.
.
.
.
.

JOINT LEGISLATIVE BUDGET COMMITTEE HEARING

.
.
.
.
.
.

TRANSCRIPT OF PROCEEDINGS,

beginning at 8:35 a.m. on the 21st day of March, 2016, in Room 548S, Kansas State Capitol Building, Topeka, Kansas, before the Joint Legislative Budget Committee consisting of Chairman Ron Ryckman, Jr., Chairman Ty Masterson, Representative Sharon Schwartz, Senator Jim Denning, Representative Jerry Henry, Senator Laura Kelly and Representative Marvin Kleeb.

.
.
.
.

Appino & Biggs Reporting Service Inc
Technology Specialists in Today's Complex Litigation
800 E. 1st Street, Suite 305
Wichita, KS 67202
316-201-1612
5111 SW 21st Street
Topeka, KS 66604
785-273-3063
www.appinobiggs.com
6420 W. 95th Street, Suite 101
Overland Park, KS 66212
913-383-1131

APPEARANCES

.

.

ON BEHALF OF THE LEGISLATURE:

.

Mr. Toby Crouse
Foulston Siefkin
32 Corporate Woods
9225 Indian Creek Parkway
Suite 600
Overland Park, KS 66210-2000
913-498-2100
tcrouse@foulston.com

.

.

.

.

.

.

.

.

.

.

.

INDEX

.
.
Certificate ------------------------------ 252
.
.

CONFEREES

WITNESS PAGE
JASON LONG
Questions by Mr. Crouse 10
Questions by Rep. Henry 26
Questions by Mr. Crouse 27
EDDIE PENNER
Questions by Mr. Crouse 28
Questions by Rep. Henry 55
Questions by Chairman Masterson 57
DALE DENNIS
Questions by Mr. Crouse 59
Questions by Chairman Masterson 78
Questions by Rep. Henry 79
Questions by Chairman Masterson 80
Questions by Rep. Henry 85
Questions by Senator Denning 88
.
.

DAVE TRABERT
Questions by Mr. Crouse 89
Questions by Rep. Henry 106
DR. JIM HINSON
Questions by Mr. Crouse 115
Questions by Chairman Masterson 140
Questions by Rep. Kleeb 143
Questions by Rep. Henry 145
MARK TALLMAN
Questions by Mr. Crouse 149
RANDALL WATSON
Questions by Mr. Crouse 169
Questions by Chairman Masterson 194
CONTINUATION OF MARK TALLMAN
Questions by Mr. Crouse 200
Questions by Rep. Henry 221
Questions by Chairman Ryckman 224
Questions by Chairman Masterson 224
MIKE O'NEAL
Questions by Mr. Crouse 233
.

EXHIBITS

LOB supplemental state general aid spreadsheet
Capital outlay state aid spreadsheet
.

Appino & Biggs Reporting Service Inc
Technology Specialists in Today's Complex Litigation
800 E. 1st Street, Suite 305
Wichita, KS 67202
316-201-1612
5111 SW 21st Street
Topeka, KS 66604
785-273-3063
www.appinobiggs.com
6420 W. 95th Street, Suite 101
Overland Park, KS 66212
913-383-1131

CHAIRMAN RYCKMAN: Good morning. We are going to open today's meeting with the Legislative Budget Committee. In House Substitute Senate Bill 161, the legislature authorized the hiring of an attorney to help to assist the legislature respond to the Court and ensure that we will keep our schools open. Today's meeting is a critical step towards that end.

The courts, the revisors and the Attorney General has made it clear that the legislature needs to create a record in going forward regarding equity in the creation of a new school finance plan. The courts has asked us to show our work. We attempt to make our legislative process and deliberations more of what the court is accustomed to seeing. This meeting will be a hearing for gathering testimony from an invited list of conferees. There is a transcriptionist here to assist in the creation of the record. When there is a bill to consider, there will be opportunities, as always, for additional testimony to be provided.

I'd like to also mention that today's -- we also have a lot of floor action today, so we'll be going back and forth. And so, obviously, Chairman

Masterson and myself will kind of take turns chairing this committee, and I turn it over to him.

CHAIRMAN MASTERSON: Thank you, Mr. Chairman, for the opening remarks. I just too want to echo that we understand this is somewhat nontraditional in the format, but our traditional methods have not been accepted as evidence with the courts and we are trying to create a -- accommodate that on their behalf because we are all very serious about protecting the schools from closure. So we are trying to create this record of evidence that they have requested.

512, which is the Senate's position on K-12, currently is on our floor today and we will hear that. We believe that to be the purest response, quoting from their opinion that they say, obviously, if we provide the relevant portions and funded those within the block grant system, they would have accepted the block grant system, that that is the purest response. But as we are a body of politic and can't guarantee where everybody votes, that that were to fail. They were also very clear in the opinion, from our standing, that if we deviate from that, that we need to create a

clear record of evidence, and that's what we are hoping to do if we need an optional proposal to come before the body. With that, we are -- go ahead.

CHAIRMAN RYCKMAN: Any other comments before we get started? I'd like to introduce Toby Crouse, our attorney. He will be questioning conferees on behalf of Chairman Masterson and myself.

Toby has been gathering information from these conferees. Today we will have conversations with these conferees that will be put in the record to assist in our effort to respond to the courts and keep our schools open. Mr. Crouse.

MR. CROUSE: Thank you, Mr. Chairman, and members of the committee.

CHAIRMAN RYCKMAN: Your mike.

MR. CROUSE: Rookie mistake. Thank you, Mr. Chairman, and members of the committee. I appreciate the opportunity to serve the legislature and appear before this committee.

Although I'm unfamiliar with the traditions and procedures of the Kansas legislature, I've come to learn that both my appearance before this committee and the record that I have been asked to

create are atypical customs of this body, but this body is subject to a remedial order of the Kansas Supreme Court and one of the criticisms repeatedly leveled, both during oral argument and in the Court's order of the previous school funding statutes, was the lack of an evidentiary basis for the legislature's decision.

So I appear before you with a transcriptionist in an attempt to help the Court understand that this body faces a difficult task and intends to discharge its constitutional duties to provide for the finance of suitable education for all Kansans and to endeavor and faithfully comply with the Court's order so that the Court will not preclude the schools in Kansas from reopening in the summer -- after the summer of 2016.

Reflective of that goal, I was hired by the legislature on March 10, 2016, to serve as a legislative counsel so that I could advise the legislature of its duties to comply with the Court's order and to help it understand how the Court, as stated in Gannon I and II would measure the legislative response.

I'm grateful for this opportunity and have

been wildly impressed by your members' commitment to ensuring that the public schools continue to provide for our children an educational foundation that will allow all Kansans the opportunity to flourish in their chosen path.

In just my short time as legislative counsel, I have had the opportunity to attend committee hearings, review proposed legislation, work with the legislature's professional staff and have personal interviewed learned individuals that are respected for their knowledge of the Kansas public education system and this body's commitment to funding public education.

So this morning I hope to make a record of the issues implicated by these difficult choices that confront this body and the rationale for whatever solution the legislature ultimately chooses.

In the following proceedings, it is my sincere desire to ask questions of these educators and proponents of public education in a manner that aides this body in making difficult discretionary policy choices about how to equalize public education funding across our great state, regardless of the number of students in the

district or the relative property value of the land those children call home.

Unfortunately, I've come to understand that the equalization issue admits no easy answers, but I hope my brief public discussions with these dedicated Kansans will help this body determine the best manner to fund a relatively small portion of equalization at issue in this case so that in August of 2016 the school bell rings in every school across our great state. Thank you again for this humbling opportunity.

With that, I'd like to ask Mr. Long of the Revisor's office to come to the lectern, please.

EXAMINATION OF JASON LONG

QUESTIONS BY MR. CROUSE:

Q. Good morning, Mr. Long. How are you?

A. Good morning. How are you?

Q. Good. While the committee knows you, please introduce yourself and kind of describe your position, who you work for and things of that nature.

A. My name is Jason Long. My position is Senior Assistant Revisor in the Office of Revisor of Statutes. I staff the Senate Education Committee and the House Federal and State Affairs

Committee.

Q. And how long have you been with the Revisor's office?

A. This is my tenth session.

Q. How many -- or what has been your involvement in drafting school finance legislation in the past and as it exists today?

A. I started staffing the Senate Education Committee in 2011 and I've drafted the predominant school finance legislation since that time period, including House Bill 2506 in 2014 and Senate Bill 7 last year.

Q. Okay. And I should take a little bit of a detour and make sure that we are clear. You work for the Office of the Revisor, and my understanding is that is a nonpartisan entity. Is that right?

A. That's correct.

Q. And some would say you're fiercely apolitical. Is that a fair statement?

A. Yes.

Q. And so you work on behalf of the legislature and any of the legislators could come into your office to ask for legislative drafting help. Is that right?

A. That's correct.

Q. Let's talk a little bit about your typical role in a bill. Tell me from the time a legislator would pick up the phone or come into your office and say, Jason, I have an idea, walk me through that process, if you will.

A. Well, we -- we get the initial request via e-mail or phone call or stopping by the office and I will discuss that concept with the legislator, express any questions that I have at the time or if I have any concerns regarding any conflicts with legal precedent and their idea, we'll discuss those at the time. And then either I will get more information at a later date or I'll begin drafting the legislation. And typically I will draft an initial draft of the bill, send it to the legislator to review. They will send back either questions, comments or a, yes, that looks great, let's go with that kind of response, but there is a back and forth there. Sometimes it's a lengthy back and forth and lasts a few months, depending on the complexity of the legislation, sometimes it's within the next day and they are ready to go.

But then as soon as I get the approval of the

draft from the legislator, then they follow proper procedures for having the bill introduced, and then my office also takes care of that of having the bill properly formatted and copies made and sent to the appropriate chamber for introduction and receive a bill number.

Q. And you said something in there that I probably forgot for ask. You are, in fact, a lawyer and you used to be in private practice. Is that right?

A. Yes, I do have private practice experience before coming to the Officer of the Revisor of Statutes. All revisors in our office have a juris doctorate degree and be licensed to practice in the State of Kansas.

Q. My understanding next from the process is once the bill is introduced to a committee, you would prepare what I would call a bench memorandum for the committee. And tell me about the process of drafting that bench memorandum and how you would carry that forth into a committee hearing?

A. So, yes, when a bill is referred to committee, if the chairman decides to have a hearing on the bill, our office and the various attorneys that staff that committee most often

would prepare, we refer to them as a bill brief, which is a memorandum summarizing the contents of the bill. These are purely just a memorandum doing just that. It lays out what is in the bill in a way that are non-attorney legislature can understand the contents of the bill and understand what they are discussing, what they potentially might be voting on. We try to keep these brief, a page or two. Of course, depending on the complexity of the bill, they can run a bit longer. But then at the hearing oftentimes the Chair will ask staff to give an overview of the bill. At that point then the memorandum is distributed to the members of the committee and there is a brief oral description of the contents of the bill. Then we make ourselves available to the committee to answer any follow-up questions they may have on the bill.

Q. And so, for example, if there were a particular legal concerns that you had identified in the legislation or a legislator asked in committee hearing, you would talk about that in a public hearing?

A. Yeah, it depends on what the concern and how it was addressed in the legislation. You

know, if a bill, because of the subject matter, requires a two-thirds vote of the legislature for passage, I think we would note that in our memorandum so the committee is aware of that, a typical requirement for legislation passage. That would be an example.

Q. And do you have any other roles in the legislative process once, for example, a bill is voted out of committee?

A. Yes. Our office is also responsible for drafting all amendment documents for legislation. So while it's in committee, we draft up what are called balloon amendment documents which are proposed amendments to the bill to be considered by the committee when they go to consider the bill for passage. And then once it gets to the chamber floor, if the bill is brought up for general debate in front of the whole body, we are also responsible for drafting any floor amendments, amendments that would be offered by any member of the chamber during that floor debate. We craft those up in the appropriate legal documents so that they can offer those to be considered by the body.

Q. And your interactions with the

legislators would be similar to drafting the initial bill -- let me start over.

Your interactions with the legislators with regard to amendments would be similar to any other bill that you would have drafted for the committee. Is that right?

A. Yes, the legislator would contact us, that's what initiates the request for the document, and then we have that initial discussion. We craft the document and then if opportunity arises, have them review it or if, you know, time is of the essence we send it up to the chamber and it gets reviewed on the chamber floor.

Q. Okay. And you do this for every bill that's within the scope of your revisor duties, correct?

A. Yes. Our office tries to maintain some subject matter expertise. And so generally my duties fall within those areas of education or federal and state affairs, yes.

Q. Okay. I'd like to direct your attention next to a February 25, 2016 memorandum that I believe your office drafted in response to the Gannon decision in February of 2016. Are you familiar with that document?

A. Yes, I am.

Q. Tell me what the purpose of that memorandum was and to whom you distributed that memorandum?

A. That memorandum was intended to provide a comprehensive legal analysis of the Kansas Supreme Court's opinion that was issued on February 11th of 2016 to go through what the Court's rationale in rendering its decision in that opinion, and then also provide some historical context as to the history of the case towards the end of that opinion.

I believe that memorandum was distributed to all leadership offices. I'd have to double check with the Revisor as to exactly who he distributed that to, but I believe that's where it went.

Q. The distribution may have gone to leadership, but it's available to all legislators?

A. Yes. Yeah, I believe it became a public document.

Q. And is one of the reasons why you would craft such a memorandum is to help both educate the legislative body as a whole, as well as identify particular issues that were of concern to the Supreme Court?

A. Yes. Yes. Our intent is always to keep the body apprised of legal issues, particularly substantive ones that may need addressing in the immediate future. So that was our intent was to provide that information to the body so that they could understand the issues that have been identified by the Court in its opinion.

Q. And if we can, for a second, I'd like to go to a couple of points in your memorandum.

One of the things that I noted on page 1, if you will, is the Supreme Court identified a lack of evidence of the legislative process and the reasons for school financing. Is that consistent with your recollection?

A. Yes.

Q. And then if you turn to page 2, it sets forth what I will call the Constitutional standard towards the top. Can you tell me what you advised the legislature with regard to what the Supreme Court's Constitutional standard for compliance with equity is?

A. Yes. The Supreme Court standard with respect to equity was the substantially similar educational opportunity through similar tax effort, I believe is a rough paraphrasing of the

standard that the Court put down. And in essence, in the Court's opinion, they stated that reinstating the supplemental general state aid and capital outlay state aid formulas as they existed prior to enactment in Senate Bill 7 and fully funding those formulas would meet that Constitutional standard.

Q. Okay. All right. And so let's talk a little bit about educational funding because I think where we are at with equity can be narrowed just a bit.

When I spoke to you in your office earlier this week, or I guess last week, you were kind enough to give me a summary of general educational funding. I understand there are two aspects, general state aid and supplemental state aid, which I think some of us have referred to as equalization. If you could, give me just a brief summary as to the general state aid, as well as then the specific components of supplemental state aid.

A. Yes. General state aid under the current statutes is what a district received as general state aid in school year 14-15. That amount was based on the previous school funding formula which

looked at adjusted enrollment of the school districts and also considered in their local funding sources to come up with the amount of general state aid to come from the state to fund the general operations of the school district.

In comparison, the supplemental general state aid or equalization state aid, as you put it, is additional state aid provided for those school districts who opt to levy a local option budget. The local option budget is a separate budget from the general fund budget of the school district that school districts can elect to adopt to fund education expenditures of the school district. There is a local levy then on the property of the school district.

And what the supplemental general state aid does is provide additional state aid to reduce any wealth-based disparities among the school districts because our school districts in the state, one bill in one school district has not raised the same amount of funding as one bill in another school district. So to try to cure that disparity, there is an additional equalization state aid in the form of supplemental general state aid that is available to those lower wealthy

districts that are poorer in wealth property value wealth than the wealthier districts to bring up that source of funding.

The same is true for the capital outlay state aid. Again, there is a tax authorized at the option of the school district to levy a property tax to pay for capital outlay expenditures of the school district. And again, because it's optional and because of the wealth-based disparities among the districts, there is a formula for capital outlay state aid, and that state aid is then provided to school districts to again offset that wealth-based disparity.

Q. And I understand it's also a bond and interest, so there are three buttons of equalization. Is that right?

A. There is also -- yes. There is also authority for school districts to issue bonds for capital improvement expenditures and there is a formula in which the state provides state aid to help pay for those financial obligations of the school districts for the bonds that they have issued.

Q. And are you familiar with what I will call the equalization formulas for each of those

three buckets?

A. Yes.

Q. Okay. And could you briefly tell me whether or not those equalization formulas are the same for all three buckets or whether they differ?

A. As constituted in the block grant, they differ. There is Senate Bill 7 last year set in place a formula for the supplemental general state aid and then set in the formula for capital outlay and capital improvement state aid. The supplemental general state aid is different from the two capital state aid formulas.

Q. And I'm going to quiz you while you are on your feet, generally, could you describe what those differences are between the three types or would you need to go back to the books? And I don't want to put you on the spot, I just want to get a concept for how -- how they differ.

A. Sure. Not to get too far into the weeds, all three are based on assessed valuation per pupil amount, which is the total assessed valuation of all the property, actual tangible property in the school district divided by the number of students enrolled in the school district to get you to what is called AVPP.

Under the LOB or supplemental general state aid formula, those amounts are ranked and then a threshold of 81.2 percent was determined to be the cutoff between those districts that don't receive any state aid and those districts that have enough wealth disparity to receive state aid. And then under Senate Bill 7, then all those below 81.2 were to receive equalization state aid relative to their position to that 81.2 percentile. Those farther away from it, or the very poor, were to receive more proportional state aid than those that were encloser to the 81.2 percent.

By contrast, the capital state aid formulas both for outlay and for capital improvements use a schedule. They actually use a rounded AVPP figure. So we find that AVPP of the school district and then it's rounded to the nearest thousand dollar increments. Then on a schedule of thousand dollar increments, the school districts will fall into a schedule from lowest to highest.

And under Senate Bill 7, we find the lowest ranked AVPP and we assign that as state aid percent at 75 percent, which is the maximum state aid percentage. And then for each thousand dollar increment above that, that percentage goes down 1

percent or the state proportional state aid goes down as you get wealthier going up that scale. So those are -- that's the two key differences, the threshold and then how the amount is actually determined, you know. The capital state aid formula use a computation percentage, as opposed to the supplemental general state aid.

Q. And I understand those are the two equalization concepts at issue in Gannon II, and those formulas differ. There is a third bucket that I'm also interested in, the bond and interest structure. Could you briefly summarize whether that equalization strategy is the same as either of those two or whether it also is different?

A. The bond and interest or the capital improvement state aid is the same as the capital outlay state aid.

Q. Okay. So there are three buckets, two different strategies for equalization?

A. That's correct.

Q. Okay. And let's move now to the legislative options to attempt to comply with the Gannon II decision. I sat through the hearings of House Bill 2371, I believe it is, or 2731, as well as Senate Bill 512, and that's where I first saw

you testify. Were both of those bills, to your knowledge, designed to address the Supreme Court's equity decision?

A. From the face of the bills, I believe that is -- that is what they are designed to do, simply because they do what the Court said would be compliant with the equity standard, and that is reinstate the equalization formulas as they existed prior to Senate Bill 7 and then fully fund those formulas for supplemental general state aid and capital outlay state aid.

Q. I'm not sure -- I read your memo several times, but I think I got this language from the Supreme Court's discussion with counsel that the SDQFP [sic] formula was somewhat of a safe harbor. Do you recall that language from the Supreme Court or did you use that in your memorandum? I don't recall.

A. No, that was not in my memo. I don't recall that from the oral argument. I do recall in the Court's written opinion that they stated that reinstatement of those formulas, coupled with full appropriations to fund those formulas, would meet the equity standard that the Court had stated.

Q. And are the equalization strategies contained in House Bill, I should have it here, 2731 and SB 512, are those the equalization formulas that the Court was referring to?

A. Yes.

MR. CROUSE: Okay. Mr. Long, thank you very much for your time. More importantly, the committee should know that Mr. Long and Mr. Self's office have spent considerable time helping me get up to speed and I greatly appreciate their help. So thank you very much.

CHAIRMAN MASTERSON: Committee have any questions of Mr. Long before he leaves?

QUESTIONS BY REP. HENRY:

Q. Mr. Long, are you an expert at equity? I mean, have you looked at the cost study that the Supreme Court used to base this?

A. I don't know if I'd call myself an expert on equity. I reviewed the Court's findings and opinions on the matter.

Q. Your role is just to review the -- review the Court's findings and just report to the legislature?

A. Essentially, yeah, our role is to advise the legislature on what the Court ruling was so

that you have a better understanding of what the Court is looking for in terms of a legislative cure, as they put it.

Q. So has the Revisor of Statutes done any type of complete cost study in equity such as what was done by Augenblick & Myers?

A. I believe doing a cost study would be outside the scope of our standard duties.

Q. You're just basing your testimony today on just legislative actions and what -- and what bills have been presented?

A. Yes. My testimony today is strictly what has the Court stated in its opinion and what has been the legislative response to the Court's opinions.

Q. So you have no opinion whether the cost study or fulfilling the cost study that was presented in the Supreme Court?

A. No, I --

MR. HENRY: Okay, thank you.

CHAIRMAN RYCKMAN: Mr. Crouse?

FURTHER QUESTIONS BY MR. CROUSE:

Q. Mr. Scott -- thank you, Mr. Chairman. Mr. Scott mentioned that I may not have been clear. The equalization strategies that are in

Senate Bill 512 and House Bill 2731 were designed to comply with the previously-identified Constitutional standards, not the standards of equalization that the Supreme Court said was unconstitutional, correct?

A. No, 2731 and Senate Bill 512 are designed to reinstate the formulas that the Court identified as meeting their Constitutional standards.

MR. CROUSE: Thank you very much.

CHAIRMAN RYCKMAN: Any other questions of Mr. Long? Mr. Crouse.

MR. CROUSE: Thank you, Mr. Chairman. I think I'd next like to talk to Eddie Penner with regard to timing. I'm trying to accommodate a witness who has to leave for a health issue, but I don't see him here right now so we are okay.

EXAMINATION OF EDDIE PENNER

BY MR. CROUSE:

Q. Good morning, Mr. Penner.

A. Good morning.

Q. Would you please remind the transcriptionist kind of your name, what your role is here at the legislature.

A. My name is Eddie Penner. I'm a research

analyst with the Kansas Legislative Research Department.

Q. Okay. And what does that mean generally in the legislative process?

A. Our office assists legislators with research requests and requests for information that they use to shape policy decisions.

Q. And my understanding in our prior life, we were practicing law opposite one another. You are a lawyer, as well?

A. Yes, I am.

Q. Okay. And so different -- even though you are a lawyer, differentiate your role, if you can, in the Legislative Research Department from Mr. Long's role in the Revisor's office.

A. Mr. Long provides legal counsel and bill drafting to the legislature. Our office does not provide either of those services, but rather we provide policy analysis and research assistance to the legislators.

Q. Okay. And I assume that you either have heard of or have seen Mr. Long's February 25th, 2016 legal memorandum with regard to Gannon and you're otherwise familiar with the school funding operations?

A. Yes, I have seen that.

Q. And I want to take a brief moment to talk a little bit about the Legislative Research Department.

My understanding is, like the Revisor's office, you are a nonpolitical, fiercely independent organization. Is that right?

A. Yes.

Q. Would you talk a little bit about that.

A. Yes, our office is a nonpartisan office also and our objective is to provide objective and nonpartisan policy analysis.

Q. And like the Revisor's office, you provide analysis to all 125 house members and all 40 senators.

A. Yes, we do.

Q. Tell me, let's talk a little bit about your typical role on a bill. What type of help would you provide to the particular legislator or group of legislators that may come to you for with a particular idea? How does that process work generally?

