are invalid. The Supreme Court instructed the lower court that they used the wrong test when relying upon that cost study, saying it was "...more akin to estimates..." than any certainties.² The *Gannon* Supreme Court had the benefit of knowing that A&M deliberately deviated from their own methodology and produced inflated

results, thanks to a 2009 legal analysis of *Montoy* written by then-KPI scholar and current Supreme Court Justice Caleb Stegall.³ A&M also wasn't focused on meeting the Rose standards.

The formula in HB 2270 seems largely the same as the one abolished by the Legislature in 2014, albeit with much higher spending levels; there is no mechanism to 'reasonably calculate' adequate funding so that students have an opportunity to meet or exceed the Rose standards.

In addition to shifting the emphasis from inputs (funding) to outcomes, the Supreme Court's March 2014 ruling also seems to clarify the Court's role in determining adequacy. Rather than set a specific funding level as it did in *Montoy*, the Court's role is to determine whether the amount was reasonably calculated to accomplish the specified goal. Indeed, the Court could violate its own ruling by ordering more money to be spent as such an order couldn't meet the 'reasonably calculated' test.

Accountability for Outcomes

Kansas Policy Institute strongly believes that a new school funding formula must hold school districts accountable for improving outcomes, meaning that there would be an automatic consequence for not improving. A large majority of Kansans share our belief, as evidenced by a recent market research study conducted by SurveyUSA on our behalf.⁴

Q6: A new school funding formula should include rewards for better performance and hold districts accountable for improving outcomes, with accountability meaning there is a consequence for not improving outcomes and with improvement measured at the building level.								
501 Registered Voters	All	Region				Ideology		
Credibility Interval: ± 4.5 pct points		Western Kansas	Wichita Area	Kansas City Area	Eastern Kansas	Conserv	Mod.	Liberal
Strongly agree	29%	36%	28%	24%	32%	34%	30%	19%
Somewhat agree	40%	42%	37%	44%	37%	44%	38%	34%
Somewhat disagree	12%	10%	14%	11%	13%	7%	14%	21%
Strongly disagree	9%	11%	6%	10%	8%	6%	11%	14%
Not Sure	10%	1%	15%	11%	10%	9%	7%	13%
Total agree	69%	78%	65%	68%	69%	78%	68%	53%
Total disagree	21%	21%	20%	21%	21%	13%	25%	35%

Source: SurveyUSA, data collected Feb. 3 to Feb. 8, 2017

Statewide, 69 percent of Kansans agree that districts should be held accountable for improving outcomes at the building level and only 21 percent disagree, and this sentiment exists across all geographic and ideological lines.

Kansas school districts have never been held accountable in this manner and outcomes remain stubbornly low for many students. Legislators and Kansans have been given a false impression of high outcomes; some even claim that Kansas is among the top ten in the nation but it's simply not true. Indeed, Education Week's 2017 Quality Counts report gives Kansas a "D" for student achievement.⁵

Not a single national ranking on NAEP or the ACT are in the top ten. NAEP proficiency rankings range from the mid-teens to the mid-thirties and the ACT rankings are in the low twenties.

Kansas National Rank		2015 NAEP Proficiency		
Student Group	4th Grade Reading	8th Grade Reading	4th Grade Math	8th Grade Math
Low Income	#36	#21	#16	#25
Not Low Income	#15	#22	#17	#25

Source: National Assessment of Educational Progress

Percent Proficient		2015 NAEP		
Student Group	4th Grade Reading	8th Grade Reading	4th Grade Math	8th Grade Math
KS Low Income	20%	22%	27%	19%
U.S. Low Income	21%	20%	24%	18%
KS Not Low Income	54%	47%	58%	46%
U.S. Not Low Income	52%	47%	58%	48%

