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**MEMORANDUM**

To: Chairman Campbell  
Members of the K-12 Education Budget Committee

From: Jason B. Long, Senior Assistant Revisor

Date: February 20, 2017

Subject: HB 2347 – School District Finance and Student Success Act

House Bill No. 2347 (HB 2347) would create the School District Finance and Student Success Act (Act) and would enact various other substantive provisions related to education.

School District Finance and Student Success Act (Sections 1 through 26)

The Act provides general state aid to school districts. General state aid is determined as the sum of the following forms of state aid:

- Enrollment state aid
- Transportation state aid
- At-risk state aid
- Bilingual state aid
- KPERS employer contributions
- Hold harmless state aid

Each form of state aid is determined by its own formula based on school district information relevant to that form of state aid.

The enrollment state aid is calculated under Section 5 of HB 2347. The enrollment of each school district is based on the average daily enrollment between September 20 and March 20 for the preceding school year. The enrollment of the school district is then used to determine which state aid size category is applicable to the school district. The enrollment of the school district is multiplied by the applicable per student amount as determined by the size category of the school district. The size categories and associated per student amount are as follows:

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- For fewer than 400 students, \$8,490
- For at least 400 students, but less than 1,000 students, \$7,269
- For at least 1,000 students, but less than 2,000 students, \$6,137
- For 2,000 students or more, \$5,763.

The per student amounts are established using the following five cost components:

- Instructional cost
- Student support cost
- Staff support cost
- Administration cost
- Operations and maintenance cost

The per student amount for each cost area was determined for a typical school district in each size category where more than 70% of the students, who are not low income students, met the 2, 3, or 4 achievement levels on the state assessments for reading and math in SY 14-15. The costs were calculated using the FY 15 costs for each of these areas based on the function categories identified in the Department of Education's Accounting Handbook. The per student amounts for each of the cost areas was then added together to obtain the enrollment state aid per student amount for each size category.

Section 5 also has a provision that increases the enrollment state aid per student amounts annually based on the percentage increase in the CPI-U for the Midwest Region as published by the U.S. Department of Labor.

HB 2347 repeals K.S.A. 72-3715, which currently provides the statutory formula for determining virtual school state aid. There is no separate calculation of virtual school state aid under HB 2347. Virtual students would be counted in the enrollment of the school district and funded through the general state aid provided under the Act.

Section 6 provides for transportation state aid for each school district. The transportation state aid is based on the formula for transportation weighting used under the School District Finance and Quality Performance Act (SDFQPA). However, the formula in the Act has been modified to account for a calculation error previously identified by Legislative Post Audit. Transportations state aid is determined by multiplying the school district's transportation state aid

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factor, which is roughly equivalent to the transportation weighting under the SDFQPA, by the enrollment of the district, and then multiplying that product by \$3,852.

Section 7 provides for low income state aid for each school district. The low-income state aid is determined by finding the poverty rate of the district for individuals aged 5-17 according to the U.S. Census Bureau. That rate is then multiplied by the enrollment of the district. This adjusted enrollment is then multiplied by \$3,099.

Section 8 provides for bilingual state aid for each school district. The bilingual state aid is determined by taking the headcount enrollment of students receiving bilingual education services in the school district and multiplying that number by \$425.

Section 9 provides hold harmless state aid. This is additional state aid for SY 17-18 and 18-19 for those school districts that would receive less under the Act than they received in SY 14-15. The amount of the state aid, if any, is determined by adding the aggregate state aid received by the district for SY 14-15 and the proceeds of any local tax levied in SY 14-15 that was directly deposited into a fund of the district. From this sum the following amounts are deducted:

- Aggregate state aid the district is to receive for the current school year under the Act
- Savings realized by the district from implementation of a statewide school district employee health care benefit plan
- Savings realized by the district from implementation of food services efficiencies and extracurricular activity efficiencies
- An amount equal to  $\frac{1}{3}$  of the unencumbered cash balance of the district as of July 1, 2014, that is in excess of 15% of the general operating expenditures of the district for SY 14-15.

Any positive amount remaining after such calculation is the additional state aid the district will receive for that school year.

Sections 10 through 13 of HB 2347 govern the distribution of general state aid to school districts. They include the continuation of the state school district finance fund, the distribution times of general state aid, and the enrollment reporting requirements for districts.

Under Section 14, commencing in SY 18-19 the State Board of Education (Board) will use a success metric system developed by the Board to determine the eligibility of school districts for success grants. Under this system qualifying school districts will receive additional

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state moneys in the form of a success grants in amounts determined in accordance with the system. The success grant awards are to be paid to those teachers and building administrators specified in the section on a per employee basis. Although the success grants are not distributed until SY 18-19, the Department of Education will begin collecting data immediately pursuant to Section 52.

Each school district is required to levy a property tax of 35 mills on the taxable tangible property within the district. The proceeds of the tax levy are remitted to the state treasurer for redistribution as general state aid.