A. Generally, legislators may come -- may come to our office with a specific proposal in mind, in which case they oftentimes have specific

questions associated with that proposal and we do our best to provide objective and nonpartisan answers to those questions.

It is also possible that they don't -- they come to us with just questions and without a specific proposal in mind, at least apparent to us. They don't necessarily have to share the proposal, their idea with us, they just come to us with the questions and we do our best to provide objective and nonpartisan answers to whatever questions they have.

Q. Okay. And what type of analysis would you then provide to that legislator as part of that relationship?

A. The analysis, obviously, would depend greatly upon what the -- what the question is and what the subject matter is. For instance, it might just be a question of what are other states' laws in this area, it might be a question of what dollar impact this would have upon a school district's budget or the state budget, anything of that nature.

Q. Okay. And much like Mr. Long works with the legislator and drafts a bill and comes to a committee, I understand that you would also

prepare a certain level of analysis and then come to a committee hearing and provide testimony such as you are doing today with the committee. Could you tell me briefly about what you do in that process?

A. Our office does not testify immediately in front of the committee quite as often as Mr. Long's office does, but if a legislator would like our office to address any particular research that we've done on a bill, we are, obviously, always happy to provide that research in front of the committee and respond to questions accordingly.

Q. Such as the financial impact of a bill or the -- how the bill affects certain constituents, things like that?

A. Yes.

Q. Tell me -- it's dangerous to ask a question I'm not aware of the answer -- do you -- does a legislator come to you with, hey, will you do this idea or do they go to Mr. Long and say, hey, I've got an idea, Mr. Long puts it into a bill form and then you come implement it or do you understand what --

A. That, that process could go either way. It's certainly possible that a legislator could go

to the Revisor's office and have a bill drafted and then come to our office and discuss what its impacts would be. Conversely, they might come to our office and discuss what their objective is in the bill and we can discuss it with them in advance of them going to the Revisor of Statutes' office.

Q. So, for example, I guess, in the particular context of school funding, a legislator may have an idea as to equalization strategies and come down and talk to you about it, and we'll talk about the variable, but say, Mr. Penner, I've got an idea, can you run the model in with this variable, that variable and another and you could make a summary?

A. Yes. Yes. Generally, it's not uncommon for a legislator to say I would like to adjust one of the statutory formulas in this manner, what would be the estimated effects of that adjustment, and, then, we would use the information we have to try to estimate those effects.

Q. And you mentioned that you estimate those effects, I'll get to those in a moment, but so I don't forgot I want to make sure that I understand the concept. You would provide an estimated

impact analysis for the legislator to help them make policy choices, but then with regard to school finance in particular, my understanding is you would then coordinate with the Department of Education and Mr. Dennis. Is that --

A. Yes, that's correct. And that's going to be the case in any subject matter area where we would work closely with the state agency that deals with that subject matter. With education and school finance, that's most usually going to be the Department of Education and Mr. Dennis.

Q. Would it be a fair analogy to say that your office would be somewhat of a whiteboard for the legislators to identify and discuss potential ideas and resolutions, come to a policy choice and then go to Mr. Long to implement that policy choice in a bill and then go to the particular subject matter entity, such as the Department of Education, to finalize that analysis as to what --

A. I would say that is a fair description of what sometimes happens, yes.

Q. Okay. And, now, getting back to our, I guess, broad and general role, you come to a committee and testify, as you mentioned. Do you

testify or offer your analytical testimony in any other process during the legislation from start to finish?

A. We would generally be willing to offer that any place that a legislator requests that we offer that. Sometimes those requests are that we meet with groups of legislators outside of committee hearings also, such as caucus meetings and things of that nature.

Q. Okay. So, for example, if a bill were passed out of committee at which you testified as to the analysis and impacts of the particular legislation and, then, it gets sent to the floor and there are amendments, is it possible that you could meet with or do an impact analysis as to how the amendment would affect the overarching bill and then discuss that with the legislators, as well?

A. Yes. Generally, upon the bill's passage out of the committee, our office prepares what is called a supplemental note which describes the contents of the bill. Then, if that bill were to be further amended upon the floor, we would issue a new supplemental note to the bill as amended by the floor.

Q. And you would share that supplemental note with the legislator, but you wouldn't further testify on the House or Senate floor. Is that correct?

A. That's correct, we don't provide testimony on the House and Senate floor.

Q. And my understanding of your nonpartisan role is that you do this for any bill that you're asked by any legislator that brings an idea to you, correct?

A. Correct, any idea to the best of our ability.

Q. Okay. And, I'm asking another question I don't know the answer to or I don't have a full appreciation for, but can you differentiate your role from, for example, Mr. Scott's role in the Legislative Research Department?

A. Mr. Scott is our -- he's our chief fiscal analyst, I believe, is his title.

Q. Put you on the spot, I'm sorry.

A. He deals with the entire state budget in all fiscal areas that deal with the state. I don't deal with the entire state budget broadly, thankfully, and I focus on a select few areas, and one of those areas is school finance.

Q. Okay. So, would it be fair to say that a legislator comes to you with, and I'll call it a whiteboard ideas, you'll run some numbers and, then, you also, before you kick that bill or that idea out, you would also run that by Mr. Scott and his department to look at the impact on the overall state budget?

A. I would oftentimes work with Mr. Scott in -- in developing that run, yes.

Q. Okay. And, you mentioned a term that I'm going to use today, so let's go ahead and get that out of the way. Tell me what a run is.

A. A run in this context is the estimated effects that an idea or proposal would have on all 286 school districts, as well as, the state.

Q. You mentioned that one of your areas of expertise is educational funding. How and why are you familiar with it?

A. I have been staffing education committee since the end of the 2014 legislative session, and, so, I staffed the House Education Committee in the 15-16 session and the interims in between the 14-15 session and the 15-16 session.

Q. Thank you. In your role with the Legislative Research Department, do you help

calculate general state aid?

A. If there was a proposal to amend the calculation of general state aid, that would likely be something that someone would request from me.

Q. Okay. And, do you know what, in your role with the Legislative Research Department, what is the overall general state aid for public education K through 12?

A. I would be hesitant to just say that number off the top of my head for fear of getting it incorrect.

Q. Okay, which is fine. The only reason I'm asking is I'm reading newspaper reports suggesting that it's roughly 4 billion annually. Is that ballpark or would you be --

A. For general state aid specifically, it would likely be lower than that. That might be more along the lines of a total dollars provided by the state.

Q. Okay. And because the Gannon II decision is dealing with equalization funds, and in particular LOB and capital outlay, how much is that?

A. The local option budget supplemental

general state aid is between 400 and $500,000,000, and the capital outlay state aid is less than $75,000,000.

Q. Capital outlay is how much?

A. It is always -- it's never been larger than $75,000,000. I believe under the current appropriations there is somewhere in the range of $27,000,000 that is appropriated attributable to capital outlay state aid and somewhere in the range of slightly under -- excuse me, around $450,000,000 attributable to supplemental general state aid.

Q. And these equalization funds are spread among how many districts?

A. 280 -- there are 286 school districts. Not all of those districts receive equalization funding.

Q. Do you do equalization calculations for all three buckets of equalization funds?

A. We could do a run on what the effects of a policy proposal would have on all three so-called buckets of equalization formulas.

Q. Okay. Where are those equalization formulas captured? Where do you get those equalization formulas?

A. Those appear in statutes.

Q. And those govern your analysis when a legislator brings an idea to you to potentially amend the equalization strategy, you would take what's in the statute and change it as directed by the legislature to look at those general ideas, correct?

A. For the purposes of the runs, yes, we wouldn't actually do anything with the statute. That would be Mr. Long's office.

Q. And, then, you could do a comparative analysis as to existing law versus potential change to the law?

A. Yes.

Q. And, you would provide that both to the particular legislator asking questions, as well as the committee as a whole if a bill were created out of your recommendation?

A. Yes.

Q. Tell me a little bit about the variables in equalization formulas. What are the -- what are the things of change that you would look at when you look at potentially changing the statutes in regard to equalization?

A. So all three equalization formulas

include the term assessed valuation per pupil, and so obviously there are two variables that are present in that term alone, which is the assessed valuation of the district and the number of pupils in the district. The supplemental general state aid includes the adopted local option budget from the U.S.D.s, and so whatever those school districts elect to adopt it as their local option budget would be a variable.

Within capital outlay, in addition to the assessed valuation per pupil as a variable, the amount of taxes levied pursuant to the capital outlay mill levy would be a variable in those formulas. And, then, within bond and interest equalization, the amount of bond and interest obligation that each district is subject to.

Q. Would you look at, in your equalization strategy, what I will call weighting on school districts' pupils, or is that a static number that you don't look to particular weightings from a district?

A. The weighting of the pupils?

Q. Yeah, based upon, for example, English as a second language or at-risk students, any of those weightings?

A. None of those factors affect any of the -- any of the variables in there, with the exception of the local option budget authority that each district might have is -- can be extrapolated from there, their weighting per pupil as they existed prior to Senate Bill 7's passage.

Q. Where do you get the inputs that go into that? For example, how do you know which line a school district has on a bond or an LOB mill levy?

A. That information is provided to us from the Department of Education.

Q. So, do you make that request or is that request just publicly available and you know where to go get it?

A. Some of that data is publicly available and we go get it, some of that is information that we specifically request from the department. I believe that all of it would be documents that the department would provide to anyone, but it just may not be easily accessible on the website.

Q. I want to talk a little bit about how the formulas work. I believe you presented testimony on House Bill 2371, as well as Senate Bill 512, and you provided spreadsheets for the committee. Are you familiar with those?

A. Yeah, 2731, though.

Q. 2731.

A. Yes, I did provide those spreadsheets --I mean, those spreadsheets.

Q. Do you have those with you, by chance?

A. I have them on my computer. I do not have printed copies.

Q. That's fine. I think I have them with me. I have one for 2731 and one for Senate Bill 512. Were there any -- were they different?

A. I prepared two spreadsheets, one for the local option budget supplemental general state aid and one for the capital outlay state aid. However, the two spreadsheets for the two bills should -- would be identical.

Q. Okay. So how about if I hand you your run for 2731 and I'll keep 512 and we can talk through those, if you don't mind.

And just while we're talking about that, I think it would be important for the legislative record to have a copy of Mr. Penner's spreadsheets that I believe we can get to the transcriptionist. So I just think that would be helpful to understand what we're talking about here.

Tell me, if you can, go through this

spreadsheet and tell me what the columns mean, as well as we'll talk about particular changes to school districts through this process. So, if you wouldn't mind, and I'm sure the committee is bored with these questions because many of them have probably heard this before, but kind of help me understand what this analysis that you would provide to the committee, what this helps me understand, if you would, please.

A. Sure, the first three columns are the U.S.D. number, the county in which the U.S.D. is located and the U.S.D. name. Those are purely for identification of the U.S.D.s. The fourth column is the estimated assessed valuation per pupil rank for the 2015-16 year which, under historic equalization formulas and the proposed legislation, would have effect for the 2016-17 school year.

The fifth column is the 2013-14 assessed valuation per pupil rank of the school districts as it existed in 2013-14, which is the year that the assessed valuation per pupil determined aid amounts for the block grant bill.

The next two columns that appear as though they are one column indicate whether or not the

rank of assessed valuation per pupil of a school district went up or down during the year, and it indicates by what magnitude those ranks went up or down during the year.

Q. And I'm going to stop you there. The AVPP rank and the school district's relative increase or decrease, tell me what that is a function of and whether or not that has anything to do with legislation or, I'm sorry, tell me whether it has anything -- a reactionary behavior to any legislation or whether that's a function of property values?

A. The ranks would have changed based upon the amount of assessed valuation in the school district either going up or down or the number of pupils in the school district either going up or down. The only way legislation would directly impact that is if the legislation did something to affect the assessed valuation or somehow changed the boundaries of the school district or result -- or did something to cause population to move in or out of the school district.

Q. As I understand it, the property values go up or go down and the students come in or out of the school district, and so that's going to

affect a school district's rank above or below this 81.2 percent line?

A. Yes.

Q. Okay. And I would imagine that the school district's budget on funds with no anticipation or -- it would be difficult to predict whether students are coming in or out of the district or whether property values are going to go up or down. Despite that, these issues change from year to year and a school's eligibility for aid and how much will change based just upon factors unrelated to legislation, correct?

A. It is true that a school district's eligibility for aid and the rate at which they receive aid could change year to year on factors unrelated to the legislation.

Q. All right. So, now let's move to the next columns in your spreadsheet. Help me understand what those are.

A. The -- I believe it is the sixth column, the first column after the narrow break at the top is the amount of local option budget state aid that each school district is entitled to receive under the block grant bill. The aid -- the column

following that is the amount of estimated local option budget state aid that each school district would receive under House Bill 2731 or Senate Bill 512 if those two were to become law. And, then, the final column is the difference between those two numbers.

Q. Okay. And, help me understand, for example, I see Altoona-Midway on the first page. And, so, as I understand it, under the law that the Supreme Court struck down, they would have been entitled to $39,888 total equalization aid?

A. Total local option budget state aid. Just looking at the spreadsheet, I don't know whether or not they would have received any capital outlay state aid.

Q. And, for our purposes, that's fine. And, so, under the House Bill 2731, as well as Senate Bill 512, they would get zero. And, so, their budget impact would be they would lose roughly $40,000?

A. They would lose roughly $40,000 of state equalization aid.

Q. And are you able to, in your preparations of the committee, go through on a line-by-line basis and help the committee understand why a

particular district gains or loses AVPP?

A. I could -- could go through district by district and say that their assessed valuation per pupil changed by X amount or their -- or their assessed valuation amount changed by X or their per pupil number changed by Y and that resulted in them moving on this spectrum. That would take a lot of time if I did that for all 286 districts, and so it is not common for me to be requested to do that for every school district.

Q. And, then, I'd like to move to the back of your spreadsheet. It looks like you have what I will call a total spend. Can you talk about what I'll call the bottom line on the last page and tell me what that represents?

A. The -- on the last page, the bottom line in the first column that shows the bottom line is the column of the local option budget state aid under the block grant bill and that shows $450,491,513. The next column is the estimated cost of the state for local option budget state aid if House Bill 2731 or Senate Bill 512 were to become law, and that is $465,003,991. And, then, the farthest right column is the difference, and that shows an increase of $14,512,479.

Q. So, the roughly 14.5 million dollars is how much in addition -- additional spending revenue the state would be obligated to pay if the -- either of those two bills become law?

A. That's the estimated amount.

Q. Okay. I don't believe that the spreadsheet you have prepared in this regard has the relative taxing burden or the taxing effort a particular school district is exerting. Is that correct?

A. That is correct. This spreadsheet does not display the tax effort that any district is exerting.

Q. Would you have the ability to take a look at that and compare that among the district or is that something you wouldn't have access to?

A. I could -- I could put together a spreadsheet based upon the information provided by the Department of Education in terms of what each district's local option budget mill levy was and how much money that generated for the school districts.

Q. And do you have a spreadsheet that would identify potential educational opportunities gained or lost by a particular equalization

strategy?

A. No. Our spreadsheets display dollars, so we would have the ability to display dollars. If you mean anything other than the dollars gained or lost by any equalization, we wouldn't display -- wouldn't necessarily have the ability to display that.

Q. Okay. And, so, you wouldn't be able to help the committee understand what educational opportunity is gained or lost?

A. That is correct. That would be something I would not opine on.

Q. Are you able to identify in any of your analysis wealth-based disparities among the district, except for AVPP?

A. There are -- there are -- if someone had a suggestion for what other wealth-based disparities they would like information on, I could request and hopefully provide that -- request the entity that possesses that information and hopefully provide that information to legislators. I haven't done anything related to any wealth-based disparity other than assessed valuation per pupil in this spreadsheet.

Q. And skipping ahead a little bit, once

you've got your formula set and it's theoretically equalized among all districts under Senate Bill 512, for example, my understanding then is that the local schools may change their mill levy rate and raise additional revenues, whereas other districts may either choose not to or already be at their cap and maybe not. So then once it's equalized, subsequent actions of the school district may or may not take that out of kilter. Is that correct?

A. If it is -- subsequent actions of districts would result in the -- could result in the local option budget state aid amount going up or down, of course.

Q. And the same thing is true if, for example, students move in or out of the district?

A. Yes, if the estimated assessed valuation per pupils change as a result of the audits of school district enrollments, coming back and revising those enrollments, then -- then those could change, as well, which would also have an effect on the amount of money that any particular formula might require.

Q. And after equalization, are you familiar with the concept called hold harmless?

A. Yes.

Q. So after equalization, there can also be hold harmless funds that would further move the school districts away from what I will call equipoise?

A. You would call them what?

Q. Equal. So once they are equalized, a hold harmless provision would then skew that, would it not?

A. If a hold harmless provision was incorporated into the equalization formulas, it could have that effect.

Q. One of the things that the Supreme Court appeared to look at is the disparity between the richest and the poorest schools, what I will call the polls. Are you able to calculate that disparity and and/or create models to take the polls and get them closer together?

A. We could -- we could -- I'm able to calculate the disparity, yes. If -- there are certainly proposals that could -- there are certainly things that could be done to result in those being brought together, and we could do the runs on any proposals that might do that, yes.

Q. Would you be able to tell me what those

potential ideas would include, such as eliminating local fund-raising efforts, sending all of the local fund-raising efforts into the state, much like a 20 mill rate and then distributing it out. Talk a little bit about those issues.

A. If there -- if there was no option in the local option budget and it was a singularly uniform mill levy across the state, then, obviously, there would be no disparity but the mill levies would be uniform. And, then, conversely, if the amount of equalization provided was equalized up to the 100th percentile, then that would result in no disparity, as well.

Q. But, as I understand it, short of those two options, there is going to be some disparity and it's going to be a struggle to try to get the equipoise among the districts?

A. Short of those two options or doing something to -- to use the phrase bring down the districts that are above any other equalization point would be another -- another way that could potentially eliminate disparity depending upon the approach that was taken.

Q. Tell me a little bit about the department, and I will talk to Mr. Dennis here in

a bit, but tell me a little bit about the Department of Education's runs that you received. Are you familiar with it?

A. I have reviewed the runs, all of the runs that I have received from the department, yes.

Q. My understanding is at the bottom right-hand corner there is a designation for each run. I believe it's SF the year, 16 dash 122 or something along those lines. Is that right?

A. I believe that is the designation method it probably uses, yes.

Q. And, do they have -- or would it be a better question that I ask him, do they have models that they look at? Do their processes differ at all from yours, or do you know?

A. Well, I would imagine they use a very similar process, but I do think that would be a better question for Mr. Dennis.

Q. And the process that you've walked me through patiently again, and I appreciate it, is that a process that you would apply towards every bill that -- or every idea that turns into a bill that's within your scope of work?

A. Every idea that I'm able to collect the necessary data for, yes.

Q. And that would include Senate Bill 512, as well as House Bill 2731?

A. Yes.

Q. And, presumably, if there is another bill or 10 bills on school funding, you would do the same process for that one, as well?

A. Yes.

MR. CROUSE: Mr. Penner, I can't thank you enough. Members of the committee, Mr. Penner, Mr. Scott and the entire staff have been unbelievably gracious with their time, helpful in their assistance and I greatly appreciate it and thank you very much for your appearance today.

CHAIRMAN RYCKMAN: Does the committee have questions of the Mr. Penner? Representative Henry.

REP. HENRY: First, Mr. Chairman, are the questions from the legislative committee entered into the record?

CHAIRMAN RYCKMAN: Yes, it's in the transcript.

REP. HENRY: Thank you, Mr. Chairman.

QUESTIONS BY REP. HENRY:

Q. Mr. Penner, does the Legislative Research Department provide expert advice to the

legislature as to whether your research is in compliant with the Supreme Court decisions and rulings on school equity or any Supreme Court ruling?

A. No. We typically would not opine on whether any particular proposal would comply with a Court order. We would just try to opine on what a particular proposal would do.

Q. So you wouldn't tell a legislator that it's your opinion that this is exactly what the Court -- the Supreme Court was wanting?

A. That's correct.

Q. Does the work of the Legislative Research Department, is it predominantly at the advice and direction of an individual legislator or a group of legislators or a legislative committee?

A. We respond to committees and individual legislators. I personally don't know the exact balance in terms of what our department as a whole gets. But we respond to individual legislators and committees.

Q. But, predominantly it's the legislator's direction that you work?

A. We work at the legislator's direction, yes.

Q. And my last question, Mr. Chairman, we heard discussions in your questioning about House Bill 2371 and Senate Bill 512. Are they exactly identical funding bills for school equity? Are they exactly the same?

A. The bills are not identical.

Q. They're not, but it seemed like the questioning that the bills were identical, but they are not identical?

A. The bills are not identical, no.

Q. Okay. So there is -- there is a big difference between those two bills.

A. I wouldn't opine on the magnitude of any difference, but the bills are not identical.

REP. HENRY: Thank you.

CHAIRMAN RYCKMAN: Senator Masterson.

CHAIRMAN MASTERSON: Thank you, Mr. Chairman.

QUESTIONS BY CHAIRMAN MASTERSON:

Q. I think there might have been some confusion, just to clarify. The response on the identicalness of those two bills pertain to those two buckets, if you will, of equalization, i.e., the local option budget and capital outlay. And in that respect, the two buckets being considered,

those are identical?

A. Yes, the capital outlay provisions and supplemental general state aid provisions of the bills are identical.

Q. And, then, I have one other question, just a confirmation. All the equalization formulas that use the AVPP, none of them take into account what the local levy is. That's not a factor in equalization, i.e., ranking by simply valuation per pupil and it is indeterminate of whether a particular district has a capital outlay mill of five or six or an LOB of 15 or 37, that's independent. Local taxing effort has no influence on the underlying equalization formulas.

A. The -- the formulas do not use the number of mills that the districts elect to levy or the magnitude of the LO -- of the LOB that they adopt to set their equalization factor.

Q. And what I'm trying to clarify, so, if the formula dictates X amount of dollars to a particular district, it is independent of whether or not that local district is taxing, for example, higher than the above average locally or lower than the above average locally? That's a disconnect, there is no influence on that.

A. That's correct.

CHAIRMAN MASTERSON: Thank you.

CHAIRMAN RYCKMAN: Any other questions of Mr. Penner? Thank you for being here.

Mr. Crouse, again, we do have final actions to take on the floor. And so if you see us leave to take votes on the floor, trust me, we'll come back. Mr. Penner -- excuse me, Mr. Crouse. Mr. Penner -- excuse me, Mr. Crouse.

MR. CROUSE: Thank you. I think I'll talk to Mr. Dennis next and I'll try to get Mr. Trabert in and out because I know he has to leave.

EXAMINATION OF DALE DENNIS

QUESTIONS BY MR. CROUSE:

Q. Good morning, Mr. Dennis.

A. Good morning.

Q. Thank you once again for coming on a short notice. I mentioned to you earlier this morning that I'll probably do this much like when we had our first meeting and I'll try to do this quickly for you.

So much like with Mr. Long and Mr. Penner, will you please state your name, employer and give a brief summary of who you are and your connections with school finance?

A. Dale Dennis, Department of Education. Anything else you want to know?

Q. Just go into your role with regard to public education. And I'm aware and the committee is aware, but we are making a record so let's do that, please?

A. In my division we take care of the distribution of all state and federal aid within the Department of Education. In fact, you were correct a little bit ago. It's a little over 4,000,000,000 in state money and about 500,000,000 in federal money. And I've been there for 48 years and a half, if I make it.

Q. Thank you very much. And, so, I mentioned to you earlier today part of what I hope to do is both tell the committee how appreciative I am of your time with me on March 16th when we had a meeting to talk about various ideas and concepts. You were critical to my getting me up to speed as to school funding, and so I want to kind of talk about some of the similar things that we talked about there.