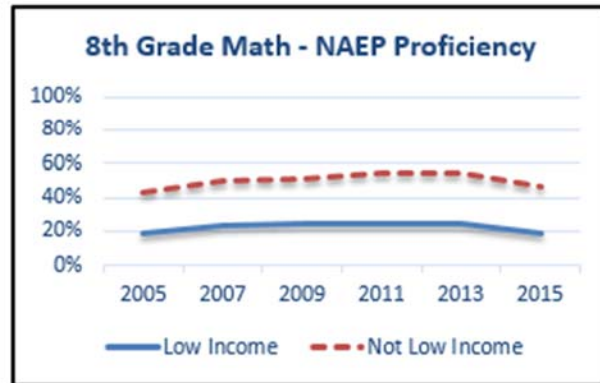
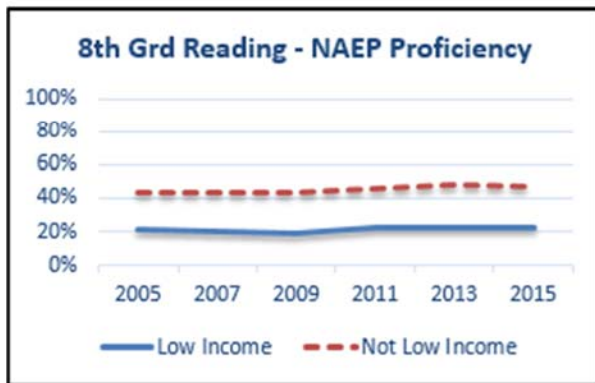
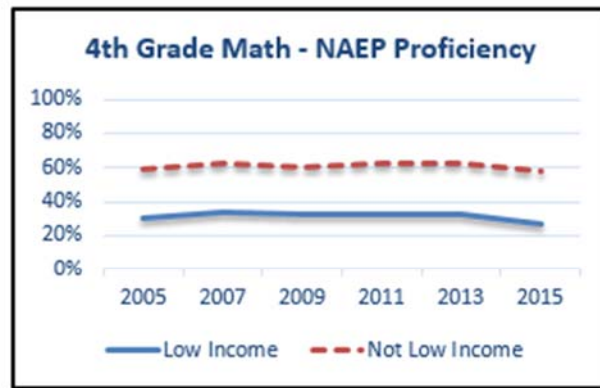
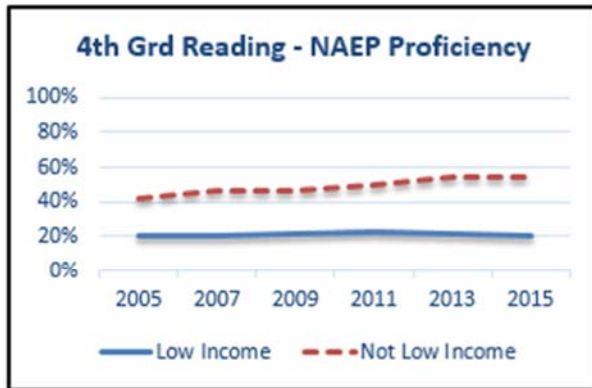
Source: National Assessment of Educational Progress

KS National Rank		2016 ACT	
Student Group	Score	Score Rank	% College Ready*
White	22.8	#20	36%
Hispanic	19.2	#21	15%
African American	17.6	#23	8%

**English, Reading, Math & Science Source: ACT*

Even 'good' national ranks are deceiving. Kansas is #16 in 4th Grade Math (low income) but only 27% are Proficient.

Kansas does match or exceed some of the national proficiency rankings, but that's like celebrating having a luxury suite on the Titanic. How can we be happy, for example, that low income 8th grade students are beating the national average in Math when only 19 percent of them are proficient? Proficiency levels have remained stubbornly low over the last ten years and the achievement gaps for low income students have even gotten worse.



National Assessment of Educational Progress - scale scores					
Grade Level / Subject	2005	2015	Average Annual Change	Target: Not Low Income 2015	Years to Catch up
4th grade Reading - low income	208	208	0	238	Never
4th grade Math - low income	235	231	-0.4	253	Never
8th grade Reading - low income	254	256	0.2	277	105
8th grade Math - low income	270	272	0.2	295	115

National Assessment of Educational Progress - Percent Proficient					
Grade Level / Subject	2005	2015	Average Annual Change	Target: Not Low Income 2015	Years to Catch up
4th grade Reading - low income	20%	20%	0.0%	54%	Never
4th grade Math - low income	30%	27%	-0.3%	58%	Never
8th grade Reading - low income	21%	22%	0.1%	47%	250
8th grade Math - low income	19%	19%	0.0%	46%	Never

Source: U.S. Department of Education, National Center for Education Statistics

ACT Scores					
Student Group	2005	2016	Average Annual Change	Target: White 2016	Years to Catch up
Hispanic	19.1	19.2	0.01	22.8	396
African American	17.4	17.6	0.02	22.8	286

Source: ACT; breakouts by income level not published

Of Kansas students taking the 2016 ACT test, only 36 percent of White students were considered college-ready in English, Reading, Math and Science. Minority students fared far worse; just 15 percent of Hispanic students and a paltry 8 percent of African-Americans met that standard.