Section 16 provides that each school district may levy an additional property tax on the taxable tangible property within the district. The tax may be levied for up to five years, must be levied for a specified expenditure of the district, and must be approved at an election by the electorate of the district. There is no cap on the number of mills that may be levied by a district. Except for curriculum expenditures, the proceeds cannot be spent for instructional costs. This tax levy is not equalized monetarily, but if a school district uses the proceeds for curriculum expenditures, then the curriculum must be provided by the school district to all other school district via distant learning technologies. This tax levy is not subject to tax increment financing laws for TIF districts established after July 1, 2017.

Sections 17 and 18 govern the use of moneys held in funds at the school district level. Section 17 continues in existence all funds already being used by school districts, and Section 18 allows for the free transfer of moneys between funds under the same limitations as in the CLASS Act.

Section 19 prohibits the use of any moneys received as general state aid for extracurricular activities. Districts will need to use other revenue sources, such as gate receipts and fees, to pay for these operations. A school district may also levy a property tax pursuant to section 16 to cover these types of expenditures. Along with this policy Section 77 amends K.S.A. 72-8208a to require more precise accounting of receipts and expenditures from activity funds used for extracurricular activities, and Section 82 amends K.S.A. 72-8254 to require reporting on receipts and expenditures for extracurricular and co-curricular activities by the specific activity to which the receipt or expenditure relates.

Section 20 prohibits the use of any moneys received as general state aid for food service. Districts will need to use other revenue sources, such as lunch charges, to pay for these operations, or may also levy a property tax pursuant to section 16 to cover these types of expenditures.

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Section 21 requires the Board to develop and implement an accreditation system. No district shall be accredited unless the district can demonstrate it is meeting the *Rose* standards as codified in K.S.A. 72-1127(c). Additionally, the Board is to design and implement statewide assessments.

Section 22 provides legislative findings as to the ideal efficient school district enrollment size. The Board is required to review the legislative findings and consider reorganizing school districts to match the ideal efficiency criteria. The Board is to report to the Legislature any plan it develops to reorganize school districts.

Section 23 requires the Board to review the factors identified by the Legislature to identify efficient school districts and the extent to which school districts are producing student outcomes using cost-effective educational means. The Board is to annually report its findings to the Governor and the Legislature.

The Act is nonseverable under Section 25. It also sunsets on June 30, 2022 under Section 26.

#### Capital Outlay State Aid

Section 27 establishes a new formula for capital outlay state aid equalization. This formula is based on: (1) The assessed valuation per pupil (AVPP) of the school district in the preceding school year; (2) the average federal adjusted gross income per filed tax return for residents of the district in the preceding school year; and (3) the average appraised value of single family residences for the preceding calendar year. The geometric mean of these three numbers is then calculated to establish the equalization base for each school district. Each equalization base is then rounded to the nearest \$1,000. The median equalization base is then assigned a state aid computation factor of 25%. For each \$1,000 increment that is greater than the median the state aid computation factor is reduced 1%. For each \$1,000 increment that is less than the median the state aid computation factor is increased 1%. The maximum state aid computation factor is 100%. The state aid computation factor is then multiplied by the amount levied to determine the amount of capital outlay state aid.

#### Capital Improvement State Aid

Section 28 requires the Joint Committee on State Building Construction to review those projects for which a school district is requesting capital improvement state aid to help finance the project if the issuance of bonds is not approved at an election held prior to January 1, 2017.

Committee approval is required to receive bond and interest state aid, and such approval must be obtained prior to the school district holding an election to approve the issuance of the bonds except in emergency circumstances.

Section 29 establishes an interim study committee to review options to implement centralization of capital improvement and capital outlay financing through a state revolving loan fund or master lease program. The committee would have authority to introduce legislation and would report to the Legislature in January 2018.

Section 73 amends K.S.A. 72-6760 to require at least three sealed bids for any capital improvement project.

Section 95 amends K.S.A. 75-2319 to provide for the calculation of capital improvement state aid for bonds approved at an election held after January 1, 2017. The bond and interest state aid would be calculated using the same formula set forth in the CLASS Act, except that the state aid amount would be prorated by the percentage of the project used for instructional purposes as determined by the Joint Committee on State Building Construction under Section 28.

#### School Grading System

Section 30 requires the Board to develop and implement a system for assigning grades to each public school in the state. The system is to consider the graduation rate, composite ACT scores, and percentage of students who are college and career ready based on assessments in math, reading, and science. The Board will report on the system to the Governor and the Legislature in January 2018.

#### Merit-based Teacher Compensation System

Section 31 requires the Board to develop and implement a school personnel evaluation system and a school personnel compensation system. The evaluation system is to be used to determine the appropriate compensation for school district personnel under the compensation system. The Board will report on the systems to the Governor and the Legislature in January 2018.

#### Human Sexuality Education Parental Option

Section 32 requires prior written consent of the parent or legal guardian before a student can participate in a class on human sexuality.