But, first, I want to back up and just talk a little bit about your role and the Department of Education's role in the school funding process.

Tell me how, what Mr. Penner described as runs, how do they come to your office and what do you do with them?

A. We get runs requests, printout requests from about any legislator that requests and wants them, we try to do that. We also have a standard policy we don't release that printout until that legislator releases it. Sometimes they want to wait for awhile, and that's their prerogative. And we try to follow that request based on what they desire. And many times when you go through that process, you get the opportunity of doing amendments and updates and so forth.

Q. So it would be fair to say that, much like Mr. Long and Mr. Penner, you work at the direction or in conjunction with every legislator in this building?

A. Yes, sir.

Q. And they would have the opportunity to ask you for a formal, what I will call a run, or an informal run and you would -- if it's an informal run, you would release the results to that individual legislator, but if it were not, you would keep it?

A. Irregardless of who requested it, we

don't usually release the printout until that body releases it. We leave it up to them to make the decision as to when they -- whenever they release it, it's public.

Q. And does that request come to you like a informal conversation, an e-mail request or a bill that has been written, or does it depend?

A. All three. We may get requests through the Research Department. Occasionally, maybe through the Revisor to the Research Department. We may get a request from individual legislators or a committee or a bill. It could be any of those, and sometimes you get them all at the same time.

Q. And I appreciate that. Given your long tenure with the Department of Education, do you ever suggest, for example, Senator Masterson here, Senator Masterson, I understand what you're trying to do with that idea, why don't we try to change this variable just a little bit because I think that's going to more adequately help you understand what you're trying to get at? Does that make sense of my question to you?

A. Yes, sir. If the senator said here is what I want to do, what's some options to get

there, we might offer options to get there, but the senator would drive the train.

Q. Okay.

CHAIRMAN MASTERSON: Since the House is on final action, with this number of people gone, we may pause this for just -- they can go down and take a final action vote, so I might put the meeting into recess for a few minutes. And I understand there's some timing issues. Was there any timing issues from the immediate -- I'm assuming at least 20 minutes, probably, 15, 20 minutes. Does that create time conflicts for anybody?

MR. DENNIS: Not for me.

CHAIRMAN MASTERSON: If it does not, I would like to put the meeting on pause for about 15 minutes and we'll see where we are at. I did not anticipate this many hiking at the same time.

(THEREUPON, a recess was taken.)

CHAIRMAN MASTERSON: We will come back to order and continue with the process.

MR. CROUSE: Go forth? Thank you, Mr. Chairman.

BY MR. CROUSE:

Q. And Mr. Dennis, thank you for your

patience here.

We were talking a little bit about your printouts and your runs and your ideas from the legislators. Tell me some of what your we call runs would show and identify and explain to the legislators?

A. They all vary probably a little bit, but the primary purpose is to show what the effect would be on the State of Kansas and each individual school district.

Q. In other words, the effect on the State of Kansas' overall budget?

A. Yes, sir.

Q. As well as the particular impact to the school district's budget compared year over year?

A. Yes, sir. Usually, it's compared to the prior year and it's -- to policymakers that's very important to the effect on school districts, as well as the state, the effect on state budgets.

Q. Okay. And I was asking Mr. Penner a question about your runs and how you would identify them and I just got ahead of myself, and so it's probably better for you to remind the committee. I have a handout of a run that I believe was handed out at Senator Masterson's

hearing for Senate Bill 512 and you and I discussed that on March 16th and it looks like you have it in front of you. Let's take SF 16-122 and if you could just walk the committee through both what the SF 16-122 number is, as well as what concepts and information those runs provide the legislator, please?

A. 5 -- Senate Bill 512 in this printout shows what the effects would be. There is several printouts involved with this. There's three is pieces: The local option budget, capital outlay and state aid, and we summarize it in 122. And it shows the effect of that plan which reduces general state aid by 1.45 percent and then it -- we equalize the supplemental general and the capital outlay, the same as we did in the bills before the House Appropriations Committee in which they were equalized, for lack of a better term, as the Court suggested.

Q. Okay. And, so, when you were talking about the House Appropriations Committee, you're talking about House Bill 2731?

A. That's correct. Those two pieces are alike in both bills, but one of them is funded with the House's new money and the Senate is with

-- funded with reducing general state aid.

Q. And we'll get into that. What I want to do is make a clear record as to kind of understanding as to how we would identify your runs and talk about the number of runs. So, for example, tell me what SF 16-122 signifies from your office?

A. It's a summary of three printouts, is that what you mean?

Q. No, I mean, like, why is SF -- why is there what I would call a Bates number on this document, for identification purposes?

A. Every printout we do, we put a number on it, try to keep a record of it and then we can go back and refer to it. It's not uncommon for a legislator to refer to a number I want to do this, but I want to make this change. So, we try to keep a record of all the printouts we do. And 122 is really a summary of three other printouts.

Q. Okay. So, if I understand what you're saying, a senator or a representative may come in and say, Mr. Dennis, I have SF 16-122, I'd like to tweak this just a little bit. You would help them tweak it and then if I understand you correctly, you would assign a different identification number

to that tweak and it would become SF 16-123, for example?

A. That is correct. We sign each printout and that way you can refer back to them and know -- we try to keep a record of who requested it and the number.

Q. Okay. And Mr. Penner indicated that I think his department was, I think, the term I used for him, was a whiteboard of ideas. Is it fair for me to assume that the whiteboard of ideas would be winnowed down in Mr. Penner's office and then would be brought to you for what I will call an official analysis?

A. Some of the above. Sometimes they are, sometimes we'll get them direct, sometimes they go through the Research Department. It depends on the year and the group of legislators.

Q. Okay. And --

A. It could go either way.

Q. Thank you. I'm sorry to interrupt. How many runs, for example, would you do on an annual basis for school finance?

A. If we are working school finance like we are this year, we'll run 50 to 100.

Q. And those will be 50 to 100 different

potential resolutions as to just equalization?

A. Well, equalization and -- and also sometimes we'll get into adequacy, that side of it, too.

Q. Okay. And, so, that would look at general state aid plus equalization?

A. Yes, sir.

Q. And you would provide the legislator, either individually as a group or as a whole, an entire range of official analytics?

A. Well, yes. Whatever they ask to do and we can do it, we'll try to do it.

Q. One of the things that you and I had talked about on March 16th, and, again, I want to remind the committee I'm greatly appreciative for your time. I think this was the hold harmless provisions and what a hold harmless provision is, would you briefly remind the committee what a hold harmless provision in the equalization would mean?

A. Hold harmless, and many times you guarantee a school district what they receive the prior year and then it's -- a lot of times it's phased out over a period of time. For example, if you had a hold harmless in the local option budget, you guarantee them what they got last

year. Then, in time as the 81st percentile goes up, that -- that amount would decline. It's usually for a period of time, not forever.

Q. Okay. And, so, I understand you to be that, for example, a particular school district would have a budgeting forecast that may go out one, two, three or four years. And if they are planning on a particular amount of funding, a hold harmless provision would help them with any reduction in aid so that they can kind of smooth out their spending and budgeting process, correct?

A. That would be true, but it's all based normally in the preceding year before we adopt the new formula.

Q. Is it your opinion that a hold harmless provision is a critical component to a school?

A. It may not be critical as far as, and you're the expert on this, the constitutionality, but many times it's happened in the past to get the necessary votes to approve it. It's just -- to get the 63 and the 21 votes, why they put a hold harmless clause in the provision. That's happened before.

Q. And are there -- do you understand from a school district perspective why a hold harmless

provision would be necessary for budgeting purposes?

A. Well, if somebody is taking a severe loss in one year, you could have a substantial increase in your -- usually it's in your property tax, which is extremely sensitive in our state. And, so, that's one of the big issues is -- is abrupt change all at once on the property tax can be very challenging.

Q. And, so, school districts rely upon those hold harmless provisions to smooth out the property taxing for budgeting purposes?

A. Yes, sir.

Q. And, in your history with the Kansas Department of Education, are those hold harmless provisions atypical?

A. It's not -- and, it depends on the amount of money you're putting in and so forth, but it's not particularly unusual when you're revising the formula. Nothing to do with the Court as such, but it's not unusual at all in order to get the votes you need to get the bill passed.

Q. Thank you. All right. One other thing that we talked about in our March 16th meeting was your input and thoughts as to House Bill 2731 and

Senate Bill 512, and I'll summarize briefly what my understanding of your thoughts were is that you believe with regard to 2731 that the capital outlay equalization formula is exactly what the Court requested, correct?

A. Yes, sir.

Q. Okay. And the same thing with the LOB in 2731, that's exactly what the Court requested?

A. Yes, sir. That would be true and those same two, those parts of it are also in 512.

Q. And, so, the equalization aspects are the same --

A. Yes, sir.

Q. -- in both bills?

A. Yes, sir.

Q. Okay. And, would you then be a proponent of putting a hold harmless provision on top of that for both bills?

A. I don't promote. I don't promote, but I can tell you from history many times hold harmlesses have been required to get the votes. That's factual.

Q. And you mentioned that the equalization strategies are the same with regard to both bills, and so they would theoretically comply with what

you and I understand the Court has requested. My recollection is that your concern is that there may be an adequacy issue with regard to Senate Bill 512. Is that correct?

A. Well, that may be down the road because that case is there, and it's always a concern when the Supreme Court is about to rule on something and so it's -- I think it's worrisome, but I don't know how they will rule.

Q. Okay. And you're unaware of any metric you could help me advise the legislature as to how to measure Senate Bill 512's impact upon an adequacy analysis, correct?

A. Correct.

Q. We also mentioned, and I think you and I talked about the Supreme Court, their test was reasonably equal access to substantially similar educational opportunities through a similar tax effort. And, I believe, I asked you what is a similar educational opportunity, and my recollection is your response was I'm not sure. I don't have a metric for you, Toby. Is that right?

A. That is correct.

Q. Okay. And, then, just so the committee is aware, we talked about my experience in U.S.D.

419 and you were able to tell me within seconds what county I was from. The experiences I had aren't necessarily different from the experiences my wife had in Shawnee Mission. Can you talk a little bit about maybe studies that your office has done, as well as educational opportunities that are albeit different, but not necessarily dissimilar?

A. The Commissioner of Education, about, I don't know, seven, eight years ago, something like that, tried to do a study to look at students who graduate from a small high school versus a large high school, where the large high school had a lot more educational academic opportunities, maybe, versus a small school district. And the results in that study that she did was there wasn't a lot of difference if you look at those same students in higher education.

In her analysis, one of the reasons was in smaller rural districts a lot of times too they have access to extension programs for community colleges. And you do that likewise in a large high school, they both have access to that, but also in a smaller high school they may not have the high academic classes, advanced classes, but

they are involved in a lot of activities. And it's not uncommon for somebody to go through and be involved in three, four, five activities, whereas at a very, very large high school that's more challenging. The bottom line was she didn't -- they didn't find any result -- any difference in the results.

Q. Nor any metric by which one could measure?

A. No.

Q. One thing that I would like to ask you about, as well, and I'm not sure that we talked about it, although we may have, is the funding formulas. I talked to Mr. Long a little bit that there are three buckets of equalization funds, but as I understand it, two different funding formulas for that. Can you, that's your understanding as well, correct?

A. That's correct.

Q. Okay. And my understanding is that both of those formulas for all three funds have been found to be Constitutional. Is that correct, in your understanding?

A. Well, I don't know that we've ruled yet on like Senate Bill 7, I don't know if that's been

ruled upon as it relates to capital improvements upon interest. I don't know if the courts have opined on that. I don't know that.

Q. That was a very poor question and thank you for the clarification.

What I meant to say is the equalization formulas in the old SDFQPA for both capital outlay and LOB, the Court seems to be suggesting that those are permissible equalization formulas for the legislature to use, correct?

A. The LOB and the capital outlay under the old law, as Mr. Long described, I think he was correct when he said the Court said that was acceptable.

Q. And my recollection of our discussion is that, and you kind of alluded to it earlier, is that the difference between the two equalization strategies has to do with politics and not educational policy. Is that a fair statement?

A. Well, not -- let me just clarify a little bit.

Q. Absolutely.

A. The sometimes we have a tendency to want to compare capital outlay with LOB, but capital outlay there is a difference. You have a cap.

You can't go more than eight mills. So, if there's -- it's equalization, why, it's got to be within that eight mills, where the LOB about the average tax rate there is in the 19, 20 mill range. So, it's much larger and the dollars involved are much greater, so -- so anyway, I think that -- there is a difference in the formulas, but there is also a difference in the taxing levy authorities.

Q. There is a difference in the result of the formulas, but there is no educational policy?

A. No, you're correct.

Q. And with regard to the LOB cap or, I'm sorry, the LOB formula, my understanding is that in perhaps 2004 the -- I think Senator Denning, during a hearing on Senate Bill 512, mentioned that the ruler placed upon the spreadsheet used to be at 75 percent. Is that correct?

A. Yes, sir.

Q. And it moved to 81.2 percent, roughly, in 2005, correct?

A. That's correct, sir.

Q. Okay. And my understanding is that that movement from 75 percent to 81.2 percent also had no basis in educational policy but was the

reaction to a political concern. Is that correct?

A. Well, I don't think there is an educational policy decision as such, but there was an interest. At that time the legislators they wanted to keep the property tax down as much as they could. So the higher you raise the equalization, the lower you force the property tax down. So part of it was property tax driven and part of it was they chose, the legislators did, to try to equalize as high as they could go at that time, but 75 percent was in effect prior.

Q. And, that 75 percent threshold was found to be Constitutional as I understand it. Is that correct?

A. I'd want to go back and check the record on that because that goes back prior to 2004, and we got into a new law starting in 05-06 school year. So, there was challenges in that area, but I don't know if that was a part of it. I would just check the Court record and what have you.

Q. And, that's fair, cause I'm not for sure either and I would have to check, but my recollection was that 75 was okay and 81.2 was okay?

A. I can tell you, though, the reason was

property tax and increasing equity.

Q. And the property tax increase would have been about $30,000,000 to get from 75 for 81.2 percent. Is that right?

A. That would be pretty close.

MR. CROUSE: Mr. Dennis, I believe, that concludes my questions of you. Again, I would reiterate to the committee, Mr. Dennis was unbelievably gracious with his time and his patience. He helped me get up to speed more than I could ever repay. So thank you, sir.

MR. DENNIS: Thank you, sir.

CHAIRMAN RYCKMAN: Any questions from the committee. I don't see anyone. Representative Henry?

MR. HENRY: No.

CHAIRMAN RYCKMAN: I'm sorry. Anyone else?

CHAIRMAN MASTERSON: I was former Representative Masterson, so I'll take it.

QUESTIONS BY CHAIRMAN MASTERSON:

Q. I just want to clarify, as we are making these attempts to respond in a very calculated way to the courts, in their opinion there is one quote that jumped out to me is one obvious way the

legislature could comply with Article 6 would be to revive the relevant portions of the previous formula and fully fund them within the current block grant system. Do you agree that those two relevant portions are the two equalization accounts that they are referring to, the LOB and capital outlay portions?

A. In my opinion, they were capital outlay and LOB, yes, sir.

Q. Okay. And it's your understanding they used the term obvious, so for me that implies in layman's terms a no-brainer; that if we complied with those two pots of money within the current block grant system, that that would comply. Did you read that statement those two pots and obvious being a no-brainer.

A. I don't know about the no-brainer, sir, but I think those are the two programs that we are referring to.

CHAIRMAN MASTERSON: Thank you.

CHAIRMAN RYCKMAN: Representative Henry?

REP. HENRY: Thank you, Mr. Chairman.

QUESTIONS BY REP. HENRY:

Q. Mr. Dennis, we had a little discussion about the equalization, the 81.2, it wasn't 75,

and I know probably when we move from 75 to 81 there will be discussion, but let's talk about to move it from 81.2. Have you been involved with any legislative committee or has there been a study done to move away from that? Has there been any legislative votes to move away from that? Is there anything concrete that you can suggest that any legislature has done to move away from that?

A. Well, I never say ever, but most of the plans we have before us now are based on the 81.2 and the capital outlay, as the senator mentioned, is the law prior to 14-15.

Q. We've had no testimonies from the public or any type of information brought to legislature, no votes to move away from the 81.2 percent?

A. Not that I'm aware of this year.

REP. HENRY: Thank you.

CHAIRMAN RYCKMAN: Senator Masterson.

CHAIRMAN MASTERSON: Thank you, Mr. Chairman.

QUESTIONS BY CHAIRMAN MASTERSON:

Q. Lots of discussion about equalization and you hear in our debates about educational finance taking from one and giving to another or robbing Peter to pay Paul. Is that not a definition or by

definition equalization? Leveling out between the rich and the poor would require shifting resources between the rich and the poor?

A. That's what it amounts to in a sense, but if you do it too much I think there will be challenges.

Q. I'm not sure I'm following that answer, but equalization is, by definition, taking from some and giving to another?

A. Well, in a sense, yes, but what the legislature has done in the past, take a look at it, what they have done, they've tried to raise state aid enough so they didn't have to do a lot of that. They did some, but not a lot.

Q. But even that, by definition, by right you would be taking from the taxpayer to give to, from one district to give to another district?

A. We had -- but if you go back a few years, remember the 20 mill raised more in the budget? They submitted the difference and from two or three to four or five districts whose 20 mills was greater in the budget and they had the honor of submitting that's the difference. They only had four.

Q. I have one more question as it pertains

to timing simply just on a factual basis to have in the record the difficulties sometimes this branch of government has in determining this.

You recall the debates we had in, I may not get my timing right, 2015 over the legislature's -- in the spring of 2015 we received, we the legislature, received a run, if you will, from the department as to what those law changes would be moving into a block grant, the 130,000,000, if you will, in additional money to the legislature. When you calculated that from the department, what date in time was the data derived for the AVPP you used to determine that for us? What -- there is two variables, property value, which is assessed on a particular day, and then the denominator, the students, could you give me the dates of when those data points --

A. We requested to use the prior year. The request of the bill asked we use the prior year data, which we did.

Q. So that would be the 2014 date?

A. Yes, sir.

Q. In 2015 you would be using values determined in 2014. And then what enrollment number, did you use the prior year, as well, the

2014 enrollment numbers?

A. That would be true. Mr. Chairman, enrollment don't change very much in our state on a statewide basis, it might individually but not on a statewide base, a half percent, but the 81st percentile can change substantially. For example, this year the 81st percentile dropped $4,000, and in that year it went up a little bit more than that. So, yes, it goes -- the 81st percentile goes up and down based on our assessed value. And in time, in all likelihood, it will come back up, too, as oil comes up.

Q. I think you're helping me express the difficulties we had. So the legislature, in that year, then passed a bill with that fiscal data. Was the same AVPP dates used when calculated later that summer for the school districts or did that move to the 2015 year?

A. We completed all the audits and that moved to the next year.

Q. So there was a different AVPP formula used as it was presented to the legislature for them to make a voting decision in the session than was given to the school districts two months later in the summer?

A. Well, that's when they completed the audits and the data become available, you're correct.

Q. So you have the potential for those to have radical changes around that number. For example, you could have a small district with high valuation in one formula become perceptively -- so perceptively rich that a large district with high wealth, like a Blue Valley, for example, could become comparatively poor and cause massive shifts between what the legislature believed they had voted on versus what was actually then prescribed by the formula?

A. You talked about wealth and we measure wealth in the formulas in the assessed valuation per pupil. So when you take a look, you mentioned Blue Valley, you also have to consider the number of students they have and that makes a difference. And you're going to get some pops in valuation, there are no doubt about that. Good one we've got right now is the one we talked about the other day, Altoona-Midway. If you look, their valuation jumped 50 percent. Why? It's because the pipeline went across. The county appraisers say that's good for one year. So you will get pops

like that, and oil I think even surprised some folks in the last year, too.

Q. So that's a great example. So you have one instance like that pop a district up above the line and they lose their LOB, and comparatively you could have, well, for example, the richest district by total value, Shawnee Mission, for example, or Blue Valley in Johnson County, that can raise some millions of a mill be perceptively poor and begin to receive poverty aid?

A. Well, it's kind of in the eyes of the beholder perceptively poor because they would be around the 81st or just below the 81st percentile.

Q. We'll call it in the eyes of a formula.

A. I think if you talk to them, they wouldn't agree to that probably. But if they are in the 77th, 78th percentile --

Q. In the eyes of the formula, they would be poor?

A. They would be below the 81st percentile. They would still be in the upper 30 percent.

CHAIRMAN MASTERSON: Thank you, Dale.

CHAIRMAN RYCKMAN: Representative Henry.

REP. HENRY: Thank you, Mr. Chairman.

QUESTIONS BY REP. HENRY:

Q. Mr. Dennis, just using the words in the context that we've heard here today, there is -- you hear about rich versus poor. And some of the testimony we've heard this session we've had some talk about a rich district could be rich as -- as determined by Alvarez and Marsal by the fact of school board management. We heard that in the house education budget. Is that true, Mr. Dennis?

A. Well, in our law, and we have been to court on this, whatever you use to measure wealth you have to give access to levy. There is some history that I could share with you if you want to know about that, but the bottom line is that whatever you use to measure wealth, you have to give the taxing unit the authority to levy the tax.

Q. But from my understanding, I'm -- I have not completely read House Bill 512 -- or Senate Bill 512, but it talks about taking money from school boards that have, in the words of Alvarez and Marsal, a lot of money. But a lot of that, as we heard in testimony, is because of the school board management in the way of why they have ending balances. But my question here essentially, though, let me go back to 512 talks

about an equalization by taking from other school districts to another. Have we had -- has that ever been done in the past in that type of fashion?

A. I don't recall doing it uniformly. We've had some winners and some losers, but I don't recall doing it uniformly for all general state aid before.

Q. So this would be something that has the state board, your department or any department you know of done a study as to whether that's a proper way to do equalization?

A. No, not a study, but I just don't recall ever doing -- we've been taking money away from people and give it to others and all that, we talked about that, but doing uniformly cut like this to fund another piece of it, I don't recall that.

Q. So that's not an established formula that we've ever talked about?

A. Not that I recall, sir.

Q. Okay. So truthfully, what you're saying is probably the public hasn't had a great amount of interaction on how to use this formula that's in 412?

Appino & Biggs Reporting Service Inc.
Technology Specialists in Today's Complex Litigation
800 E. 1st Street, Suite 305
Wichita, KS 67202
316-201-1612
5111 SW 21st Street
Topeka, KS 66604
785-273-3063
www.appinobiggs.com
6420 W. 95th Street, Suite 101
Overland Park, KS 66212
913-383-1131

A. Not, well, since it hadn't passed yet.

REP. HENRY: Thank you, Mr. Dennis.

CHAIRMAN RYCKMAN: Just to clarify, SB -- or, excuse me, SB 512 did not adjust cash balances. Representative -- excuse me, Senator Denning.

SENATOR DENNING: Thank you, Mr. Chairman. Most of us are house trained here, so I see the confusion.

QUESTIONS BY SENATOR DENNING:

Q. Dale, back on the conversation about the supplemental aid at 81.2 percent, the discussion about there has not been any legislation to change it or so forth. Senate Bill 7 with the 5 quintiles, I thought, was the legislation to change that?

A. What they did -- you can -- you can make that case. You've got a good point, but what they did there you put it in quintiles and the poorer districts got 97 percent of that entitlement and the next got 95 and it scaled down. So that would be the case for this year, but evidently the Court didn't think that was the right way to do it.

Q. It appears so. The -- the 75 percent, when the legislators did the first ruler up the

page and stopped at 75 percent, how was it equalized before that and do you have any idea why they stopped at 75 percent?

A. What I recall is they wanted to increase equalization and they wanted lower property taxes. That's the two things I remember most about that. At that time property tax was extremely sensitive and they wanted to lower them and raise equalization, and that's what they chose to do.