The time it would take to close achievement gaps for low income students and minorities used

to be measured in decades; now it must be measured in centuries.

The 2016 State Assessment also reflects startlingly low preparedness for college and career. The adjacent table shows the percentages of 10th Grade students considered to be on track to be college and career ready in English Language Arts (ELA) and Math. Only 18 percent of low income 10th graders are on track in ELA and just 11 percent in Math; among their affluent peers, just 42 percent are on track in ELA and only 34 percent in Math. The geographic sampling of some of the larger districts in Kansas show similarly distressing results. Even in Blue Valley, often thought of as having the highest scores in Kansas, only about a quarter of low income students and barely more than half of the more affluent are on track.

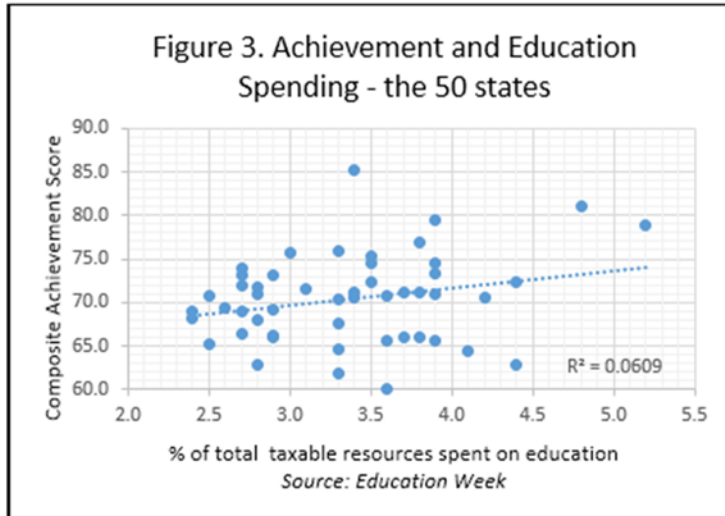
School District	10th Grade - On Track to be College & Career Ready			
	ELA		Math	
	Low Income	Not Low Income	Low Income	Not Low Income
State Average	18%	42%	11%	34%
Blue Valley	28%	55%	28%	55%
Kansas City	9%	16%	7%	10%
Wichita	14%	40%	9%	28%
Topeka	12%	29%	10%	18%
Shawnee Mission	22%	54%	15%	45%
Olathe	20%	52%	16%	48%
Dodge City	11%	27%	9%	21%
Hays	36%	51%	25%	44%
Emporia	22%	39%	14%	28%
Hutchinson	14%	35%	9%	19%

2016 State Assessment; ELA = English Language Arts

Some people believe there is a correlation between spending more money and getting better outcomes but even the majority of researchers who hold that opinion admit that it's how money is spent that makes a difference rather than simply spending more. In Kansas, scores remained stubbornly low and relatively unchanged even

though funding increased from \$4.3 billion in 2005 to \$6.0 billion in 2016; that increase was roughly twice the rate of inflation.

KPI Senior Education Fellow David Dorsey addresses the lack of correlation...let alone causation...in his September 2016 Policy Brief “Supreme Court Should Dismiss *Gannon* for Lack of *Rose*



Measurement and False Spending Premise.”⁶ He writes, “The 20th annual edition of Quality Counts, a nationwide report card produced by Education Week magazine, provided education funding and performance data as part of their analysis. A statistical analysis from the scatterplot in Figure 3...shows the correlation between spending and results falls short of even being considered statistically weak.” He further explains, “The R² value is a measure of the strength of the relationship between the two variables

– achievement and spending. An R² of 0.06, as in this case, is considered statistically ‘weak’ (anything less than an R² of 0.09 is considered a weak relationship) and when the one outlier in the scatterplot (Vermont) is removed, the R² is 0.02.”