School District Employee Health Care Benefits Program

Sections 33 through 38 directs the Kansas State Employee Health Care Commission to establish a unified school district employee health care benefits program. This program would be similar to, but separate from the existing state employee health care benefits program. All school district employees and their dependents are qualified to participate in the program, and each school district will participate in the program starting January 1, 2019. School district employees and dependents would only have the option of using a high-deductible health plan with a health savings account.

Section 65 amends K.S.A. 72-5413 to make insurance benefits under the unified school district employee health care benefits program a non-negotiable term and condition. Other insurance benefits could still be negotiated.

Sections 96 through 99 amend existing health care benefit program statutes to exclude school districts from the existing state employee health care benefits program.

Kansas Education Freedom Act

Sections 39 through 50 enact the Kansas Education Freedom Act. This is an educational savings account program. Under this act the State Treasurer may enter one-year written agreements with the parent of a student to establish an education freedom account for such student. Each student has their own account and each account is governed by a separate written agreement.

An education freedom account is funded by a transfer from the state general fund in the amount of 70% of the general state aid per pupil for the resident school district of the student. For purposes of this act, the general state aid received by the resident school district excludes the employer's obligation under KPERS. No personal deposits may be made into an account.

Moneys in an education freedom account can only be spent for those purposes described in Section 45. They include tuition and fees charged by a participating entity, textbooks and other educational materials, educational therapies and services, tutoring services, fees for nationally standardized achievement/assessment examinations, contracted services from a public school district, and transportation fees.

A participating entity must apply to the State Treasurer to be deemed a participating entity for purposes of the act and to receive funds from an education freedom account. Participating entities can be accredited nonpublic schools, accredited distance learning programs, or accredited tutoring services. A participating entity must provide instruction in those subjects

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required by state law for elementary schools, high school graduation, and Kansas history and government.

The Treasurer may transfer up to 2% of the amount deposited into an education freedom account to the education freedom expense fund to cover the administrative costs of the Treasurer. Additionally, any moneys remaining in an account that has been terminated due to violation of the agreement or that becomes inactive will be transferred to the state general fund.

Finally, the Treasurer is to provide for annual audits on a random sampling of accounts. Also, the Treasurer is to conduct an annual parent survey of those students participating in the program.

#### USD Efficiency Incentive Program

Section 51 establishes the USD efficiency incentive program. Under this program any employee, or employees, of a school district may submit a plan for the efficient operation of school districts. Each January the Board will submit a report to the Legislature describing each plan, the potential cost savings, and any legislation that may be necessary for implementation. If a plan is implemented, then the Director of the Budget will certify the amount of the cost savings realized by the State. 10% of this certified amount is to be transferred from the state general fund to the USD efficiency incentive fund. The Board will then pay the 10% amount to the individuals who submitted the plan.

#### School Finance Litigation Procedure

Section 58 amends K.S.A. 60-2102 to repeal the right to directly appeal a decision in a school finance lawsuit to the Kansas Supreme Court. Under HB 2347, an appeal from a trial court decision would first have to be made to the Kansas Court of Appeals. However, the bill also provides that the appeal could invoke a review by the Court of Appeals sitting *en banc*, which means the full Court of Appeals would hear the case instead of the usual 3-judge panel.

Section 66 amends K.S.A. 72-64b01 to prohibit any general state aid moneys from being used by a school district to fund a lawsuit challenging the constitutionality of any law concerning school finance.

Section 67 amends K.S.A. 72-64b03 to require that the 3-judge district court panel be selected by random lottery from all active district court judges. The first judge selected via lottery is to be designated as the presiding judge over the panel.



Tax Credit for Low Income Students Scholarship Program Act

Sections 88 through 91 amend provisions of the Tax Credit for Low Income Students Scholarship Program. First, the amendments expand the number of eligible students. Under current law only those students enrolled in, or eligible to be enrolled in, a Title I focus or priority school are eligible for a scholarship. HB 2347 would allow any student who qualifies for free or reduced lunch to be eligible regardless of the public school the student would otherwise attend.

Second, scholarship granting organizations may give preference to students who received a scholarship the previous year when distributing educational scholarships. Also, scholarship funds would be made in two installments; the first on the 31<sup>st</sup> calendar day of the first semester, and the second on the 31<sup>st</sup> calendar day of the second semester.

Finally, the program is amended to allow individuals to contribute to the program. Currently, only corporate income tax may be offset by tax credits for contributions made to the program. The individual tax credit would be 90% of the amount contributed to the program, while the corporate tax credit would remain at the current 70% amount. Additionally, the annual cap on aggregate tax credits remains at \$10,000,000, but HB 2347 provides for automatic increases of 25% if the total amount of credits in a tax year is at least 95% of the aggregate annual cap amount.

Conforming Amendments

Sections 53 – 56, 59 – 64; 68 – 72; 74 – 76; 78 – 81; 83 – 87; 92 – 94; 100 - 103 provide conforming amendments to various statutes.

Ending Sections

Sections 105 provides the necessary repealers of existing law, which would be replaced by the amended laws contained in the bill.

Section 106 provides that the bill is effective July 1, 2017.