SENATOR DENNING: Thank you. Thank you, Mr. Chairman.

CHAIRMAN RYCKMAN: Any other questions for Mr. Dennis? Thank you for being here. Mr. Crouse.

MR. CROUSE: Thank you, Mr. Chairman. I think I'd like to talk to Mr. Trabert at the moment so we can get him in and out. I appreciate you coming.

MR. TRABERT: Happy to be here.

EXAMINATION OF DAVE TRABERT

QUESTIONS BY MR. CROUSE:

Q. Mr. Trabert, I saw you testify in both the House bill and Senate bill and I don't believe you stood for any questions, so today would be your opportunity. Well, you stood for questions,

you just didn't have any propounded to you.

Please introduce yourself to the committee and for the record your name, employer, title?

A. My name is Dave Trabert. I'm president of Kansas Policy Institute. I've been with KPI since 2009. I have been the lead researcher on school funding during that period. I've also authored several papers on school finance for Kansas Policy Institute. I was also a member of the K-12 Commission on School Efficiency and Student Achievement in 2014 and have served the American Legislative Exchange Council as one of the co-chairs of the education finance joint working group.

Q. And so how long have you been involved in Kansas public education?

A. Since 2009.

Q. One of the purposes of this hearing today is to both formalize and memorialize the testimony that has been previously provided for the two bills that we talked about, as well as some of my fact finding. And I've gone out and talked to folks, including you, so as you will see we've got a transcriptionist here and we are trying to put -- make a record of all of those discussions for

the benefit of the legislature to help it decide how best to comply with the Gannon II decision. And so part of what I'm wanting to do is, first, I appreciate your willingness to come talk to the committee today, as well as to share some of the ideas that you have with regard to potential solutions to the Gannon decision so that the legislature can make an appropriate response.

You are familiar with Gannon II, are you not?

A. I am.

Q. And does your organization study it or publish any papers in response to it?

A. We've done several articles in -- when the decisions first came out and subsequent as legislative issues come up, such as SB 512 and so forth and how that might relate to Gannon.

Q. Would it be fair to say that you have studied the issue both to familiarize your understanding of it, as well as to inform policymakers and promote your policy ideas to the legislators?

A. Yes.

Q. And so what I want to do is I want to narrow our discussion, if I can, just a little bit. The Gannon II decision, while I and II

recognize Article 6 of the Kansas Constitution have two aspects, that being adequacy and equity, the legislature's current primary focus is on equity. So I'd like to focus primarily on equity, if we can.

My understanding, however, is that your entity is more concerned with adequacy, and so I'll probably bring concepts like that in to help you educate the legislature because while the Court said focus on adequacy -- or on equity, I'm sorry, don't forget about adequacy. So that's kind of where I'm going with our discussion today.

First, we'll talk a little bit about both of the two bills. I notice that you, like I think everyone else that testified, were neutral. In fact, there wasn't a single supporter of either bill. Can you tell me why your organization, briefly, because I think many of the members have heard your testimony before, but for the record could you indicate to us why you appear neutral and not in support of any particular bill?

A. We appear neutral because there are multiple ways that the legislature could respond, as we understand, to meet the Court's demand on equity without spending more money. And so at

that point it becomes an appropriations matter, and whether they should spend the same or a little more or a little less is a matter of legislative prerogative. And so we testified neutral, liking the fact that they did respond or make an attempt to respond in both bills. But because there are multiple ways to do it, in addition to the ways in both of those bills, there are other ways they could do it, such as we referenced last year there was a Senate Bill 71 that had a different method of calculating equalization. And so we testified neutral because there was just multiple ways to do it without spending more or much more money.

Q. Would it be fair to say that your organization's position is, with regard to those two bills, yeah, we think your equalization formula is acceptable, however we think there are other ways you could do it, as well as we don't believe there should be as much or you shouldn't add anymore money to the equalization formula. Would that be fair?

A. Well, except that we weren't, in our testimony in choosing to be neutral, we weren't casting judgment on whether that was an appropriate method of equalization using the

average valuation per pupil and the 81.2, we weren't addressing that, but we were saying that we did feel that either way would, as we understood it, would satisfy the Court.

Q. Okay. And my recollection of your testimony, as well as the others, is you would suggest that enough money is going in you should focus on efficiency, whereas others would say, yeah, the formulaic equalization structure you have is appropriate, however we think more money needs to be inputted into the process. Is that a fair characterization of your position and the position that you heard at those two hearings?

A. I think so. You know, as we look at it, as we look at school districts own practices, both in terms of how they spend and how they operate, how they don't spend in some cases the money that they've gotten in the past, we don't believe that more money is necessary from an adequacy standpoint, certainly not from a needs standpoint. And so that's why we said to try to find a way to resolve equity without spending more money because we didn't see that it was needed.

Q. And would you agree with me that the testimony at both of those hearings failed to

bring about any public support for either of those two bills?

A. It was -- yes, it was somewhat surprising, let's say, that particularly school districts that were getting more money, maybe not as much as they wanted, but they were getting more money and still didn't testify in support.

Q. And my understanding is Senate Bill 512 has a similar equalization structure. Is that your understanding, as well?

A. Yes, it is.

Q. And likewise, there was no public support for that version, either the Senate or the House version, correct?

A. There was no support.

Q. And what was your reaction or do you recall the votes of the committees with regard to both of those bills?

A. The -- I wasn't present when the committee worked the bills.

Q. Okay. And my recollection of Gannon, tell me if it's yours, is that if some other plan is being pursued by the legislature, it needs two things: First demonstrated capable of meeting equity; and second, not running afoul of adequacy.

Is that your understanding, as well?

A. Yes, that is.

Q. Let's talk about those two concepts, if you would. Do you understand or can you remind me how many equalization strategies you are aware of in the education funding?

A. There is three that are in use. One is for the -- it's called the capital improvement or bond and interest, one is -- the second one is for the capital outlay, and the third is for the local option budget, which is also called supplemental general state aid.

Q. And are you aware of any educational policy basis for those differentiating formulas?

A. By -- if by policy basis you mean data-driven analysis that arrived at this is the way it should be done, no, I'm not aware of anything.

Q. What is your understanding of the basis for those differentiating equalization formulas?

A. I've inquired over the years of several legislators because I wasn't here when they were developed, but the anecdotal is that it was simply a matter of what we could get votes for. It was not driven, none of them were driven by data. It was with regard to the -- the biggest piece, the

local option budget, I have been told that it was simply a matter of we had this much money we wanted to spend and so we drew the line there, and these are inherently political decisions.

Q. Let's move next to the adequacy portion. The Supreme Court said if you choose a different option for equalization, don't offend adequacy. Are you aware of any measurable metric for measuring adequacy across the school districts?

A. Well, the Court said in Gannon, in March of 2014, that the first measure is whether students are meeting or exceeding the Rose capacities. And as we testified, school districts and the Department of Education are on record in testimony coming before the legislature and coming before the K-12 Commission that I sat on in saying that they don't know how to define and measure the Rose capacities. In fact, they recommended that the K-12 Commission recommend to the legislature that they help them determine it.

So looking at the fact that the Court says the first measure is are they achieving this? And when school districts say we don't know how to define or measure this, it seems to me to say they don't have a basis for saying they don't have

enough money or that they are inadequately funded.

Q. And my understanding, as well, is that K.S.A. 72-1127 reflects some of those similar goals that are set forth in the Rose standard, correct?

A. Yes.

Q. And let me first ask, the committee that you mentioned that you looked at for I think it was educational efficiency, was that committee able to come to a definition of adequacy?

A. No, we didn't -- well, we didn't -- it's not that we didn't come to it, we didn't look at it.

Q. Okay. I'm sorry. Okay. So with regard to both the Rose and the statutory standards, are you aware of any school district in the State of Kansas that has fallen below the standard and been decertified or any similar indication that they failed to satisfy the adequacy?

A. In terms of losing accreditation for Rose capacities, no, I'm not aware of any.

Q. Tell me -- my recollection, however, is and I talked to Mr. Tallman, and we'll talk to him later, my recollection is that your contention is that Kansas children aren't learning, however.

Tell me how -- those seem to be inconsistent to me, so help me understand what that inconsistency is?

A. Well, we've looked at and in fact the Department of Education, it was in 2014, I believe it was November of 2014, that we had some discussions in an interim committee or maybe it was -- it may have been the following legislative session, but I was -- I testified before a joint committee of House and Senate education, so that probably would have been in 2014. But where then Commissioner of Education Diane DeBacker acknowledged that the achievement gaps between low income and not low income kids have actually been getting wider. There was a point in time when the achievement gaps could be, in terms of closing the gaps, could be measured in terms of decades, which was the amount of time it would take at the current pace for the kids who are low income to get to the same achievement level on the National Assessment of Educational Progress as the kids who were not low income. That has now become a measure of centuries because the gaps have actually gotten wider. And so for some districts or for some categories, such as we are looking at

fourth grade and eighth grade reading and math, some of those gaps it would take centuries to close at the current tenure base. Others would never close because there has been no progress. And so -- and we've also looked at -- part of the rationale for that, we think, is that a lot of the money the legislature has allocated, specifically for its called at-risk funding, the Kansas Policy Institute did a study last year looking at how the at-risk money was actually being spent and found, according to school district documents and according to how we see their spending, that much of it is not being used for the direct benefit of the low income kids who are generating that aid. It's being -- it's being used in accordance with how they are allowed to do it, but they are not required to use it for the direct benefit of the low income kids. And so even though the funding has increased quite dramatically, the legislature increased -- I think the last time we looked at this from between 2005 and 2015, there was about a seven-fold increase in the amount of money that was allocated to at-risk funding, and yet we didn't see hardly any change in the National Assessment of Educational Progress and scores.

Q. Well, what I'm wondering is if the achievement is so low, wouldn't that suggest that the funding is inadequate, that the education is inadequate and more money should be --

A. You know, there are some people who contend that, and yet we find no correlation whatsoever between the amount of money spent and the outcomes that have been achieved. Not only in Kansas, but across the country.

Q. What do you mean you find no -- I don't follow you.

A. No correlation? There is a -- there are some people who believe that if you spend more that you will then improve outcomes. Many researchers across the country -- and there are a few who say that they believe there is a correlation, but not causation. Even the people who believe there is a correlation between spending more and achieving, having better achievement, even those people admit that spending more does not cause outcomes to improve. They even -- they go so far to say, with which we agree, it's not the amount of money that you spend, it's how you spend the money, which gets back to is the money being spent for the direct

benefit of students? Is it being spent in classrooms or is it being spent elsewhere? And so there is -- we've looked at -- we've provided much testimony to House and Senate committees showing that many states can achieve better results with less money, or you can look at a specific achievement level and find, for example, a percentage of students who are proficient, say, in fourth grade reading, the same students low income or not low income, and you can see a tremendous difference in the amount of per pupil spent. There simply is no relationship, data-driven relationship between the amount of money that is spent and the achievement of the students in that state or district.

Q. One final question for you to consider, and I apologize, I don't believe I asked you this before, so I'm going to put you on the spot here.

Would you believe or have any of your studies suggested that changing the equalization structure for capital outlay and LOB, would that affect the adequacy, in your opinion, for the education that's offered the students?

A. If I'm understanding your question, if -- if by, for example, Senate Bill 512 where it would

slightly reduce the block grant funding in order to meet the equalization provisions, no, we don't believe that that would have any legal basis of adequacy issues for a number of reasons. First of all, we go back to districts can't identify, they can't measure and define the Rose capacities, which on its face should indicate that they don't have any legal basis for saying they don't have enough money to meet adequacy.

But beyond that, we found that districts aren't even spending all the money that they have been given over the last 10 years. And we looked at that by -- by studying their carryover cash reserves. So you have in 2005, July 1 of 2005, districts had collectively $468,000,000 in operating reserves. That's not counting capital outlay or any bond indebtedness reserves, these are just operating funds. Over the next 10 years, by July 1 of 2015, those balances had gone to $853,000,000. So there's a -- the difference represents $385,000,000 of money that was given to schools to operate and for whatever reason they didn't spend it. They put it -- they used it to increase their cash reserves.

So again, if you're not getting all the money

you have been given, it seems hard to make a case that you don't have enough money when you aren't even spending everything that you are getting.

There is other indications. We've seen in testimony in committees -- I heard testimony before the K-12 Commission on efficiency and in our own studies in looking at payroll registers and check books that districts choose to spend more money than is necessary.

One of the metrics that we look at is how much money goes into instruction, which is a -- and instruction is defined by the state's accounting manual, the Department of Education's accounting manual. And while funding has gone up quite significantly over the last 10 years, almost $2,000,000,000, the percentage of money allocated to instruction has actually declined a little bit. If you -- we don't count any of the capital outlay in that measurement because capital can change and districts are allowed to allocate some of their capital to their current operating expenses. Factoring that out and just looking at what they are spending on current operating, the percentage allocated to instruction actually dipped below 53 percent last year. I think it was 52.91 percent.

And so we are looking at choices that districts are making where they are choosing, and admittedly, choosing to spend more money than is necessary to provide the same or better quality service which would then make the savings available for instruction which seems to be the whole purpose of having a school finance formula is to educate kids and improve outcomes.

We see the practices with cash. We see the practices with choosing to spend more than is necessary. We see the fact that they can't define and measure the goal line. And so we collectively we look at that and think there is a very strong case that even if you were to spend down a little bit of block grant money as proposed in Senate Bill 512, it should not create an adequacy issue.

MR. CROUSE: Thank you, Mr. Trabert. I appreciate your willingness to be here. I will turn it over to the chairman.

CHAIRMAN RYCKMAN: Any questions from the committee? Representative Henry.

REP. HENRY: Thank you, Mr. Chairman. Mr. Chairman, I have a comment and I will have some questions, but I find it interesting that we are spending a lot of time on evidence-based

finding here. Mr. Chairman, did 2731 pass out House Appropriations Committee?

CHAIRMAN RYCKMAN: No.

REP. HENRY: No, did not pass. Did you take a vote, Mr. Chairman?

CHAIRMAN RYCKMAN: No, the bill -- we did not take a vote, but we still are working.

REP. HENRY: So we're -- 2731, 512 neither one of those bills have passed either body at this point, but we are doing a tremendous amount of work on that issue, so I find that kind of interesting.

QUESTIONS BY REP. HENRY:

Q. But your question -- and, Mr. Trabert, I sit on the House Education Budget Committee and I will say I've missed some meetings. Have you been to a number of our House Education Budget Committee meetings this year?

A. No, I have not.

Q. Okay, thank you. In committee, Mr. Chairman, we hear a tremendous amount of testimony about increase in enrollment, increase of at-risk students, cost of operations are increasing, labor costs, increase in general supplies, health insurance, property and casualty insurance,

workers' comp, et cetera, et cetera. Mr. Trabert, have you ever done an in-depth study and could you identify any type of school district where the school board has said that they are experiencing a reduction in total operating costs? Do you have any school boards that have gave you testimony or any information about that they are experiencing a reduction in operating costs?

A. That their costs are going down?

Q. Yes. Do you have any evidence of that anywhere?

A. Oh, no, because districts spend more money. I can tell you, though, that districts decline opportunities to save money. For example, when you referenced insurance going up, we know that there are districts that are spending more money than is necessary to provide insurance. So rather than just say, well, the cost is going up, the position that seems to come forward from districts a lot is we can't help any of this, and that's just not true. Because having done those things for private companies for decades, I can assure you that there are many options, whether that be looking at how much we are charging employees, are we charging at the national average

or the state average for employees' contribution? What kind of insurance costs -- insurance are we buying? Are we taking advantage of pooling opportunities? Same thing with casualty. All of these things have options.

We've heard districts choose to spend more money. We've heard districts, we've heard school board associations testify against proposals on procurement, for example, where they could spend less money and get the same or better quality product which would make more money available, they don't want that because they want to be able to spend inefficiently if they so choose.

We've seen districts testify that they don't want to have services provided from regional service centers, outside the classroom things like transportation and maintenance and food service and accounting and payroll, so many things that could be provided regionally at lower prices. They don't want to do that. So they have many, many options.

By the way, I should mention that while the school districts oppose these things, Kansans overwhelmingly support and expect school districts to make efficient use of taxpayer money, including

using -- using these regional service centers that are school districts, by the way, to provide services at better costs so that more money is available for teacher pay, for instruction and so forth.

Q. In truth, I've read a lot of your stuff, so I do -- I want to say I've read everything. But I go to a lot of school board hearings and have you ever done a model of what a school board -- how a school should be operated? I know you have done some models of other things, but the last thing I hear from school boards is we don't want a template from Topeka on how to operate schools. Have you ever done a template or do you -- could you do a template how -- have you ever seen -- have you ever had a school board -- have you ever been to a school board that has said, hey, we are getting a lot more money than we need and we probably are rich and our costs are going down?

A. Well, no, they won't say that, but that does not mean -- but that does not mean that they -- just because they are choosing to operate the way they are choosing, that they have to do that. I'll give you a great example. We've talked a

little bit here about carryover cash. We find many districts, dozens of districts that have historically operated with very low carryover ratios, and that's a -- that's a measurement of a district's operating reserves at the beginning of the year as a percentage of that district's operating spending.

Now, there are -- first of all, let me back up. No one really had an issue with any kind of cash reserve matters until we discovered, until Kansas Policy Institute covered in 2010 that there was about $700,000,000 at that point in reserve, and that prompted -- and since then there have been a lot of districts say, well, we just don't have enough. Interestingly, there is no legislative record of districts prior to that saying we don't have enough in cash reserves. But at that point that $700,000,000, that was already 200,000,000, maybe $250,000,000 more than what it was just in 2005. What we have -- we've looked at every district's carryover ratio back in 2005, and we find that there are dozens of districts operating with less than 10 percent reserves consistently.

Now, other districts say we don't have

enough, we couldn't possibly do it, but here is documented evidence from school districts that are actually doing it on a consistent basis. It comes down to how you choose to operate your district, how you choose to manage cash. Every district gets their funding, different amounts, certainly, but they get it at the same time. They operate generally the same way. They pay their bills at generally the same time. The mere fact that some districts can do it and manage their cash so much more efficiently than others is another piece of circumstantial evidence, at least circumstantial, that others can do it as well. These are choices.

So while the fact that they are spending more money doesn't mean anything other than they are choosing to spend more money than they need to to provide the same or better quality. This isn't about cutting a service or cutting a program, it's about making common sense efficient decisions with other people's money of how to provide that same or better quality service so they have more money available. Don't spend extra on administration or maintenance or transportation, do it more efficiently so you have more money to educate kids.

Appino & Biggs Reporting Service Inc.
Technology Specialists in Today's Complex Litigation
800 E. 1st Street, Suite 305
Wichita, KS 67202
316-201-1612
5111 SW 21st Street
Topeka, KS 66604
785-273-3063
www.appinobiggs.com
6420 W. 95th Street, Suite 101
Overland Park, KS 66212
913-383-1131

REP. HENRY: Mr. Chairman, my last comment and I appreciate the time.

BY REP. HENRY:

Q. In the House Education Budget Committee, we talked about kind of in-depth about how we had some school districts that you walk through and they are beautiful and they have all the latest technology and they have a lot of bond indebtedness. And you go to some of our rural areas and the schools are so-so, little technology, but the school board has made a considered point to go out and accumulate cash because they don't like to do bonding, they don't like to fix things with bonds, they want to do it as they go. And so there is a huge difference in how we -- how different school districts manage their daily operations. So, you know, again, I think we've heard this over and over, so you can't just come in and say, hey, here is some schools, do this and that differently because these schools are not given a template and they don't want a template from Topeka on how to operate schools.

A. If I could, Representative, I'd have to beg to differ with that statement. First, yes, some districts do accumulate money in their

capital outlay fund rather than do bond and interest. We don't count that. All the measurements that we are doing looking at how they are spending money and how they are managing their cash are of their operating reserves. We are not looking at all at what's in their capital outlay. Okay? So, yes, there are some that do it, but that's an irrelevant point, with all due respect.

Now, they don't want a template from Topeka, and I get that. Nobody wants to be -- I worked in the corporate world and I didn't want -- but here is the difference: These districts are not just -- they can have all the local control they want if it was all their money. If all the money for their district was being raised by the citizens of that district, well, then, I suppose you should be entitled to have all the local control you want, but this is other people's money. I mean, think about it. We have districts, on the topic of equalization here, we have citizens in tiny districts where a mill raises less than $50,000 or less than 100,000. There is dozens of districts like that where they really don't have much property value and they don't qualify for equalization, but some of their sales taxes and

some of their income tax is going to the wealthy districts in Johnson County, in Sedgwick County. They are supporting -- their money is going over here to support them. You know, it's just the whole equalization system -- in fact, there is a lot of people who don't understand that it's done on a per pupil valuation. They think -- in fact, I've heard it explained in legislative hearings that the purpose of equalization is to provide more money to the districts that have low property values. And what I've told them, for example, this was - I just made this note this morning - this was from the block grant spreadsheet, 2016 supplemental general aid distribution, this was the estimate. Out of $448,000,000 in equalization aid, Sedgwick County had the most. They got 20 percent. The second highest amount went to Johnson County at 11 percent. The third highest went to Wyandotte County at 10 percent, and then Shawnee County at 6 percent. Four counties, four large urban counties accounted for 47 percent of the equalization money that's supposed to help poor districts.

CHAIRMAN RYCKMAN: Any other questions for Mr. Trabert? Thank you for being here. Mr.

Appino & Biggs Reporting Service Inc
Technology Specialists in Today's Complex Litigation
800 E. 1st Street, Suite 305
Wichita, KS 67202
316-201-1612
5111 SW 21st Street
Topeka, KS 66604
785-273-3063
www.appinobiggs.com
6420 W. 95th Street, Suite 101
Overland Park, KS 66212
913-383-1131

Crouse.

MR. CROUSE: Mr. Chairman, I've asked Dr. Jim Hinson from the Shawnee Mission School District to appear, as well.

DR. HINSON: Good morning.

EXAMINATION OF DR. JIM HINSON

QUESTIONS BY MR. CROUSE:

Q. Good morning, Dr. Hinson. Thank you for coming over here. I know you weren't in school this morning and were at PromptCare. I'm deeply appreciative. Thank you very much.

Will you remind the committee your name and employer and title, your history with public education funding, Kansas in particular, please?

A. Jim Hinson, Superintendent of the Shawnee Mission School District. This is my third year --

Q. Hold on. I'm sorry, your court reporter is going to kill me, so if I could ask you to slow down just a tad, please.

A. Sorry, I'm trying to prepare my budget for next year and I'm not sure how to do that, so sorry --

Q. No, that's fine.

A. Jim Hinson, Superintendent of Shawnee

Mission School District. This is my third year as Superintendent of the Shawnee Mission School District, third year in the State of Kansas. Previously, I worked in the State of Missouri. I taught sixth grade for six years. I was an elementary principal for six years and a superintendent of schools there for 18 years prior to coming to Kansas. Interesting to note, I'm superintendent of school districts from 600 students to 15,000 students, a wide range of demographics in those school districts in that state, and I think currently I'm under my sixth school finance formula as a superintendent. So I've been through this experience just a few times.

Q. Thank you very much, Dr. Hinson. One of the reasons why I asked you to come over is because you are one of the individuals who testified for House Bill 2731, and I thought some of your comments were quite enlightening and so I wanted to talk to you about that. While you presented testimony to the committee, there was no, what I will call, a record of that testimony and so, therefore, I thought the legislative body would benefit both from a recitation, so to speak,

of your prior testimony, as well as you were kind enough to make time for me on St. Patrick's Day, I believe, in your office to talk about some of the ideas that you had with regard to not only resolving equity as it currently faces the legislature, but also how that may or may not impact adequacy as well as this annual ritual of school funding and what that does to a school district such as yours, as well as the other school districts in the State of Kansas. So what I would like to do is kind of lead you through that discussion that you had first with the committee, as well as the one that you had privately with me, so that I can help the legislature put their arms around a small issue that we currently have, as well as the big issues going forward and what I found were some enlightening thoughts that you may have. So that's kind of my goal behind this and I do greatly appreciate it.