This comparison of NAEP scores and per-pupil spending clearly shows the lack of correlation. Florida outperforms Kansas on four of the eight NAEP scores and has the better composite score of all eight measurements, yet spends almost \$2,200 per-student less. Texas spends about \$1,300 less and wins three of the eight comparisons.

Kansas Spends More, Achieves Less on NAEP			
Category	Kansas	Texas	Florida
4th Grade Reading Score 2015			
Low Income students	208.0	208.3	220.2
Not Low Income students	238.2	234.8	238.5
8th Grade Reading Score 2015			
Low Income students	255.6	251.8	256.6
Not Low Income students	277.5	272.2	274.5
4th Grade Math Score 2015			
Low Income students	230.9	235.1	235.2
Not Low Income students	253.1	259.9	254.3
8th Grade Math Score 2015			
Low Income students	271.8	273.7	265.5
Not Low Income students	294.8	296.0	291.7
Composite - all scores	2029.9	2031.7	2036.5
2014 Per-Pupil (headcount)	\$ 12,002	\$ 10,695	\$ 9,794

Source: Census, NAEP

Some states do spend more than Kansas and also have better outcomes, but that is not evidence that spending more causes outcomes to be better, any more than the adjacent example would prove that spending less causes outcomes to be better.

Accountability for Efficient Use of Taxpayer Money

As with previous school funding formulas, the one proposed in HB 2270 has no requirement that districts spend taxpayer money efficiently. That’s in stark contrast to public opinion. The SurveyUSA market study mentioned earlier also found that 84 percent of Kansans want the new

formula to include some requirement for spending money efficiently, a very strong sentiment that crosses all geographic and ideological boundaries.

Q5: A new school funding formula should include some requirement for spending money efficiently, with efficient defined as getting the same or better quality service or product at the best possible price.								
501 Registered Voters	All	Region				Ideology		
Credibility Interval: ± 4.5 pct points		Western Kansas	Wichita Area	Kansas City Area	Eastern Kansas	Conserv	Mod.	Liberal
Strongly agree	45%	52%	40%	47%	43%	51%	41%	44%
Somewhat agree	39%	35%	44%	36%	40%	35%	46%	32%
Somewhat disagree	7%	2%	5%	7%	9%	6%	6%	11%
Strongly disagree	2%	5%	0%	3%	2%	2%	2%	4%
Not Sure	7%	7%	10%	7%	7%	6%	5%	9%
Agree	84%	87%	84%	83%	83%	86%	87%	76%
Disagree	9%	7%	5%	10%	11%	8%	8%	15%

Source: SurveyUSA, data collected Feb. 3 to Feb. 8, 2017

School districts often say they are operating as efficiently as they can, and while they may well believe that, the data shows a completely different story. School officials testified in opposition to HB 2143 to create savings from a statewide procurement system, saying they prefer to spend more than necessary to support their local community. Noble intentions aside, doing so wastes money and consciously diverts funds from Instruction.

Many school districts have excessive operating cash reserves set aside. At the maximum 15 percent of operating funds recommended in the Alvarez & Marsal efficiency study, state aid could have been reduced by \$196.5 million this year – most of which represents aid provided in prior years but not spent. With 286 school districts in Kansas, there are nearly that many separate systems for accounting, payroll, HR, purchasing, transportation, IT, food service and other functions. These are just a few large examples of how money is diverted from Instruction and ultimately results in excess taxation of citizens and/or crowding out funding for other services.

Conclusion

We don't believe the formula proposed in HB 2270 meets the constitutional test of adequacy and it certainly fails to hold school districts accountable for improving outcomes or making efficient, effective use of taxpayer money. For these reasons and others, we encourage the Committee to reject HB 2270.

¹ *Gannon v. State of Kansas*, Kansas Supreme Court March 2014, page 76.

² Ibid

³ Kansas Policy Institute, "Volume II: Analysis of *Montoy vs. State of Kansas*" by Caleb Stegall, 2009.