Let's start first with regard to your testimony in House Bill 2731. As I -- as I mentioned, you appeared before the committee to discuss some of the -- your reactions to that bill and what it would do, both acutely to your

district, as well as throughout the state. And my recollection is you appeared neutral and said it was, quote, the least detrimental solution that had been offered. Talk to me a little bit about why you thought that.

A. I did appear as neutral in relation to House Bill 2731. We did appreciate that House bill had been filed in relation to trying to address the issue that is before us. So our position, or my position as a superintendent, we are now in mid, maybe late March - there is certainly madness in March - and I am trying to prepare a budget of well over $300,000,000 that starts July 1, and I don't really know how to prepare that budget to any type of predictability. Really, on two fronts for us. One is in relation to if the legislature tries to have some type of remedy to meet the demand of the Court, will there be a cost to the Shawnee Mission School District and what will that cost really be? That's one question we really don't know the answer, obviously.

The second component that I think all school districts are facing right now is in relation to our state budget will I have allotments in May and

June, how much will those allotments really mean to us fiscally? And that's something that is looming in front of all of us that are school district superintendents as we try to prepare for the future.

So in looking at the House bill that we appear neutral on, one of the things it allows us to do, if there is a shift in relation to the LOB equalization, then I can plan for that this next year in relation to my board of education will have an opportunity, if they so desire, to increase the local mill levy to offset the loss in relation to LOB equalization. I think we are probably clear you've had testimony a lot of that is shifting under the tax burden from one school district to another school district. So we appear neutral. We appreciate the discussion in relation to this House bill will have implication on us. It does put my board of education, if that type of a concept would pass, in the same position that you truly understand. They would have to decide will they try to recoup that amount of money? If they try to recoup it, it is a mill levy for each tax increase at the local levy -- local level.

Q. And my understanding is that you are

comfortable with the equalization strategy, but you do not appreciate the impact that it will have on your budget. Is that a fair summary of -- and again, your analysis of how the equalization strategies may look in Kansas, is that a fair overview of your view?

A. I don't know if I would describe it as comfortable, but I understand the situation that we are all in. And if it is -- if this is the remedy in order to try to meet the demand of the Court because like we are all hearing right now, will my school still be open July 1? And so if it takes this type of a shift in order for us to meet the demand of the Court, then I think that in the art of negotiation, everybody has to compromise. And if that's what is needed to get us a short-term fix so we can develop a long-term solution, then we are willing to be at the table to say we are willing to take that reduction or cut, if you will.

Q. And I appreciate that. I think that's the position of the legislator -- or legislature is we are seeking an opportunity to satisfy the Supreme Court's command so that the school bells ring come fall of 2016, so that's why I personally

appreciate your thoughts as to this process. One thing that I picked up out of your testimony, or at least your written testimony, is the concept of a hold harmless provision. Remind me again what that process is and your position with regard to whether it is necessary or not as to any legislative solution the legislature may consider?

A. Certainly our preference is a hold harmless solution. A hold harmless solution, in essence, means there aren't winners or losers. It means that no one is actually going to lose through the process.

You know, my belief is if you're going to have a hold harmless provision, you have to find some way to increase revenue or you are going to have to find some other place to take it from. But as we move forward in a new formula, one of the key components for a new formula is a hold harmless provision. And I believe if we can find a short-term fix that is hold harmless as well, I think that's very important in this process and it would be the ideal solution.

Q. In other words, it would aid your district, as well as others, who may lose funding under the re-implementation of the formula to what

I will call smooth out the budgetary process on a short-term basis, that being the school year for 2016-17?

A. The answer is yes. The last run I saw there were about 79 school districts that would lose, if you will. You've heard testimony this morning in relation to fund balances, but please keep in mind I'm not sure that any of us are aware of what's going to happen in May or June. So I'm sitting there with about 11 percent fund balance in the Shawnee Mission School District. That's not a lot of money. Am I comfortable with the 11 percent normally? Absolutely yes. Right now, I don't know. I don't know the answer to that question. So the hold harmless remedy I think is ideal, especially with the understanding we don't know in K-12 if we are going to have allotments in May or June and the amount of money that that would really equate.

Q. I'm going to challenge you just a little bit because the Court has said equalize. I want to know do you think that a hold harmless provision would equalize or would it alter the equipoise of the school district? And if it does alter that, does the legislature have a rational

basis for believing that the hold harmless provision is necessary for the operation of the schools, if you could talk about that.

A. From my perspective, the equalization is almost like, I'll use the expression of chasing your tail. You've heard testimony it changes every single year. And so the question becomes once you equalize, then immediately do you have inequity through that process? I don't see any scenario by holding harmless where you create additional inequity, and I'll give you an example: The block grant formula. The block grant formula held harmless school districts that were declining in enrollment. I think it worked really well; it was the right thing to do. And so we have precedent where we've held school districts harmless in that regard, and I think ideally that would occur again at this time. So, no, I do not believe that it would create additional inequity.

Q. And if the legislature chose to hold certain school districts harmless, you would see that as something consistent with the normalization and normal operations of the school district. Is that right?

A. Yes.

Q. You mentioned a couple of times about certainty, and one of the things that really caught my attention with your prior testimony is the certainty that would be provided to school districts by the block grant. I read contemporaneous press clippings to suggest the block grant was bad for education. I believe you have a different view and that it actually was good for education. Can you remind me why that is, please?

A. As you may or may not be aware, Shawnee Mission School District we supported the block grant for really a couple of reasons. One, without the intervention of the Court, and we are not a part of the Schools for Fair Funding in the Shawnee Mission School District, but without the Schools for Fair Funding litigation and the Court's intervention, I would have known how to budget for two years. Now, save allotments, I don't know what's going to happen there, but we have lobbied for a two-year budget cycle and that's what was granted through the block grant process so I would know how to budget. Now I'm in a situation because of the Court's demand, depending on how the legislature responds, I am

uncertain on really how to budget.

So we are in a process right now where normally, save for negotiations with employees, my budget is done for next year. Right now there is so much uncertainty, and this again is why we advocated for the block grant so we would have some certainty in relation to budgeting.

Q. Would it also be beneficial from a block grant two-year budgeting cycle to help find what I will call an ultimate solution to school funding, for example, as opposed to reacting to remedial orders such as the like? Could you talk about that?

A. I mentioned to you I've been through several formulas in my career. They were always challenging and they are always contentious, they always are. One of the goals from my perspective of the block grant was to say here is where we are going to be for two years, you know how to budget, so we'll lock that in. And at the same time it would give the legislature an opportunity to engage everyone in the process to thoughtfully create a new school finance formula going forward. It would give us the time in order for that to happen.

In looking at the I'm going to call it the old formula from 1992, Shawnee Mission School District has never supported that formula. Looking back at some information from a legislative research document that was presented on July 15th of 2015, the history of the current or the previous school finance formula, it was put in place in '92. We waited until '93 before we started amending that formula. The history of amending that formula, I'm going to call it bizarre because that has happened over and over and over again. Any time you have a formula that you continue to I'm going to call it tweak continually and add weightings continually, that's where you create inequity.

And so as we look back at the history of the formula, and I'll give you the exact date again because I brought it with me today, so July 15th of 2015, and so I'm going to give you an example. This is in relation to, and please give me some patience here, the at-risk pupil weighting, and this is from Kansas Legislative Research Department School Finance History July 15 of 2015, this is in relation to at-risk pupil weighting. A 1997 amendment increased the at-risk pupil

weighting from .05 to .065 commencing with 97-98. A 1998 amendment increased the weighting to .08 commencing with the 98-99 school year. A 1999 amendment increased the weighting to .09 commencing with 99-2000. And a 2001 amendment increased the weighting to .10 in '12 and thereafter. Sorry, I'm talking a little fast again. And then '06 -- and you can read it for yourself. We go back and so there is a history from 1992 where it was 5.0 to where it was in '08 and '09 at 45.6. So any school finance formula, when you continually tweak and you continually add weightings, the best thing to do is for the block grant in place, call a time out and then go back and develop a comprehensive, very thoughtful new school finance formula.

Q. Do I understand you that the repeated tweaking, as you say, of the school finance formulas undermines your ability to deliver education to students?

A. The continual tweaking does a couple of things: One, it provides a moving target for you. It's a moving target from a budgetary fashion standpoint. It's a moving target for a school district, as well. And so in order for us to

develop our five-year budget, try to predict what's going to happen in the future, one, certainly we like the certainty of a budget cycle revenues are going to come in for the next X numbers of years. But at the same time in order for us to accurately and efficiently budget our tax dollars to have a continual tweaks, weightings or add or changes, it is very difficult for us to appropriately budget.

Q. And I'm going to ask you a question that just popped in my head as you are talking. Do you have any equalization strategies that you would recommend to the legislature for a remedial fix for this cycle that's different from, for example, the House bill you testified on and Senate Bill 512? And if you don't, that's fine. It popped into my head as you were talking and I wanted to get it out.

A. Answering the question about what is equalization and if you try to create equity are you really creating inequity? It's a very difficult question to answer, but I'll try to answer it in this regard, and this was a question that was asked by representative Henry.

So in the Shawnee Mission School District, if

I move my salary schedule, if I -- that's not increasing my base, you work another year, you move a column, you go from a Bachelor's degree to a Master's degree, you move that step. And what I think is going to happen in health insurance, and we can talk about that, as well, because it was testified about today, that takes $4,000,000 for me just to do that in the Shawnee Mission School District. Kansas City Power & Light increased their rates. That's $750,000 for me in that rate hike increase, and certainly we are working to be more efficient through that process, but I already have a $750,000 deficit in that regard. We contract for transportation. They are at a 27 percent rate hike increase right now, their request, and our answer is no. And then the question becomes what happens if they walk away?

So absolutely our costs are increasing significantly. That is why if we could hold harmless now where everybody create a new formula through a very intricately-designed process, I think that benefits education, certainly, in the state and all of us in this process.

Q. So would it be fair to say then that you, and I don't mean this in a you don't have an

answer sort of way, but you're not here promoting a different equalization strategy other than the ones that are before the legislature currently. Is that correct?

A. That is correct. I don't know if there is a right answer.

Q. Let me get back onto, I guess, my train of thought. Tell me a little bit about, in your testimony, with regard to shifting the tax burden. It requires members in your district to pay more, may require others to pay less. Tell me about your concerns with regard to adequacy, help me understand that, please.

A. As we get into the conversation of adequacy in the new formula, it is a difficult question to answer. I have not advocated for the Rose standards that were created in the 1980s in the state of Kentucky. I don't believe that is what is the very best for every student in the state of Kansas. If we want to lower our standards, from my perspective, to the 1980 standards from Kentucky, I think that would be highly inappropriate. We have to determine, we have to determine what is the very best for every student that walks through the doors of any school

in the state of Kansas.

The adequacy question, you're going to have probably a lot of testimony about that in the future, but what is really adequate? There has to be a threshold of which you cannot provide an adequate education below this level. There is a threshold. Now, certainly we can argue if you continue to add money beyond that threshold, what is the return on your investment? And those arguments will probably occur. But there has to be a threshold. So a new school finance formula should have a threshold, this is the adequacy threshold. We can have other discussions what's beyond that, and I think those will be robust in that conversation, but I think that number can certainly be attained through adequacy.

But I want to make sure that in our race for equity, we don't harm the adequacy discussion. So, I'll use this example: So, in the Shawnee Mission School District we have the largest total assessed valuation. There are 14 cities in the Shawnee Mission School District. Our demographics in the Shawnee Mission School District, they are changing, but out of the general fund, operating fund, if you will, everything except for capital

outlay and bond and interest, prior to the block grant, out of the 286 school districts, our spending per pupil in Shawnee Mission was 268, 286 being the last. That's because of two reasons: One, is a spending authority cap, the other is the formula and all the weightings in the formula.

And, so, when we talk about adequacy, is it equitable or is it adequate for us in Shawnee Mission to be 268 out of 286? So, what I would challenge is that all interested parties we have to have the conversation about adequacy and if we can please have a very defined plan going forward how we have those discussions. I'm going to get -- I'm getting off on a rant now, and I apologize for that, but we're all invested in this. We collectively have to have those conversations.

Q. And I appreciate that. What I'm trying to get at is tell me what your thoughts are with regard to my understanding is if you are a what has been referred to in the testimony before a loser as a result of the formula, in other words, you lose money, my understanding is you have the options of cutting services, raising your mill levy or not performing those services -- or, I think, you had three options in your testimony,

and one of the concerns that I heard in your testimony was that your taxpayers in your district were expected to bear more of a burden than others, and I wondered if you could comment as to the equity of that from your perspective, please?

A. The shifting of the tax burden, if you will, so my board will have to say we're going to cut certain services, depending on the solution or resolution, we're going to increase the mill level locally or we're going to try to eat away at some of those fund balances. Do we have the ability to eat away at fund balances? The answer is yes. However, I'm going to take you back to the argument in relation to allotments. I don't know what's going to happen in May and June. I'll stop there in relation to allotments.

But, I think, it's fair for me to say this, as well: The discussion for Shawnee Mission, one of the 79, honestly, it might be a little easier on how we're going to meet the shift than some of the other really small school districts in the state. And, so, as we look at the 79, honestly, I can find a way to do it. I might not like it, I don't like the shifting of the tax burden, I can find a way to do it within reason. A lot of those

other 78 school district in the state it's really going to be a challenge for them, and that's the part of this equity conversation in relation to the constant shifting of the tax burden which does impact adequacy.

Q. What is that shifted tax burden? Can you explain that to me?

A. So, the shifting of the tax burden is really the LOB equalization. So, the question is who is going to pay for the cost, whether it's going to be the local taxpayers or whether it's going to be the state. That's as simple as I can make it in that process.

Q. Your mention of certainty for budgeting in favor of the predictability, is there an organization that you can tell the committee about, I think it's USAA, that may not support block grants but also recognizes the benefits of certainty to school districts? Does that ring a bell with our discussion?

A. I'm not actively involved in that. I'm not involved with that organization.

Q. Okay.

A. And so occasionally I'll read some information they'll present, but I'm not actively

-- I'm not involved at all with their discussions.

Q. Okay. But my recollection is, even they recognize, to operate a school district or a school organization, you need certainty in funding on a longer term basis as opposed to a three-month budgeting process or a 12-month budgeting process?

A. Yes, sir. As school administrators of the state and certainly school boards, as well, we've advocated for a two-year budget cycle so we would have certainty and know how to predict the future.

Q. Without, I assume, interventions of any government bodies?

A. That's, again, why we lobbied for the block grant bill, that certainty, in very tenuous financial times that we could try to have that certainty in our process. So for me, I have 4,000 employees. Their livelihood depends on how we make decisions in relation to our budget, not being able to predict what we can do for them. We are having all kinds of discussions right now, and I have some of my finance team here as well, all kinds of worst case scenarios. I don't like any of those scenarios. Some of those impact employees and they impact the lives of people in

the state, and that's why I really think when there is certainty with a hold harmless provision, it allows us to clear this hurdle and then really have those conversations that will allow us to have a new school finance formula in place which I believe needs to occur.

Q. One thing I wanted to talk to you about is, and I'll do it briefly, is the variety of equalization strategies that are out there for capital outlay, LOB, as well as bond and interest. My recollection is you're unaware as to what, if any, educational policy would support the differing equalization strategies for the differing concepts. Is that right?

A. That's correct.

Q. And would you favor a single unified strategy and why?

A. Let me try to give you an example. In Shawnee Mission we're at eight mills, so we're at the ceiling. We don't receive any equalization for capital outlay. We have a significant debt in bond and interest. No equalization from the state for bond and interest. But we received equalization for LOB because we fell in that great category of the 81.2. Honestly, I'm not sure how

that makes sense. We love the state relief, but does it really make sense. I don't know that that's equitable in the process because the formulas are different. And, so, we need a concept, we need an understanding in the state of what does equalization mean, not only for bond and interest and for capital outlay.

So, my eight mills in capital outlay, I can issue bonds through capital outlay for school construction; we're doing that. Other districts could also, if they were -- if they wanted to, they could issue bonds through capital outlay and receive state equalization, but a part of that expenditure could be through bond and interest and receive state equalization, as well. So, in essence, you could be paid twice for the same overall project. You would have to break down your bonds for maybe just your facility, your capital outlay for just your furnishings, but there is a way to do it. That doesn't make any sense. So, we have to determine educationally what is the appropriate equalization for those categories or reduce the equalization and there'd be fewer categories.

Q. Just a few final questions, and I will

warn you in advance so you can get ready, we didn't talk about this. These questions are coming from some readings that I did this weekend, so I just wanted to run the ideas by you and have you comment on them.

What if, for example, the legislature considered changing the mandatory 20 mill rate and suggested that we're going to raise the mill rate and you are going to have to ask your constituents to support equalization for capital outlay or LOB in other districts, how would that go over in your school district?

A. I don't think it would go over very well. Our constituents have been great about raising their mill levy to fund what goes on in their neighborhood and their school district, but to intentionally to increase that to equalizing other places, I think, there would be some consternation about that issue.

Q. Consternation is probably a good word for it.

Tell me, is there a way and would you support taking all of the mill and local option that you give and send it into the state and then have them equalize it from there? And, I think, that's kind

of a similar concept to what I just mentioned, but I assume your reaction is the same?

A. It goes back to the discussion, I'm going to call it local authority, which you can get into eventually the equity and adequacy conversation about what does local authority really mean. The mind-set that -- I'll try to simplify it -- the more money that comes into the state, the state probably is going to have the feeling that they should have more control over how that money is spent; that would be reasonable. The more money that's raised locally where you have locally elected officials and how those monies are spent, I think you have more local authority, but you also have greater accountability at the local level, as well.

So, I would certainly advocate -- I don't disagree with the 20 mills, but if we're going to have additional revenue, I think locally we have to have investment buy-in ownership in that process.

Q. One of the things I talked to Mr. Dennis about was Supreme Court seemed to suggest that it wants a reasonably similar educational opportunity. And as I mentioned to him, my wife

went to your school district, I went to U.S.D. 419. I asked him whether he has any metric to measure whether my educational opportunity was similar to my wife's. His answer, I think, was no, and my recollection is your answer was similarly there is no way you can measure it?

A. That is correct.

MR. CROUSE: Doctor Hinson, you have been amazing with your time. I can't tell you how much I appreciate it. Thank you.

CHAIRMAN RYCKMAN: Does the committee have questions of Doctor Hinson? Senator Masterson.

CHAIRMAN MASTERSON: Thank you, Mr. Chairman.

QUESTIONS BY CHAIRMAN MASTERSON:

Q. I actually find it refreshing somebody inside the system, if you will, creates that stability the way we do for those of us who produce the budget on an annual basis, just having that predictability is such a huge factor in that and I appreciate your comments on that.

As it comes to hold harmless that we are calling it, do you -- do you believe there should be some look at or correlation with the local

effort? I am and you ask this of you because you are in one of the largest districts by population, clearly are the wealthiest by property value and so you have an effect, so obviously you would be someone that has a role in that. As it strikes me, even in Johnson County, as I look through even like the Olathe district, for example, has a significantly higher total mill, but when it comes down to like LOB, capital outlay, there is subsets of mills, let me formulate a question. Do you think there should be a correlation between a hold harmless on a local effort, i.e., if the formula said to hold you harmless it was X amount of money and your district is taxing your population higher than the average district is taxing, you would be due the hold harmless. But if you were in a district where you do a hold harmless through whatever formula but your district is taxing lower than that state average, because there has been a lot of comments about equal taxing effort, then your local district would have to come up in some level to that average local effort before a hold harmless would kick in. I would be interested in your comments on that.

A. I think the question or the premise has

merit, but without looking at runs on how that would really impact, I would really like to see those. The equity of taxation -- I'm not quite sure I totally understand the equity of taxation. So, I live in the city of -- my wife and I live in the city of Shawnee, and so the home in which we live -- and our assessed valuation on our home jumped five percent for this next year. I'm not sure that the home that we live in now in Johnson County that if I lived in Wyandotte County, which is a few miles away from me, that the home would be assessed at the same value. So if it were not assessed at the same value even though it's the same home, depending on the zip code in which I live, then, we look at the mill levy or property rates, I'm a little confused on how you can measure those two. So, I think that becomes real complicated.

So, to answer your question, I think that premise has merit, but I'd really like to see the runs on that.

CHAIRMAN MASTERSON: Just a follow up. Obviously, as you understood there are subsets of the mill, do you think it would be most appropriate to correlate to the overall number or

just simply to those buckets, if you will, that receive a mill of capital outlay and LOB as they relate to the others and that gets you the total, or should you look at those equalized pots of money, if you will, how the mill is assessed at the value?

A. That's a great question. So, we're across the street, you mentioned, from Olathe. So, Olathe is not at eight mills. Because they receive equalization, they don't have to be at eight mills. We're at eight mills because I don't receive any equalization. So looking at the disparity of equalization, if you take out -- I think you take out capital outlay, I think you take out bond and interest.

CHAIRMAN MASTERSON: Thank you.

CHAIRMAN RYCKMAN: Representative Kleeb.

MR. KLEEB: Thank you, Mr. Chairman.

QUESTIONS BY REP. KLEEB:

Q. This whole discussion of what is equity and equitable and everything, it gets kind of interesting. But in the last seven, eight years, since 2008 or so, have you had -- has Shawnee Mission had to close schools?

A. Yes.

Q. Has that been due to funding or efficiencies or --

A. It was due to two factors: One, the primary was in relation to funding. Again, this was prior to my tenure, but funding and then was at that time declining enrollment. Now that trend has reversed, now we are increasing enrollment, but significant financial issues due to funding.

Q. And, even with the funding aspect, do your citizens, if they could have, would they have supported higher levies to keep their schools open?

A. I believe the answer is absolutely yes, and I'll give you an example. So we had a mail-in ballot in January of a year ago, so January of '15. Over 80 percent of our voters said yes, we want to pay for that in relation to some school construction. So the level of support is phenomenal, but obviously it's capped on the operation of our general funds, so they did not have the opportunity for that to occur.

Q. And yet, you said your spending per student is at the lower end of the scale?

A. Yes.

Q. What was it again?

A. So we were 268 out of 286. So there are districts in the state that are spending more than twice, more than double the amount per pupil out of the general fund than what we are allowed to spend in Shawnee Mission.

Q. So that would seem not particularly equitable?

A. I think it's inequitable.

MR. KLEEB: Thank you, Mr. Chairman.

CHAIRMAN RYCKMAN: Any others? Representative Henry.

REP. HENRY: Thank you, Mr. Chairman.

QUESTIONS BY REP. HENRY:

Q. Mr. Hinson, I really appreciate you coming today and you have been in front of Appropriations and I really do respect that you have taken the time to do this because I know it's very difficult. And we talked about Senate Bill 512. Are you real familiar with that yet?

A. Yes.

Q. I think it calls for 1.45 percent across the board allotment. You call that allotment?

A. We are just going to call that a cut. With Governor allotments, we'll just take that as a cut.

Q. Very good. I appreciate that. That's exactly how I would say that. So it's a 1.45 percent across the board cut for every school district, and do you become a winner or loser in 512?

A. We're a loser.

Q. Loser? And I'm going to ask these questions, and I've had some frustration when we debated the House Bill 2731. How long do you think you could go with this block grant program?

A. I think the block grant is scheduled to expire at the end of next year.

Q. I know there is a sunset.

A. We would totally expect to have a new formula by the end of the next legislative session.

Q. Okay. So, I mean, I've expressed this frustration in Appropriations last week in that are you seeing any type of start of a new formula discussion? Are you a part of that? Have you seen -- is there anybody that you can concretely say started the process of a discussion of a new school funding formula?

A. I'm aware that I think there is at least one representative and one senator that are

putting together the formulas, but if I might answer your question with a little longer answer, here is what I'm really going to advocate that occurs. And I've said this before publicly. All of us, I'm guilty in education, I think we're all in the same boat, we've become so polarized in this conversation, it has become so political, and, again, we're all at fault. We in leadership have to all get in the same room and we have to put aside our differences and we have to solve in what's in the best interest for all of our children in the state of Kansas, and we need that in a very defined time frame and plan. I am not aware that that exists.

And, so, from my perspective, that plan needs to be rolled out. We need to involve all of the stakeholders, whether we agree with each other or not. This is really out on the limb, but my concern is the message that we're sending, because I represent children, the message we're sending to our children is inappropriate. We as adults, we have to get in this room together, hash out our differences and make sense of this and move forward collectively as a state. I am not aware that that plan exists, and I would strongly

advocate that that plan needs to exist very quickly.

REP. HENRY: Thank you very much for your time. I do appreciate you coming here and doing this. I know it's very difficult. Thank you.

CHAIRMAN RYCKMAN: Any questions for Doctor Hinson? I'll just make a comment that -- the same comments that Representative Henry and I had in the Appropriations, is that we were moving towards a full finance solution and then the Court decision that threatened to make it so schools couldn't open put a halt to that and we shifted our focus to equity. And, again, I appreciate you being here and a chance to clarifying that. Mr. Crouse.

MR. CROUSE: Thank you, Mr. Chairman, it's 11:45. Mr. Tallman has graciously awaited us. I think I'm ready for him, but I believe he has an engagement and we are getting close to the noon hour and I'm happy to --

MR. TALLMAN: I can go till 12:15.

CHAIRMAN RYCKMAN: Let's proceed, if that's okay.

MR. CROUSE: Thank you, Mr. Chairman.

EXAMINATION OF MARK TALLMAN

QUESTIONS BY MR. CROUSE:

Q. Good morning, Mr. Tallman. Thank you again for coming here today.

A. You're welcome.

Q. As I have done with the others as you have listened to, would you briefly provide your name, employer, title, those you represent, your involvement with Kansas school education funding?

A. Mark Tallman. I am the Associate Executive Director for the Kansas Association of School Boards, which I guess essentially means I'm the chief lobbyist. And so for the past 25 years I have worked on behalf of school districts here in the legislature. We are a membership organization of the school districts. Currently, all but two of the school districts are members of our association, and so my job is to try to collectively represent their interests and concerns.

Q. Okay. And just -- I wasn't aware that there were two that were missing. I'm curious which of those two that are not within your organization?

A. DeSoto and Hamilton.

Q. Okay. I learned something new today.

Thank you.

And you are -- and I'll go through, the purpose is I'm new to the education funding world. I heard your testimony on I believe it was the 15th and 16th. I was intrigued by some of your comments, some of your ideas. You were kind enough to meet with me privately, as well, to talk about some of those as potential solutions to the equalization matter that we have currently before us, as well as the larger picture going forward. And, so, I would let the committee know Mr. Tallman was unbelievably gracious again with his time, just like everyone has been, and I appreciate you coming forward.

So, kind of what I'm doing today is to briefly summarize your prior testimony that you provided in both 2731, as well as House Bill 512, I think it is, as well as some of the ideas and concepts that you and I discussed so that the legislature has a more full picture of potential options and solutions from, I think it was Doctor Hinson had just mentioned that all of the stakeholders. That was part of my goal was to get all of the stakeholders. And one of the things that I appreciated about your position is I

figured you and Mr. Trabert would be different, you are, yet you have some similarities. And so part of what I'd like to do is for the benefit of the legislature is to draw some of those out and talk about those concepts. And there is a transcriptionist, so the body in this building will have it, as well as the one across the street. So that's kind of the concept.

Remind me again, has your organization responded to and analyzed the Gannon II decision?

A. Well, I have certainly studied it and members of our legal staff have looked at it and reported on it. I don't know as we prepared a formal legal brief for it, but.

Q. But you put together some testimony that was the basis of your testimony to on both of the bills. It was the Gannon decision and your thoughts as to how or how the bills did not comply with the Gannon II equity decision, correct?

A. Yes.

Q. Okay. And, so, that's what I'd like to do today is I'd like to talk to you briefly about those discussions, your thoughts and input on them and to help the legislature form new ideas.

First of all, with regard to House Bill 2731,

my recollection is that you and your organization supported equity and the equitable strategies that House Bill 2731 employed. Your concern, however, was that it may not provide enough money to the school districts. And, so, with that characterization, I'll let you respond, if you would, for the record?

A. Certainly. Well, I think our position was the Court itself had indicated that going back to those formulas would satisfy, at least, the indication was for next year that that was one route the schools could take or that the legislature could take to do that. But we were concerned about the part of the decision that cautioned against doing something that would jeopardize the adequacy portion. And because of our kind of larger concerns about adequacy, we brought that to the attention of the legislature.

Q. And, so, would it be fair to say that you were supportive of the formulas cautioning the legislature about anything that may or may not affect adequacy?

A. Yes, sir.

Q. And my recollection of your testimony to the both bodies was that you had no metric for

measuring adequacy, although you felt the schools were satisfying the educational needs of the students. Is that fair?

A. I think I just would want that a little bit differently and take a little different response. Certainly as to your earlier testimony from Mr. Trabert, because he and I appeared on a number of forums together and can perhaps draw those distinctions.

Q. And that's what I'm trying to get to is the different concepts. So if you'll -- you can address Mr. Trabert, as well as my clients as well. Thank you.

A. Here's where I think we acknowledge that the Gannon decision regarding the Rose standards have said that's what the legislature should look at. And we have further said and testified that we don't think we fully understand how to measure those. There is not a -- the legislature has not come in and specifically said or the State Board or the Court, here are those seven standards, here is exactly what it would take to look at it. But we do think that in those seven standards there are several things that stand out. One is clearly a mastery of basic skills, particularly

communication skills. We test that by both state standards and NAEP standards.

Q. I'm sorry --

A. Slow --

Q. Slow down. State standards and NAEP?

A. I'm sorry, the National Assessment of Educational Progress is a national test that we sample.

Q. Thank you.

A. I'll go slower. Certainly, the implication of being prepared beyond high school looks at things like graduation rates, test scores, college completion, some of those issues. We believe that those are relevant things to look at, and in our opinion that is a way of measuring how close we are to compliance.

In our view, we are not where we need to be. We don't believe we are fully satisfying those standards. And our analysis is that if you both look at previous cost studies, if you look at the experience of other states, and I think we would even say if you look at things like common sense, it will indicate that resources are a part of that. And so that's why in -- while we would say we don't fully know how to define those, we

believe there is enough there to say we are not meeting the expectations that we set for ourselves or certainly the legislature has set, and we do think that resources are a part of that, funding is a part of that.

Q. And would you respond to Mr. Trabert's distinction between correlation and causation, because I suspect I know you have different views, so please share with the legislature, please.

A. What we have said is we believe there is a correlation. We acknowledge it is -- I guess what I would say it is almost impossible in a social science setting to prove causation. So we believe the correlation is strong enough that we believe there is a causation, we believe there is a causal link, we would simply acknowledge we can't prove that. You can't really do an experiment to prove that. But to us, if you lock at, for example, the states that consistently outperform Kansas are states which consistently provide more resources than Kansas.

Q. And, you mentioned that the metrics that you would measure student success are not at the level that you would hope for. Are there any particular districts, whether within your

organization or the other two, that the legislature should focus upon or I will say back a formula into direct more funds, you know, particularly with regard to -- I think that's what, at the end of the day, I think we are wanting education to be the primary focus. So are there school districts that you have recognized that are failing to meet that, but the legislature should look at as to how to fund, if you believe funding is the right metric?

A. I would say that in two ways. The legislature itself has responded to gaps in performance. I would not say so much by district, but by the students you serve and has tried to address that by weighting is the primary way we do it in Kansas, either specific weightings like at-risk, providing dollars for special education, et cetera. You know, because our belief that generally speaking a district -- how successful a district is and how much it costs, is tremendously influenced by the student population that they have to educate.

The differences in spending that Dr. Hinson talked about, you know, are partly reflective of studies that have shown the difference it costs to

operate in smaller schools, the difference it costs to have kids with a lot of poverty, special education, English language learners, all of those things. But, I think, what we have seen is we know that's a part of it. If we try to take that a step farther and say if in general across the state we are going to get more kids college ready or we're going to raise the graduation rate, in general, in our view we can both look at models of, again, other states where there tend to be more resources provided and then ask ourselves how do you help students succeed. I think the experience, again from other states and ourselves, is you do that by bringing more resources to bear: Special programs, smaller class sizes, more individualized programs to help students that tend to have higher costs.

Q. Is it your belief or does your research support that the -- there may not be a school district that is failing to meet the standards you would like, but there is a segment of the student population, such as ESL, low income and things like that, and so I guess the nut of my question is, are we looking at the wrong thing for equalization? Should we, instead of looking on a

by district basis, should we be looking at a type of student basis? Please discuss.

A. Well, that's -- I hadn't thought of it exactly that way, but I guess I would say we essentially equalize by students through weightings. We equalize on the differences of ability to raise revenue where you give choices by equalization. The legislature has made the decision to say the bulk of the dollars that go to education are directly controlled and appropriated by the state prior to the block grants. Of course, that's what went into them on a per pupil amount adjusted by weights. The local option budget and capital outlay are, as you've heard, and bond and interest are local choices. Now, many districts would say no one is operating without I think at least 20 percent LOB or more. They would argue that a lot of local option budget really is isn't an option any more. There are districts that have no capital outlay. Again, all kinds of reasons why.

But, I think, the point is, we've used weightings to try to say for all kids and those groups of kids, we equalize that way and then we give districts choices. And what the Court has

said, Kansas Supreme Court has said repeatedly, is it is acceptable to give choices. But if you do, then you have to give districts the ability to raise a comparable amount of money with a comparable tax effort.

Q. And, so, I guess what I'm getting at then is the difference on the polls. Is there a metric by which of the school districts, I understand the financial difference, is there a difference of results that you are able to either causally or correlatively connect?

A. I think that is very difficult now because we've reached a point in Kansas where so many of our districts are so close to their optional spending in the LOB that it's very hard to kind of pull back and make that distinction. We don't have a range of some districts are spending 30 percent more than others, yet we basically have a range from again the low to mid 20s to 33 percent.

And, I think, that many districts would say when you look at capital outlay and you look at the bond side of things, your needs there are going to be more determined by other factors, like the age of the building, are you growing in

enrollment. And, so, it's, again, harder there to say you're not being -- you know, to draw results out of that, but I certainly think our members would say that at some point the inability to pay for facilities, to have adequate equipment, those sorts of things, would be affected if you have wide disparities in how much you have to raise locally to do that. Disparities would range, you know, by a factor of 10, I think is what -- with no equalization, that's the difference it really takes to fund comparable amounts of dollars. Now, no one's talking about that now, but I think what the Court has been sensitive to is what is enough to narrow those polls. We don't do it completely. What is allowable? That's really the question they presented.

Q. And questions are presented, but admit no easy answers. So that's what I'm getting at. The different -- the metrics of educational opportunities, which I think you then talked about results, that's on the weighting side in the general state aid and it doesn't necessarily transfer to the equalization for capital outlay and LOB. Isn't that right?

A. Yeah, I would say LOB is different

because we've really, we believe, folded LOB into general operations. We don't -- I don't think any district would really say the local option budget is now just used for extras. And, so, in that sense, what we -- what we really have is every district has to levy 20 mills, and, then, every district has to levy some other mill rate to fund that 25 to 30 percent of their budget. So, the problem with equalization on the LOB side is if we are looking to LOB to be whatever that math is, a substantial part of that operating budget, then, why do we allow or how much variation can we allow. The reason I'm not sure we at this time can talk too much about the result difference is because up until this point, you know, we have done a pretty good job equalizing those points.

Q. And, so, is a potential solution not necessarily the formulaic exercise, but more a better definition as to what those funds could be attributable for? Or I'm sorry, expended for?

A. But, I think, that could be part of it. I would just say, as we may have discussed, I think, one of the challenges we see is that the more local funding you allow, the greater your challenge is to equalize it because there is such

a range of local sources.

Q. So, would your organization support removing the option to raise funds locally?

A. No. We have always had a position and continue to do so that there should be some local, local choices, local flexibility. I think, what we would hope is we could get to a point where sort of that base state commitment, what you might call the fully equalized side, would be a larger part of the budget.

Q. So, on the LOB and capital outlay and a broader definition of what those funds could be used for?

A. Well, you're asking me some things I'm trying to be very thoughtful on just because there is some nuances to the question that my association hasn't necessarily talked about.

Q. And I'll just be fair to you and the committee, you and I didn't talk about this before and I don't have it in my outline of questions to ask you. Your responses are interesting and I'm trying to follow-up and I want to be sensitive to your time.

A. One of the challenges, I think, maybe challenge is isn't the right word, the history is

such that in 1992 when the main new formula was put into effect, at that time the legislature felt, in response to the Court's response, that they needed to equalize bond and interest aid. As you may remember, it wasn't until the mid 2000s, after more litigation, that the Court said you also have to equalize capital outlay. We've kind of allowed capital outlay to just kind of sit over here separately for a long time, and now we're dealing with that. And one of the differences is that the legislature caps the amount of LOB you can spend. But with capital outlay, the spending isn't capped, the mill levy is capped. You can't go below eight mills, but there are some very wealthy districts who can raise a tremendous amount of money with eight mills. They're not limited in what they can spend there.

So, you have been talking this morning about the distinction between those two buckets of money. There is a distinction in how they're equalized, there is a distinction in how you can use the money and then there is a distinction really in how they are capped, if you will, what limitations are put on them.

Q. Would you sup -- or would your

organization then suggest then instead of capping at a particular mill rate, it would be capped at a mill rate and, then, not to exceed per a dollar value? Would that help in the equalization formula?

A. It would help the equalization, but just like everything else we've talked about, that would be a cut to some districts that are enjoying that. They want to be held harmless, and we understand that.

So, I mean, one way you might be able to look at that would be to try and find a way to perhaps better equalize a portion of dollars within the general operating that could be used for these purposes and then continue to allow some local options outside of that.

Q. Which would go more to the general state aid and the weightings on a per pupil basis?

A. At least, I guess, I'm just saying if go back to '92, and really even before that, the state -- the pre 1992 law, the state was really mostly concerned about equalizing the operating side and not really worried about the capital side. But, I think, school districts could certainly say that those capital costs are a part

of delivering education, and that's what the Court said when it's made these decisions.

MR. CROUSE: And, again, I'm going to be sensitive, you have six minutes, so we may carry over, if that's okay, Mr. Chairman, or --

CHAIRMAN RYCKMAN: When would you be able to return?

MR. TALLMAN: 2:00. I think you were coming back at 2:00. I'll be back at 2:00, no problem.

MR. CROUSE: You tell me. I'll do whatever.

CHAIRMAN RYCKMAN: Let's go up until the time that Mr. Tallman has available.

BY MR. CROUSE:

Q. All right. And, so, once you equalize under that question, part of the thing that's interesting to me is once you equalize, I think you were asked a question from a representative on your right, then, the school board raises the local mill levy, that throws the equalization off after the legislature's equalization activity. And, so, I guess, A, isn't that right? And, B, how is that fair?

A. Well, I guess, I don't understand that

that is the way it happens. The problem with analyzing is because we are sort of setting valuation off an old, you know, a year-long, the -- that means you never in the actual year have full equalization, but the next year those changes are corrected. And, so, while it's true that every year you then probably have to make adjustments, I guess, I wouldn't see that that makes it unequal because those changes do catch up. So, I think, in my view, at least, I think my association's view, if you -- if you were to fully fund these for a year, while you won't have complete purity within that given year, that is -- that has been the -- you know, that's been the way we've done it since 1992, '93 when it was implemented, and that issue has never raised concerns.

Q. And, I think, the point of the question was once the equalization happens at the state level, then the budgets may be set by the local school districts and then, hey, we are going to be short of money, let's raise a little more money in local options and so --

A. I see.

Q. -- so that's the inequity that I'm trying

to help the legislature understand. And I don't know if you agree or disagree with that comment. That's kind of what I was trying to --

A. Well, I guess, I'll respond in two ways. Some, I think, the discussions of school leaders is they have a -- they do have an understanding of the legislature's desire for more certainty of planning. And, so, one -- some options to this could be to have some limits or notice or something like that as to how districts might make those local choices. I think, that's something districts might consider. But, as I said in one of the committees, maybe both, the schools would also note that there are things that they can't get certainty on. And, so, while understanding the legislature's desire when you go back to the issue of block grants, if a block grant could have frozen everyone's enrollment, frozen everyone's student population they have to serve and frozen everyone's assessed valuation, then I don't think schools would be concerned about it. I think their concern was it does provide legislative certainty to a greater degree, but there is still uncertainty that districts have to respond to.

Q. And the last question before I let you

go. Your commentary, like Dr. Hinson's, was that the block grants provide appropriate certainty, and which is beneficial to your constituents, but the problem that you had with it is that it didn't cap LOB, as well? Is that fair or --

A. No. Our concern about the block grants, I think, comes down to there are certainly some of our members that benefitted and would say they would benefit if your enrollment is stable or your enrollment is going down, but I think the concern that we've heard from members is a greater fear that you'll be on the other side of the situation; that you'll have more students to educate with no resources; that your valuation will drop and you will have to raise your mill levy to make it up.

The block grant very clearly it's impact, just in terms of the immediacy, vary by district. And for districts that were -- felt, at least, they were in a position to benefit from that stability, certainly did.

MR. CROUSE: And, Mr. Chairman, if it's okay, I'd like Mr. Tallman to be able to make his next meeting and I'll follow-up with him when he's done, if that's okay.

CHAIRMAN RYCKMAN: That would be great.

Mr. Tallman, thanks for being here. Committee, we have, I think, a few more folks to hear from and we do need to vacate this room at one o'clock for a Ways and Means meeting, so if we could go a little longer or we could come back at 2:00, what's the deal? I'd ask Mr. Crouse, as well.

MR. CROUSE: I serve at your pleasure. I was going to talk to Mr. Tallman, Mr. Watson, who I see is here, and I don't know if he's ready to go now or if he may want to be the last person -- or I don't know what his schedule is. And I think Mr. O'Neal was going to speak, as well. So, I'm okay, I'll do whatever you ask.

CHAIRMAN RYCKMAN: Then please continue.

MR. CROUSE: Mr. Watson or Mr. O'Neal, go ahead.

EXAMINATION OF RANDALL WATSON

QUESTIONS BY MR. CROUSE:

Q. Mr. Watson, thank you again for coming. You walked in in the middle of this, and so this whole room and the process may be unfamiliar. So, what I'd like to do now is give you a preview of what I have been doing this morning and I would like to ask of you.

As I mentioned to you when we met last

Friday, I have been hired as legislative counsel to create, I hope, a legislative record that will support whatever decision the legislature chooses to respond to the Supreme Court and hopefully have some evidence of it, and so that's why the transcriptionist is here. And it's my desire to ask you the questions and talk about the concepts that you and I shared privately for the legislature's benefit, both this committee as well as the body as a whole. So, I think I'm going to ask you much of the same questions that we talked about in your office.

Before I do so, I will again tell the committee that Mr. Watson was unbelievably gracious with his time, very friendly and very helpful.

So, with that, I'll ask you to kind of make a record of your name, your employer, your title and briefly tell me about your involvement with the Kansas public education system?

A. Randy Watson, Kansas Commissioner of Education. I held that position since July 1 of '16. Prior to that, I served school districts in Kansas in a multitude of ways.

Q. And tell me some of those school

districts that you served and whether you have been an educator or just an administrator, as well?

A. I served as a teacher/coach, assistant principal, principal, assistant superintendent, superintendent. Most recently superintendent to McPherson, Kansas, for the last decade. I've been in McPherson or was in McPherson since 1993. Prior to that, I was a high school principal in Kansas. Prior to that, assistant principal/athletic director, and, then, I was a teacher, high school teacher and a coach prior to that. All in Kansas.

Q. And, I believe, you said you're the Commissioner of the Department of Education?

A. That is correct.

Q. I didn't write it down. I want to make sure I got that.

So, Dr. Watson, one of the things I want to talk to you about today is the Gannon II equity decision and helping to advise the legislature as to how best to respond. I suspect you are familiar that the Kansas Supreme Court has indicated Article 6 has two components, one being adequacy, the other being equity. I will

primarily be focused on equity, without losing sight of the adequacy comment. So that's kind of where I'm going to direct our conversation, as much as we did last week.

Plans for equalization. I think at the time you and I spoke there had been House Bill 2731 and Senate Bill 512. I get my numbers mixed up, which is why I had to look there. So I want to talk to you a little bit about those. My recollection, and for the committee's benefit, is you are familiar with both of those legislative options, are you not?

A. Generally, that's correct.

Q. Okay. And, as to the formula and the equalization strategy that both of them employ, my recollection is you agree that both of them, from a formulaic perspective, seem to satisfy what the Supreme Court was requesting of the legislature. Is that fair?

A. I believe that's fair.

Q. Okay. And my recollection is that your concern was with the amount of money and whether or not that would be adequate to support the education. Is that correct?

A. Yes.

Q. Okay. And so there are two, my recollection is, you have two financial concerns I think, at least one. One of them being a hold harmless provision and you may have also mentioned the emergency funds as well, I'll call them. So, if you could tell the committee what your concerns are in that regard?

A. I'd be happy to. I think whenever I remember looking at the adjustment in school finance, it's generally met with two things. There is generally an increase in funds, and the reason for that is because you're shifting funds and any formula when you do it, generally those funds sometimes will go -- there is extra funds that are going to the formula, but there is also usually funds to hold people harmless in that transition so there may be winners but there is not really losers. There is kind of a balance in that.

And, so, one of my concerns would be, especially with the Senate bill, that -- well, with both, that there doesn't seem to be finances there to hold that harmless. It's really shifting that to accomplish the equity piece. So while I do think it may solve the equity piece, it's going

to do so at creating winners and losers. And typically, I don't know if anything is typical in the last 20 years, but there has been some additional resources put in generally when there has been a change to hold that harmless.

Q. And let me break that down just a little bit if I can. So my understanding is that your position as to the formulaic issues of the House and Senate version, as a matter of formula, they are sufficient. As a matter of funding, the adequacy piece you would favor the House aspect over the Senate, and then your consistent criticism of both is that neither have hold harmless provisions?

A. I don't think I would use the word sufficient. I think that's, I think what we talked about is it equitable. Those are two different terms. And as I look at both versions, I think that they are trying to achieve equity. I think both are in good faith are trying to achieve equity. And, you know, there is many factors to that. You were discussing with Mr. Tallmam, you know, it seems it's volatile from one year to the other. I think -- I think that the legislature is very concerned about that, how do you, how do you

get some idea of what we allocate in the spring becomes a true allocation in the fall and with all the factors that take place.

So there are ways to do that, but it would seem to me that while it may be equal, those -- both bills may be equal, that they're going to create some real hardships with the number of districts that will lose funding, especially in the Senate bill.

Q. And, so, as the Commissioner of the Kansas Department of Education and in your historical administrative and educational role in the state of Kansas, you would therefore suggest that on top of that amount there would be additional hold harmless funds?

A. Yes, that is correct.

Q. If I'm doing the math, and I'm -- I don't want to get into much like Mr. Dennis today indicated, I don't want to get into politics, but if I'm doing the math, that looks like I think the House bill would add 40,000,000, and I think you and I talked about you may need 12 to 15 additional million in hold harmless funds. Do you get the sense that there is a political appetite for the financial wherewithal for the state to get

there? And I'm not asking you to comment as to the wisdom of the politics, I'm asking you to get to -- do you get the sense that this body can get to that point?