⁴ Complete survey results, the survey instrument and methodology are available at <http://www.surveyusa.com/client/PollReport.aspx?g=8950f239-20cc-416d-9aec-23803815c668>

⁵ <http://www.edweek.org/ew/qc/2017/state-highlights/2017/01/04/kansas-state-highlights-report-page.html>

⁶ Kansas Policy Institute, "Supreme Court Should Dismiss *Gannon* for Lack of *Rose* Measurement and False Spending Premise" at <https://kansaspolicy.org/gannon-policy-brief/>

Proposed \$900 million K-12 funding increase displays State Board's disconnection and dysfunction

 kansaspolicy.org/proposed-900-million-k-12-funding-increase-displays-state-boards-disconnection-dysfunction/

August 2, 2016

At the July State Board of Education meeting the Board voted to recommend a whopping \$900 million funding increase to the governor by the 2018-19 fiscal year. The recommendation would add over \$550 million in 2017-18 and an additional increase of nearly \$350 million for the 2018-19 school year. Putting that amount in context it would mean

- raising current state aid by more than 22% to nearly \$5 billion annually
- bringing total taxpayer support to more than \$7 billion per year
- per-pupil spending would exceed \$15,000
- if taxes were increased by \$900 million to fund the recommendation, 57 percent of the state general fund would be spent on K-12 education, and that doesn't count \$910 million in K-12 state funding not recorded as General Fund spending. Reallocating other spending to accommodate their wishes would push the K-12 share to 65%.

The stratospheric increase notwithstanding, the way in which the board came to this decision bordered on the surreal. Each year the Board is required by law to make budget recommendations to the governor for the upcoming fiscal years. At the July meeting, Deputy KSDE Commissioner Dale Dennis led the Board through the process by providing budget recommendations in [17 different categories](#). (The entire board meeting can be viewed [here](#) – the budget presentation begins at the 1:12 mark.)

It is quite apparent from watching the proceedings that the Board made this decision hastily with little or no thought to the consequences of their actions. KPI also learned pursuant to a KORA request that no communication between KSDE staff and the State Board was made prior to the meeting. According to Scott Gordon, General Counsel for KSDE, he was told by agency staff that “there was no email or communication between KSDE and Board members other than the Board packet that’s available on the KSDE website” with reference to the budget recommendations.

The \$900 million increase was approved on a 7-3 vote, opposed by Ken Willard, Steve Roberts and John Bacon. The increase is based on raising base state aid per pupil (BSAPP) to \$4,650 for 2017-18 and bumping it up to \$5,150 in 2018-19. Those options were chosen from a list of seven choices for 2017-18 and eight for 2018-19 that were presented to the Board by Mr. Dennis. The Board held discussion for less than 20 minutes before approving it, with hardly a word about where the money would come from to pay for it. More importantly, there was no discussion of how (or whether) another \$900 million would close achievement gaps or improve overall outcomes.

This comment from Board Member Janet Waugh pretty much sums up the Board's disconnection with reality. Regarding finding the money to pay for such an increase, Waugh stated: “this can be done if they reinstate that one tax that they cut.” I believe she was talking about restoring the LLC tax cuts, and if that's the case, only about \$200 million would be generated. Funding \$900 million more in spending would require taxing pass through income AND raising individual income taxes by about 30%. Also absent from the discussion was any justification for that amount other than Board President Jim McNiece describing it as the Board showing a “leadership role.” There was no discussion about how the money could be used to improve achievement, nor was there mention of how this would mesh with the Rose standards. It was just money for money's sake.



But wait, there's more! Base state aid per pupil no longer even exists as a funding category! Despite the fact that Mr. Dennis acknowledged this pesky detail, he still presented it as an option, projecting his prediction that BSAPP will be included in some form in the new finance law.

What transpired underscores the systemic dysfunction that exists in the Kansas education structure. The State Board of Education is an independently elected body, both constitutionally and statutorily charged with the general supervision of public K-12 education, a function that consumes half the entire General Fund budget. However, they essentially have no monetary authority. The legislature appropriates the tax dollars which flows through the Department of Education. Yet they are required to make annual budget recommendations which they do without a whit of consideration of the potential impact on student achievement or the impact their wishes have not only on the state budget but potentially on the entire state economy.

The fiasco surrounding the Board's budget recommendations is an indicator that it is time for systemic changes.