A. That's a real difficult question to ask me. I guess it's difficult to ask of these people too, just watching this legislative session. I do believe if there is a will that there could be a way. Is that collectively the will right now? I don't know. I think they would have to answer that. It -- if we looked in a normal year, again, I don't know what normal is, but if you look back, you would say 12 to $15,000,000 isn't a very big amount. In this legislative session it probably is a big amount. So, when you look at just historically that's a minor adjustment that we probably could make to hold people harmless. If that indeed is the dollar amount, and I'm not an expert in the dollar amounts, I'm giving you some broad numbers.

I couldn't answer the question whether there is a political will to do that or not. I -- I'm trying to give you an answer of what I think would solve the equity portion of the Court case and also what has tended to be done historically to

make sure that school districts do not lose money in any transition when the legislature's responded to a Court decision.

Q. And you may or may not have been here when Dr. Hinson was testifying about the impact that a hold harmless would have upon the budgeting process, but if you could just briefly reiterate your experience with why a hold harmless would be supportive or helpful to a school district operating on, you know, going forward basis.

A. Well, you have staff -- you're determining all of your requirements for next year. You've been working on that this spring. So, you've got to set schedules and you've got -- you're predicting enrollment, you're trying to hire staff and get all that ready and you don't know what your budget is going to be because it has to be decided. And if it's going to be less and your enrollment is increasing, you've got a real dilemma there. So by holding -- again, in any transition if you hold people harmless, while there still may be winners, you're, at least, not losing any money over what you had last year and there is a little bit of stability to that versus I've got to go into next year with less money than

I have this year and I'm not going to find that out until April or May and I've got to set a budget by July 1. And I will applaud the legislature and the Governor, they've tried to establish a two-year budget to get through that and to give some of that, but this is putting us right back in that uncertainty. That's why -- one of the reasons why I think that hold harmless makes a lot of sense if you can do it -- if you can do it politically.

Q. And, so, maybe the hold harmless and the two-year budgeting cycle are two sides of the same coin. They both promote the certainty of school districts.

A. Correct. The difficulty, if I may, in 2014, when the Court ruled and the legislature responded, that was -- and the school districts set their budget. What happened in the fall is, as they know, that dollar amount moved for the factors I think you have been discussing today. And so, therefore, budgets have to be readjusted. That's terribly hard on school districts. And, I think, we got into semantics about whether it was a raise or a raise is a raise. But from a school district standpoint, you set a budget and now

you're altering that budget after you set that, and that's extremely difficult, especially because -- I know there is lots of conversations about cash balances at times, but we have a lot of school districts that have no cash balance. I mean, so, when you alter that in midstream or you lower that with a short turnaround time and no opportunity to adjust that, you create really undue hardships on school districts in trying to make arrangements for that next school year or in some cases you are already into the school year.

Q. Something you said triggered a question, which is my warning for I'm going to ask you a question I have not previously asked you so you can start thinking about how you're going to deftly answer this.

I'm new to the process of education funding and I keep repeatedly hearing the legislature does something in the spring, the school districts do something in May, and, then, something happens in July. Would your organization be a better solution organization than the legislature for how to distribute funds or equal -- I'm just -- I'm struggling. I'm hearing the timing never works out.

A. Well, we are the distribution of funds. The legislature appropriates the funds and we distribute those funds based upon the formula that the legislature has approved. I think, there is an easier solution to that and --

Q. Talk about that. Talk about that, if you will.

A. And that is, I think, you can set those to be a look-back a year in arrears so that you always know what's going to happen the following year. So, you could say I'm going to appropriate the money and we are going to base it upon that year's area assessed value, whatever we're looking at, and that then becomes what happens for that year. And, then, as things adjust the next year basing the finances, you're predicating on the upcoming year, so you don't get the surprise from spring to fall. You would see it from spring to spring, but you wouldn't see it from spring to fall. And, there's some examples that we use now. We use like a three-year average or, you know, you can use this year for the previous year or the three-year average, and that's done on an enrollment basis to try to buffer those up and downs and give some stability.

You could look at something like that, I think, in this equity area that maybe would be better to do from a monetary standpoint. It's still would come down to each spring, though, if more money was required to equalize, that there is going to have to be more money allocated to equalize. Or what happens is, my opinion, you end up in a litigation cycle again, not a distribution. It's not a distribution issue at that point. So, did that answer your question.

Q. Well, kind of. What -- I read an article this weekend about a concept and then your question, so I'm trying to marry them together, and that being is the legislature the proper body to set educational policies or would your organization be better suited, given your educational background, annual staff? It would seem that your organization may be an option to move the legislature or to move the educational policy choices and --

A. Well, I think, there are certain items outside of funding that we definitely would agree with that on; that we think that certainly Article 6 gives the State Board of Education general oversight of schools, and the two primary

oversights would be the accreditation of schools, the standards that kids learn by and licensure of teachers.

I've not, in the short time that I have been at the department, I have not had any conversations relative to what you're discussing, so it would be speculative on my part. It's an intriguing conversation, I think. I would certainly have to study whether or not that would require additional staff to do that, you know, other than just distribution of --

Q. What are you doing on nights and weekend?

A. Yeah.

Q. No, I'm kidding. Those jokes never translate very well on a recorder, so I have to mention that I was joking.

Okay. I'm sorry, I got off track there. I think we have talked about that you and I agree that the proposed formulas for equalization for all three buckets of funds appear to be equal. The question is whether or not the output is sufficient funding, in your opinion, for the operation of schools. Is that fair?

A. Yes.

Q. Doctor Hinson seemed to think that

applying a single equalization strategy for all three buckets would be preferable. Do you agree or disagree with him?

A. Philosophically, you may say that is -- that is easier, but, I think, adequate in terms of dollars, and politically it may be more difficult, because of the difference between LOB and capital outlay equalization. You have your cap at eight mills in capital outlay and you're capped at a percent in LOB. In many cases your mill levy for LOB is 20 mills or greater and you're capped at eight mills. So, if you go to equalize those the same, you're going to have some huge gaps. If you don't hold people harmless, you're going to have some huge dollar amount swing in that scenario.

Q. Another one of the things that we talked about is using different metrics to equalize. And what if, for example, instead of property value you look at the number of students, you looked at the number of teachers. What if you distributed funds based upon some mix of student to teacher ratio? Are there ways that the legislature could -- and I'll back up. I'm trying to explore thoughts and ideas with thought leaders like yourself so the legislature can find ways to

equalize as they choose. So, I guess, I'm wondering what would be your thoughts as to spreading out any funding gaps based upon a per teacher or per pupil basis among the various districts in Kansas?

A. Well, in general, state aid you have that now. In the special education formula you have that now. So, you generate categorically, which is by teacher on the special ed side, and you're generating base state aid, is the old term, by the number of students. So, you're allocating those terms. I hadn't given much thought to that as a concept. We hadn't discussed that.

You know, sometimes when you're looking at a formula, in essence, until the block grant, that's 20 years old, you start to operate as that's the way that operates. So, I had not -- I have not given that much thought as to whether or not that could be done or what the issues would be with that.

Q. So, what I want to tie it to is our discussion. What if, for example, you would prefer a hold harmless method that would only be given to the losers. What if those hold harmless funds were divided among all of the school

district on a per teacher basis, how would your thoughts as to the equalization of funds that way be?

A. So, the hold harmless, instead of going to the school district, would go directly to teachers?

Q. Yeah. And, just to jog your memory, you mentioned that there may be some managerial --

A. Well, there is -- I can -- yeah, that's an easy answer. I'm trying to think of the broader answer to that in terms of other operations that has an impact on, specifically within capital outlay and how LOB.

You know, LOB originally -- and I apologize, I haven't been here all day, you know, it's intent was for those extras, but I think everyone has probably testified it's used for base state aid. So, there maybe some issues with that I'm just not thinking of right now if you move it to the teacher side. My understanding the way that that was originally proposed, and I may be wrong so I apologize if I am, was if you go just to classroom teachers you're foregoing groups of people that work in schools that have direct access to students in a support -- maybe direct and

supportive role: Librarians, counselors, reading specialists, audiologists, we could go on and on that seem to not be a part of that. So that's, to me, your question that's an issue, but that's a minor issue if you think about it as a superintendent. I don't want to -- I say it's a minor issue in comparison to the bigger issue of what that may do to your budget and where you may need to allocate resources. So, it would create you some problems in distribution automatically within your negotiated agreement, but you may have larger problems, and this is an if, I don't know, if that causes -- where you're spending that money currently causes that shift and then you don't have any other resources to move toward it.

Q. Okay. Assuming that you're not going to allocate the money to the teacher and then take away the same amount of money and move it over to some other budget. That's an assumption I make. I guess, what if the, instead of by way of a hold harmless amount to the school for -- you received this last year so you're going to receive it again, is it true this school looks at that, what if the funds were distributed to the school district on a per capita teacher basis?

A. Again, I hadn't thought about that. That's something I have to study. We have generally been, you know, very supportive in allowing local school boards to make decisions on where to place the funds, and, then, having those local school boards be -- have to be responsible to local taxpayers for how that money is spent. And, it seems that we like to swing that pendulum back and forth of local control, let's spend it, and I think Mr. O'Neal, when he was Speaker, gave more flexibility to do that. And this, of course, would swing it a little bit the other way: You have to spend these funds for this specific purpose.

Q. I have looked at a variety of distribution options and equalization options. Do you believe that it will be advisable or permissible from the perspective of the Department of Education or in your former role as a superintendent to have all the districts send their local money into the state, Department of Education, and have the state redistribute all of that wealth or you're shaking your head?

A. No.

Q. Tell me -- tell me why.

A. I think that would be less efficient than the way it's done now.

Q. Less efficient for school operations or --

A. Yes, for school operations. I'm talking more now as a former superintendent and looking at the budget that way.

Q. Assuming it's less efficient for a local school operation, would it help the legislature to satisfy its obligation to equalize funds across the state with varying student rates and locations and their relations to the varying property values?

A. Well, I think, the answer to that is what happens to it when it comes to Topeka? Because oftentimes it just doesn't come here and get redistributed the same way. Oftentimes it gets changed. So, I think, the answer to that is what would be the -- what would be the change that would happen once it came to Topeka and was redistributed, and, then, the Court would have to look at that. So I don't know if that's an easy answer yes or no.

Q. So, would it be fair to say that you would not support the remittance of local funds to

the state for state distribution?

A. It would not be my preference.

Q. Okay. And, what about completely eliminating local options to raise funds? In other words, forcing a statewide mill levy, sending it back to Topeka again and, then, to be distributed?

A. I think, I think in a pure world that's really nice, but I don't think that will ever -- that would ever be -- that would ever work in the real world. So, I certainly like raising the base state aid that goes out and possibly lowering that LOB. I would be in favor of looking at that. Because I think if you look, and I don't know the numbers, I'm sure other people study those numbers more than I do in terms of how many are at the maximum of 30 to 33 percent, but the vast majority are. And, so, lowering that amount, you know, and taking on a state role, I think, you has some appeal. I don't think, though, that it ever would be practical to not have some way to raise money locally.

Q. Why is that?

A. Well, because some school districts may want to have certain programming that would be

Appino & Biggs Reporting Service Inc.
Technology Specialists in Today's Complex Litigation
800 E. 1st Street, Suite 305
Wichita, KS 67202
316-201-1612
5111 SW 21st Street
Topeka, KS 66604
785-273-3063
www.appinobiggs.com
6420 W. 95th Street, Suite 101
Overland Park, KS 66212
913-383-1131

above and beyond the things called for in the Rose capacity. That's what the original intent of the LOB was. I don't know the state would want to deny them that opportunity.

However, that being said, I think the Court's been pretty consistent of saying if you're going to do that, you have to have some equalization as that goes forward based upon the wealth of district. But, I don't think -- I would be in favor of moving more to base state aid and lowering that amount that everyone's paying because that's generated a lot of local property tax locally, but I don't think you should do away with the bill. We need to raise some amount of funds. What that is I think that would be legislative locally because I think there is just too much of a difference of what, you know, Concordia, Kansas, may want to offer their students that would be above and beyond, say, to Cherryvale. And, I think -- I think that would be good to have some ability to do that locally.

Q. And, the cost of giving that local option is that you're going to have inequities, both in students having access to them based upon where they happen to live, as well as the property

values in which the folks are able to fund at the varying rates?

A. Yes. And, again, if we go back to the 92-93 law, and you could go back into the start of school finance litigation, as I'm sure you've looked at. Everything at some point comes down to whatever the formula was at the time wasn't funded because of whatever reason, a recession or, you know, a lowering of taxes or choices or a variety of things and, then, ends up in litigation at some point and there is a new formula that comes about.

So, lowering, if you go back again previous to '92, most school districts saw a lowering of their mill levy, not all. I remember when that happened, those -- you know, Southwest Kansas was going to secede from the state because their mill levies were going to go up. So, but, the overall mill levies went down significantly. So, I think, there is some appeal in lowering that LOB amount and putting it in the general state aid. I still think there ought to be some ability to raise that locally, especially if the legislature said we have no money this year to keep up with that formula, otherwise you're going to be back in litigation probably very quickly on the base state

aid.

Q. And I would assume that your position is that litigation is not conducive to furthering education?

A. No. I think, we all would agree with that.

Q. One of the questions that I have is what the Supreme Court meant by substantially similar access to or reasonable educational opportunities or substantially similar educational opportunities, and I've asked the folks that have talked before us today how would the legislature measure substantially similar educational opportunities? And, I think, I gave Dr. Hinson, I'm not sure if you were aware, a McPherson County versus Johnson County example. Are you aware of a metric by which we could measure a substantially similar educational opportunity across the 105 counties, whatever they may be?

A. No, not a specific metric on that. You know, it wasn't until the late eighties, early nineties that we even asked schools to kind of look at a measure of what you're producing, and that was revolutionary when we went through that. And, so, what we are trying to measure at the

state level now are the outcomes by which we see some correlation, at least, to future success of students. And, we're trying to move -- the Board's vision is trying to move then of holding schools accountable through an accreditation model of very broad outcomes that we think, at least, the best research state lead to that success when people graduate high school and college. But, I don't know of any metrics that would say let's measure McPherson County, Johnson County as to the adequacy, I guess, of equalization of programming or offerings.

Q. And, so, I'm looking at for one maybe like advanced placement or things like that. We certainly didn't have that in McPherson County, or, at least, at my small school. You guys probably had it.

A. We did. We would have welcomed you over there.

Q. I wouldn't have qualified for it. Okay. And, then, I touched briefly on this, and I don't think you seemed overly enthused about it, but is taking the role of equalization in-house, removing it from the legislature, is that something you would want to do or would you have the capacity to

do it?

A. I would say we have not studied that, to my knowledge. And Dale may know in previous years. In the short time that I've been there, I have not been a part of any conversations about that. So, I could not give an opinion one way or the other on that.

MR. CROUSE: Dr. Watson, I appreciate your time. I thank you very much. Again, you were great on Friday and I appreciate your McPherson county thoughts. Thank you very much.

CHAIRMAN RYCKMAN: Thank you for being here, Mr. Watson. Questions from Senator Masterson.

CHAIRMAN MASTERSON: Thank you, Mr. Chair.

I have some follow-up on some of the questions that he asked because I think there is some general population confusion.

QUESTIONS BY CHAIRMAN MASTERSON:

Q. You, as the Commissioner of Education, answer to the State School Board, correct?

A. That is correct.

Q. Which is a separate Constitutional entity elected by the population of Kansas?

A. That is correct.

Q. With the sole function of interest in education?

A. That is correct.

Q. So, following up to a very interesting line of thought, the Constitution gives the legislature the task of a suitable provision for finance. There is all these questions and then the case law has determined that that has two aspects, adequacy and equity. With the vast experience and expertise of your organization, Mr. Dennis being an example of the years he has been there participated in that, would you not be a better entity to determine -- to be arbiter of distribution, i.e. the equalization side of things as it pertains to the districts versus the legislature?

A. And, again, Senator, I appreciate that question. I just haven't looked at it before that question came up today, so I really couldn't give you an answer without studying it.

Certainly, we take our role, the education role very seriously as it relates to the operations that we do now. So, I would just have to look at it and say, first of all, to say is

that -- is that a better choice? And if it is, do we have the capacity with the existing staff to do that? I just don't have an answer for you today.

Q. I'm not asking you necessarily in the sense of capacity versus expertise because we're being asked to develop a formula, quote-unquote formula which we may not have the expertise to develop that formula internally and here is where I'm getting at. It seems to me that during the decades of litigation Kansas has undertaken to make the question of distribution potentially more of an administrative function or appeal, if you will, to the State School Board through your organization, i.e. we're leaving adequacy with the legislature but if a local district believes they're not getting an equitable portion, that would be a more administrative function within your organization because you are a year-round entity versus a citizen legislature that meets 90 days, give or take, in a given year. It seems you would be more nimble and responsive to the districts. Your thoughts.

A. I think the word we would be nimble and quick to respond, so I appreciate that. I think -- I think that's worth looking at, but I want to

come back to that even the cases of equitable distribution can come into the term adequacy. If the funds haven't been allocated to equally distribute whatever the formula is, then it doesn't matter who does the distribution.

And I will go back to '14. The Court found -- the Court gave away control and said that the legislature had met its mandate to be equitable; we distributed that. So, given today, we can distribute that. But if the Court would say it's still not equitable because there has been money that's been taken from that equality, so I think they are tied. And, so, I don't think that we just get by the Court of saying who distributes it or who would be better to distribute it, we may or may not. We certainly have some expertise to do that. But, if the -- if the dollar amount changes or the formula changes or whatever happens is certainly within the legislative control, we can distribute that and still may not, in my opinion, still may not meet the Court's intent.

Q. I may have found a disconnect in the logic. Do you see adequacy as an aggregate number, the billions taken from the taxpayers of Kansas for this purpose, do you see adequacy as at

some level that aggregate amount or are you seeing that as an individual, constantly fluid number to each district?

A. That's a good question. I was looking at the equity only, thinking of that and saying, okay, when there was a formula for equity and the Court said it had not been funded in '14, the Court said that the legislature met that mandate. And, then, the Court now is saying but in the intervening years it has not met that. So, have -- had the block grant not gone into effect in terms of a distribute -- that's the money that was to be distributed, we distributed that money based upon the block grant. Had that -- had the old formula stayed in effect and the way that it was funded in 2014 went forward and we distributed it, I think we would be okay. The problem was it changed, and so the amount of money put into that equity part changed. And I think that's not a distribution issue, it's an adequacy not overall within the equity part of it.

Q. I'm not so sure -- I think going back, is there an overall number, whatever billions that is, that you think you could be deemed adequate to fund the educational system of Kansas, or is that

Appino & Biggs Reporting Service Inc.
Technology Specialists in Today's Complex Litigation
800 E. 1st Street, Suite 305
Wichita, KS 67202
316-201-1612
5111 SW 21st Street
Topeka, KS 66604
785-273-3063
www.appinobiggs.com
6420 W. 95th Street, Suite 101
Overland Park, KS 66212
913-383-1131

a constantly by-district fluid number? That's a by-district fluid number to me is 100 percent equity, where adequacy is 100 percent how much do you draw in total volume from your taxpayers for this purpose. Would you disagree with that?

A. I think it is going to be different. The kids in Bird City, with the cost of doing that, is going to be different than the cost of doing business in Wichita for a variety of reasons.

Q. They're not equity.

A. That is both, adequacy and equity. It's both, because in some cases it may take more money to educate a kid in certain parts of the state. And, then, where equity comes in is when you look at the -- the assessed value, the current way we look at it, of that district to provide those resources. So, it's a combination of both.

Q. I think I need to be back into my question.

A. I'm sorry.

Q. Assuming, then, I give -- I, the legislature, appropriates. Assuming the district receives adequate and equitable funding and I add those numbers up to 286 districts and I have this number. That could be deemed adequate funding for

the system, that single number could be an adequate draw from the population for the system because every district, there is some number at which it's adequate at the total aggregate?

A. I think that that would be correct for that year and then does that change in the future.

Q. I understand that. Thank you.

A. I think. I think we got close on the same page. Thank you.

CHAIRMAN RYCKMAN: Any further questions or omissions again, Mr. -- Dr. Watson? Thank you so much for being here and answering questions today. The committee will take a recess until two o'clock.

(THEREUPON, a recess was taken.)

CHAIRMAN RYCKMAN: We will reconvene. It's a little after two o'clock. I believe we had some follow-up questions for Mr. Tallman.

CONTINUED EXAMINATION OF MARK TALLMAN

QUESTIONS BY MR. CROUSE:

Q. All right. Thank you, Mr. Tallman. We will continue the discussion we were having. I was about getting ready to ask you a question with regard to Senate Bill 512 and the testimony that you previously provided to the committee. Much

like the House bill we previously discussed, my notes reflect that you again supported equity but had concerns for adequacy. Is that fair?

A. Yes.

Q. And I have in my notes is, this may or may not be a direct quote, but I have quotes around we don't have a metric to measure educational opportunity and also the question is, quote, much more complex than dollars per pupil. Is that a fair assessment of your testimony?

A. Well, I don't think my written testimony would have included the part about the metrics. I don't think that's in there. I think in the discussion I certainly may have acknowledged that we don't have a completely agreed-upon definition. And I think the other thing that makes that very complicated in my time here is a lot of people tend to view education, what we are doing, in two ways: One, is outcomes, which has been the movement we have been trying to get to. And the other is inputs. So you then sometimes get the discussion, well, is it an equal educational opportunity if you don't have the range of curriculum or you don't have the services?

The second way of looking at it is, you know,

are kids graduating? Are they prepared for college careers? Those kinds of things, and I think what I would say is we have some measures, but I don't think we have complete agreement on what they are or should be going forward.

Q. And so two points on that. One, is my next note from the testimony is that you mentioned even within the members within your delegation, you have varying views on what are educational opportunities throughout the district, I think is one point that you would agree with?

A. I think that's probably true because I think within, and I think it's fair to say that within school districts across Kansas, you probably have a mixture of those who are pretty comfortable with where they are, strong public support, that sort of thing, field days where they maybe gone to excellence and what they are most worried about is losing it, and I think you have another set of districts that basically feel their challenges are such that they really feel they are not where they need to be. And, of course, the challenge then is how do you come up with a formula.

Dr. Hinson talked about kind of getting

everyone together in the room. I think we all agree with that, it's just the challenge of doing that when you have such different perspectives of even where you are at a given point.

Q. And so you mentioned something else just moments ago, and I'm sorry I met you in the hallway and I'm sorry I'm springing things on you, but you said some things which caused me to react and I've thought some more on this continuum of education here.

You mentioned that I think your organization is trying to get more to an output based metric system instead of input based metric system. Is that fair?

A. Yes, I -- we, as an association, have specifically adopted the Rose standards as, as the goals. And perhaps to reflect a little bit on what Dr. Hinson said, certainly we have had even discussions internally. These are 1980s. I think our view is the next step is defining so what does, and I'm trying off the top of my head, sufficient communication skills or sufficient preparation for further study. Those things have certainly changed, but that idea that students should have kind of a basic foundation, be able to

function as a citizen, be reasonably healthy, be able to function in a democracy and in an economy and then be prepared for life after high school, that's really what they are. Because I think what we are all saying, yes, that's what we need to aspire to to every child. Where there is still some disagreement is how, in 2016 and beyond, do we measure what that would look like.

Q. And I may have asked you or one of the other witnesses we've talked to today, do you have particular school districts that are failing to meet those standards today?

A. Well, I think that, yes, I think we would say that without -- and you'll pardon me if I don't identify my members specifically, but to simply say I think if we look at the collective results of the state -- again, I would put it this way, and you again in your conversation with Mr. Trabert today which talked about, well, are we doing good? Are we doing bad? You know, a phrase that is often used is only, say, 30-some percent of Kansas students are ready for college. Well, you know, we would point out by all measures that's higher than it's ever been. It's basically where the adult population is today. So on the

one hand we can say, oh, we have come a long way and we are good. Statistics would tell us that probably 40 to 50 percent of kids, though, in future jobs will need an academic background beyond high school. So we are not there.

So I think, in our view, is more we've made a lot of progress; we are not satisfied with where we are going. We don't think the legislature is either. On the other hand, we -- we do believe that over the past 25 or so years we have made great strides with the resources that have been provided.

Q. Well, and for the committee's benefit, that's why I think -- or I found your testimony and Mr. Trabert's testimony, one would automatically assume may be diametrically opposite, I think you guys have common ground among you and can enunciate that and that's why I think it's helpful for the committee to hear.

One other thing or a couple other things that we discussed, and I suspect that this was in our private discussion when I met with you, just about ideas as to how we -- what resolutions can we find. Tell me a little bit about the hold harmless and your perspective as to hold harmless,

how it may impact equalization or how it may impact the administration of schools?

A. Well, I think I will start by saying that our association has always had a position supporting the concept of hold harmless, the idea that you don't want to go in and remove resources. And as I listened to discussion this morning, I think the one point I would say is if we had been able to hold people harmless over the last several years we probably wouldn't be here. I mean, it has been the fact that we weren't able to meet the budget set in 2015 that kind of -- the legislature reacted, ultimately we did the block grants. I think at the time our position was we don't want to see districts lose dollars. Now we are just kind of a different set.

So philosophically we think it's an important idea, but I think we have to acknowledge that perpetual hold harmless then you don't -- again, you don't respond over the long term to perhaps to changes in the district's situations that you need to do. So, for example, if we are going to say that there is a rational reason for what a district gets for its kids, if you simply say forever you're going to get the same amount of

money no matter what happens, I think you at some point get to a situation where I think the Court would look -- would look afoul of that. But at least historically I think the idea of saying we are not going to have to take away while we try to help a different set, at least I'm not aware of any time in Kansas where the courts have found a problem with that.

Q. Okay. Would it, and again this is I guess on-the-fly thinking outside the box scenarios, would it be more beneficial for the legislature to say here is your box of funds, Department of Education, I think that's what we talked about before lunch, here is your box of funds, you figure out how to spend it. Is that a concept or a model that makes sense if the -- in other words, what I'm wondering is does their year-round staff and educational background suggest they would be a better body in which to make those educational decisions or would you prefer they remain with the legislature?

A. You know, honestly, that's not something that we've talked about within our association. I think there is a great deal of trust in the department and how they do administer the programs

that they are given.

It's still going to come down to, number one, what are the dollars available to make that distribution? And I suspect that no matter who makes the decision, whoever is perceived to be disadvantaged by it will probably be no happier if the State Board has done it than if the legislature has. But if the idea is that you can somehow bring a -- a -- I hate to use the term political, it's a political environment, but just a more rational reason for those decisions.

Q. Well, that's what I'm wondering is, is there a way in which the legislature can say, and I'll just pick $100 for education, but here is $100, you figure out how to divide it up. Then it would seem that the Department of Education may be more responsive to or cognizant of the emergent needs. And then we can argue about whether the $100 allocation was appropriate. You know, and I realize that tug-of-war is always going to be there, and so I come at this, as we talked about in an ideal world, all politics would be removed. And I realize that's an imperfect world that would never be there, but I wonder if that would get closer to that purity of example that we

discussed?

A. Well, I guess I would just say that I think the politics would be removed until the next session. Because every change that has been made in the formula has been a political decision that the legislature has made because some legislators felt that the formula wasn't working right and were able to convince enough of their colleagues and a Governor to make that change.

Q. Do you think that that would be more or less if that decision was moved to the Department of Education, for example?

A. It's hard -- again, it's a little hard for me to see it in the long run that it would make a vast difference. It might be a better starting point, but I think from the State Board's viewpoint, you know, it's the amount of money to work with would then have been a political decision and then how you would allocate that will probably create a set of political reactions.

Q. And I appreciate that. I'm just trying to get our discussion going.

A. Sure.

Q. Excuse me. Another concept that we had talked about that came up in a committee hearing

was eligibility for equalization aid, and I think you and I talked about, for example, if my home school district were to receive aid and made the decision to increase or decrease their mill levy, should -- should educational policy require them to max out, so to speak, in their mill levy before they are entitled to any equalization funds? I was looking at it in a is that a good policy? And I think you may or may not have espoused, A, whether it was a good policy, but, B, you found some problems with that. Could you tell the committee what your thoughts were as to the eligibility issue that we talked about?

A. Well, I think one thing you would certainly do is incentivize more spending. I mean, I think historically that has somewhat been the case that if you -- if you have to spend to a certain level to get more, you have created an incentive to do that. As I understand the, the LOB formula, and remember what the formula does is say what share of whatever budget amount you're doing, the state is allowing you to achieve that level of spending at a comparable tax rate to everyone below the 89.2 percent. What you basically do in that case is say, okay, if we

think we can be more efficient and be relatively low spending, then, yes, we are relatively low taxing, but we are also not taking as much from the state as we could.

And so while on the other hand I do understand the frustration, I think in some quarters they are saying, well, we are taxing ourselves to the max and if you're not yet, it must not be as -- to me, that is a political argument. But under the way the LOB system really works, it seems to me you still create an incentive for districts to be efficient if they want to be because they do have that control over their mill levy still.

Q. But then if they choose not to go to the top rate, I understand that some of them may still receive equalization funds and so --

A. But only, but only proportionate. So if you're saying instead of being a 25 percent LOB I'm going to be a 20 percent LOB, if you are to throw more percentages around, if you're a district where 30 percent of your LOB is funded by the state, you're only going to get 30 percent of whatever you choose to set your LOB at and you choose to participate. So a district that is not

fully using its LOB authority and is not fully taxing itself is also saving the state money.

Q. Which is the point I was trying to -- I know we had talked about that you think it would both encourage more spending, as well as encourage everyone to go to the top, so to speak?

A. Well, the example I think we did talk about was in the -- the old formula had a feature that to get, and the legislators will remember new facilities weighting, you had to be at 25 percent LOB. And I know because I lived in a community where part of the discussion was, you know, to get more state aid, we need to raise our LOB to 25 percent because then the taxpayers are saying, well, yeah, we are going to put in another mill or two effort, we'll bring more state money in. Now, that additional state dollars is also more spending. It wasn't, though, by doing that they would then turn around and lower their property taxes, but it did meant that they would bring more resources to the district to help open new schools. And I'm just saying I think you always have to be -- there will always be an unintended consequence to anything you do.

Q. And I can appreciate that. One of the

things I talked to someone, and I don't remember who it was so I'm not going to attribute it to them because I raised the same question with them, and their suspicion was that, you know, in the communities in which they weren't already at the max, that it would be politically unpopular locally to ask for even more. And so I wonder, again, I don't want to assert that -- attribute it to somebody, but in your experience working with a variety of school districts across the state, can you see that?

A. I, I absolutely can, and it may well be that those districts are so sensitive to the property tax for whatever reason, that even in this case they wouldn't do it. But I'm only saying that there would be an additional fact now for those voters in that community to consider.

Q. Talk to me a little bit about the LOB budget, now 81.2 percent. I think I talked to Mr. Dennis earlier today about that going from 75 to 81.2 percent, and my understanding from him and others is that there is no basis in educational policy, but rather that was a property tax value. Is that consistent with your opinion?

A. That is my -- consistent with my memory

of that special session.

Q. So the other thing that I thought was interesting in your discussion at one of the hearings, and I forget which one, is that you also were supportive of the block grant concept. I believe it was either you or Dr. Hinson mentioned the word pause button so we could take a look at how to solve this educational problem. A, did I correctly capture? And, B, would you like to talk about it?

A. You did not. We are not supportive of that. Now, I think we did say we understood the growing legislative frustration with the system, and we're certainly not advocating that there should be no changes or study to the system. I think the choice was only do you potentially look at developing a new system? Do you pause while doing it, is that more helpful, or could you start working on a new formula without that? That was our major point of the debate.

Q. And so your, your organization's position would be not to do a block grant but to work in two tracks, so to speak?

A. Well, I think that's the position we have. I mean, I don't really -- now I think we

have -- I wouldn't say we've learned to love the block grant, but I think we basically accepted it's going to be there and so let's, let's work toward whatever the better next step would be.

Q. You can see the benefit to pausing so that the legislature's position isn't reacting to remedial orders, it's looking progressively at new ideas, I assume?

A. I can, although I think in reality the way it has turned out is it didn't work precisely because, since the block grant wasn't acceptable to the Court, you know, that didn't happen. And I guess my argument is, just as I think I said this morning or just another time repeating myself, is that I think perhaps maybe the Court would look at it in the same way we did if you could truly freeze everything, then it might make sense. I think the frustration of our members who were not supportive and I think, not, I'm no attorney, obviously, that part of what the Court reacted to is that you were freezing the state side, you weren't freezing the local side. And, you know, in my testimony to both committees, I presented a study that we did which kind of showed those very differing impact on mill levies across different

districts. And I think that was some of what the Court was saying that part of the situation was frozen, but part of it wasn't.

Q. And so that's what I was trying to get with you this morning about. My recollection is that it was you thought the freezing aspect of part of it on the state level was fine, you were concerned about the local issues and it was the mill levy. In other words, it may have been on a more palatable option if the legislature had said we will freeze your mill levy rates, is that --

A. I think it would have been more popular. I also want to indicate that, you know, at least for some of our members that where they are particularly sensitive to, you know, special needs kids, for example, they also have those same kind of concerns. If you have a significant increase in your at-risk population or bilingual or something like that. Now, I think as Mr. Dennis indicated, enrollment and student characteristics don't change as fast as mill levies sometimes do, but I would not want to say that there weren't also concerns relative to the block grant about the changes in student population.

Q. So that was my next question is, if you

could cap that, you still have to deal with the emergent needs of the student population?

A. And in fairness to the legislature, I think that was the point of the extraordinary needs fund. I think there is certainly a debate among our members about whether that was adequate, but we would certainly acknowledge that's what its point was.

Q. I think one of the final things that you and I talked about in -- is potential other equalization strategy solutions. Part of my role, I think, is to share with the committee what I have found in my fact-finding of potential solutions, so I would invite you to share other potential solutions that either you have worked with some legislators on or you would propose that the legislature consider and talk about them and you'll probably get asked questions about them.

A. Well, I was going to say, unless I told you something the other day, I don't know as I or we have any. I think we understand what the Court has said that there may be other ways to do it. And I will tell you that over the summer and fall, as part of our research, we've started looking at other states to try to see whether we could find

other good ideas. We certainly didn't get to anything definitive before the session started and we kind of put those, those things on pause.

As I've said, one of the things I think is an issue is, in general, the more -- the more local you are the more challenges you have in equalizing. And yet, as we know, as I tried to talk about with legislatures, Kansas is a relatively high state proportion within our system. So, you know, I don't know what other states and their courts -- I mean, equalization, of course, you know has been the principle in school finance litigation since the '70s, so clearly many states have done this. I don't know how -- my sense is from some states is that they find a way to have a -- a perhaps less range of budget. And whether that is done by having larger minimum requirements, I mean, whatever their equivalent to 20 mills would be higher, I don't know, but --

Q. So in other words, you mentioned that Kansas was high in something and so I want to make sure that you inform the committee what high in regard to?

A. We, as a share of total funding by

revenue source, we are higher than average, higher than many states in terms of the share that is directly appropriated by the state.

Q. In other words, the state money is a higher proportion of public education spending than other states?

A. The state paid -- the state appropriations pay a bigger percentage of the bill than local or federal, whereas in other states, regardless of whether they spend more or less than Kansas, the average is that local resources play a larger role than state and federal also than Kansas. But what I don't know is the various makeup or structure that might affect that. I did a project for one legislator that came to no conclusions whatsoever that I could tell about how states -- how they do it, you know. I think that will take more research and we are certainly interested in trying to do that if we can.

Q. One of the things that I'm interested in is does -- are there other metrics or variables that this legislature should consider that may reduce the polarization of rich to poor, high income to low income, such as number of teachers, number of schools, number of -- is there another

metric that we could use besides such varying property? And so I don't know if you tax just something else other than property because it seems -- that seems to be the real problem is the property valuations are so greatly in divergence.

A. That is correct. Now, and I guess what the principal has always been that you -- you should only measure for wealth for -- for local option what the district can access. And since the only thing the district can tax is property, at least under the system, then it seems appropriate to use that as the measure. And I don't know, I've not been able to locate any state which would -- which doesn't have either some kind of per pupil or per capita or some measure of dividing wealth by the number of people you have to serve. So that's why I think it's difficult to come up with a different concept, unless we perhaps looked at some other things, as well.

MR. CROUSE: Mr. Tallman, you were unbelievably patient with me throughout this whole process. I appreciate it. I'm sorry we had to split your lunch hour. I can't thank you enough for the help you provided. Thank you.

CHAIRMAN RYCKMAN: Representative Henry.

QUESTIONS BY REP. HENRY:

Q. You talked about student achievement and funding. Have you done some look at student achievement in learning compared to other states? What we do really well? Are we not teaching children better in this state than many other states? What have you found out on that?

A. Well, we believe we are. And to shadow debate with Mr. Trabert, because I know what he'll say and I understand where he comes from, KPI really tends to focus pretty exclusively on NAEP scores. And I understand that that is one uniform measure, although it is only a sampling of students.

When we have talked about achievement, we also look at graduation rates. We look at things like ACT, SAT scores. We look at percent of the population with advanced degrees. We try to look at multiple, multiple metrics, freely acknowledging there are problems with any one of them. I don't want to speak for KPI. I think their views. They kind of settle on one that perhaps they think is the best. We tend to think that because there are limitations in all of them, the more you look at the better. And I will tell

you, because I just -- in fact, it may have been attached to one of my testimonies but you probably all didn't get to it because it was on page 20 or something like that, that if you really rank ironically we probably do worse on fourth grade NAEP reading. I mean, we are right about in the middle of the country there. Other NAEP scores, other rates, we tend to do better. If you average them all out, we tend to come somewhere in the top 10 of all states.

And one thing about that that I find interesting is we tend to be higher if you average everything than if you look at anything individually because for some reason we do pretty well on almost everything, where there are some states that maybe they've got great graduation results, but not very good NAEP scores, or really good NAEP scores but not many kids go on to college, you know, factors like that. And so while we are not spectacular on anything, when you average them all together, we tend to run very high. So in terms of those comparisons, that's how we justify when we say we think we are a pretty high-achieving state.

And I will say one other thing, and I'll

give, I'll give my friend Dave Trabert credit for making us look at this. You know, we don't just look, where possible, at overall scores. We include how do we do with free lunch kids and how do we do with non free lunch kids. So we try to, where we can, even out some of those differences in student populations.

Q. Have you been involved at all in discussions in development of a new school funding formula? You or your organization have been approached by the legislature to start the process of developing a new school funding formula?

A. We, well, trying to be proactive. We have had some meetings and done some research that we have invited legislators to, and we have had some comments, some conversations simply on individual bases with some legislators. I, at least, have not been kind of privy to any planning of a comprehensive plan.

We have worked some with the group, the United School Administrators and Superintendents Association, they have put together a group where they are kind of trying to get into more of the details, and we've kind of taken the position we try to give them research and support. But

because they are really the practitioners, we have not yet weighed in on what they have done. We are trying to support that and we've just tried to share information with legislators.

MR. HENRY: Thank you.

QUESTIONS BY CHAIRMAN RYCKMAN:

Q. I'd like to follow up on that. I'm not sure if you can answer this, but I'm speaking for myself personally and for you. How many times do you think we've talked about this subject since the passing of the block grant, either on a one-on-one meeting or a small group meeting or in a forum you sponsored?

A. A number, many.

CHAIRMAN RYCKMAN: Okay, thank you. Senator Masterson.

QUESTIONS BY SENATOR MASTERSON:

Q. I echo that same question to you. I believe that every formula that I have been involved with or opinion has in some way involved discussions with you or around your material. Would you agree with that?

A. Yes. I think you and the legislature have been very good to listen. We haven't always agreed, but we understand that.

Q. Fair. My question, what do you think is -- your comments about NAEP scores being utilized by KPI, what do you think the best indicator is? Is it the state assessments that would indicate that a school is meeting the Rose standards or providing a suitable access to an educational opportunity? What do you think our best measurement is?

A. Well, there are two ways of looking at that. Probably the best measures are, I think the things the K-12 interim committee kind of identified: State assessments, because they really look at every child; graduation rates, some type of college participation rate. I would say I think it's fair to look at remediation rates, but I think there has to be a big caveat because we don't require -- to graduate from high school, you don't you have to take a college prep curriculum, and I've always thought it was unfair to sort of blame schools of kids that graduate and chose not to take college prep courses and then decide to go to college, and you wouldn't expect them to be prepared.

And then I think we need to look for ways where perhaps those could be supplemented somewhat

for other NAEP factors, but I think what the State Board said and our members tend to say is things like citizenship and some of those issues would best -- may best be done just by letting the local boards figure out a measure that the state would approve so there were some parameters around that. Those would be harder to be uniform. That's what I think you can look at as sort of a state and kind of a baseline.

Then on the -- on -- if you are looking to compare Kansas, because I think context is always important, while there are problems with NAEP, we've used NAEP when Kansas looked really good and we are still using NAEP when we don't look as good. But we would add there are probably three different recognized national graduation rates. We include all those in our rankings. We look at ACT and SATs, knowing you have to make some adjustments because different states use them differently. And we look at things like the percent -- census data that looks at the percent of kids that have either gone -- have any type of post secondary experience, have they completed a one or two-year degree? Have they completed a four-year degree? Those are all things that there

is comparable national data around, as well as Kansas, and we think those -- you know, that fills a fair amount of what we think you would need to look at the Rose standards, but it certainly doesn't do everything.

Q. And my second question was I think you had an earlier statement that the Supreme Court had not accepted the block grant with the -- I read the quote from their opinion earlier that one obvious way the legislature could comply with Article 6 would be to revive the relevant portions of the previous school funding system and fully fund that within the current block grant system. That would indicate to me, would you agree, that it was the freezing of those two relevant portions that was the disagreement with the system, not the system in and of itself?

A. I would say, based on their ruling to this point, absolutely. And if I misspoke, I don't think the Court has opined on the whole system.

Q. I just wanted to -- I think I agree. I just wanted to make sure I didn't misunderstand your characterization.

And then the final comment I want to make

sure I understand is you made the statement if we would have held harmless prior to now, we probably wouldn't be here, something like that. And I'd like you to -- I'm not sure what you mean by that in the context of -- in my tenure here since the collapse of '08, the national collapse of '08 and the 20 percent into the state's funds and under Governor Parkinson there was adjustments there, as well. But there has not been a year in which we didn't appropriate additional money every single year consecutively, so I just want to make sure I understand what you mean by loss of money. Are we in the realm of disagreeing on the rate of the increase? Is it a reduction in the increase of loss? Is that what you are talking about here? What do you mean by --

A. Well, Senator, I want you to know that your comments are ever in my mind when I talk to my members about how they need to characterize these issues and explain to them that, in fact, that you are correct. The fateful year of, I guess it was 2014-15, that from the state's perspective the dollars appropriated in LOB capital outlay and other things were higher than

the year before and remain so.

From the school district perspective, the budgets that were adopted based on the formulas were not funded. And so just as we may now be talking about the educational consequences of next year, if there is winners and losers, in that year we had people that lost from what they were expecting to spend, and then those things again kind of froze in place for the next two years. I don't know how the Court necessarily would agree. I guess I'm trying to make the point that this -- now looking at hold harmless, which again we support, we're just trying to make a point we have -- we have had years where individual districts may have lost or just under the working of the 81.2, there are districts every year that may lose state aid that they have -- that's been common, but it's just this year there are 79 of them and it's very clear that a single state action of whether you fund this formula or not will have consequences.

Q. So you just reminded me of one final. On the hold harmless, which I agree with, your comments on whether or not that hold harmless should have some factor as it pertains to local

participation, I don't know if you were here when I asked that question earlier, if we decided to hold harmless the amount was X, you would look at the local district and look at their local participation and make some calculation by which you would require at least an average local effort before harmless was put in place?

A. Well, I think the discussion I had with that, and may not have been clear, just to say, one, we really haven't discussed that. So I don't know as I can give you a KASB position on that.

What I can say, though, is I think at least the caution is if you do that, you really are, I think, kind of creating an incentive for those districts to -- to spend more because, and I want to make sure I understand you and we are on the same page. I think there is something I think you or some of the others may have talked about this morning is should equalization or equity take into account local efforts or local mill rates? And when you -- what I thought of I think the answer to that is equal mill rates should be the consequence of equalization. I mean, and that's where I go back to saying we have long said districts don't all have to spend at the same

level. The idea is to say whatever level you choose to spend, we are going to give you the same -- the same share or the -- you know, so the policy has always been you don't have to maximize your spending to get something, we'll participate with you at whatever level it is. So what you're talking about I think would be a pretty big change in policy.

Q. I think you might be going beyond what I'm referring to and I'm not sure we are on the same page. My example is if we are doing a stopgap, if you will, this one year and so as you equalize, equalization by definition, has winners and losers or givers and receivers, or however you characterize this or shifts. So for those who would be receiving less, the loser, if you will, would be due -- the way I envision after the stopgap maybe X amount of dollars to fill that gap. That would be a hold harmless so they didn't have a reduction. All I'm saying is if that number was calculated, whether you were in a district, for example, that was taxing significantly under the average, they would have an opportunity to bring that up to average, compared to this hold harmless. So it would be

doing exactly what you're characterizing, compressing the poles. So those that are -- those that were above would get the hold harmless and reduce and those below would have to come up to some level before the hold harmless came into effect so if it would be bringing those equal taxations closer together.

A. I hate to quote someone from earlier this morning and say I would want to see a run. I'm not -- again, I think what you're asking I'm a little reluctant to weigh on too much because I'm not sure I completely understand, and I'm pretty sure my membership does not fully understand it yet. But if you propose it, we will share the information.

CHAIRMAN RYCKMAN: Anyone else have questions for Mr. Trabert?

MR. TALLMAN: Morphing together.

CHAIRMAN RYCKMAN: For the record, Mr. Tallman. Mr. Crouse.

MR. CROUSE: Thank you, Mr. Speaker. I think the final person that we have is former Speaker O'Neal. I called you, Mr. Speaker, so I apologize. It's been a long day.

EXAMINATION OF MIKE O'NEAL

QUESTIONS BY MR. CROUSE:

Q. Good morning -- or good afternoon. I'm ready to give up and go home.

I'm sorry. Mr. O'Neal, everyone in the room knows who you are and your relationship, but just so we can have a record would you please state your name, your kind of background and your unique relationship and perspective with regard to the school financing in Kansas?

A. Very well. My name is Mike O'Neal. Currently I serve as the President and CEO of the Kansas Chamber. But probably for purposes of relevance to this particular hearing, I served in the legislature for 28 years, retiring in 2012. I did serve as Chairman of the Education Committee approximately 20 years ago. I served as judiciary chairman for 16 years and I did serve as Speaker for two terms. I did serve on the Special Committee on School Finance back in the Montoy 2005 special session year. And most recently, have served on the K-12 efficiency special committee that met in the summer. And even more recently than that, have been somebody who has opined and done responses to the most recent Gannon decision on equity and have offered a

handful of suggestions.

Q. Well, it seems to me we should have had you in here earlier and you could have solved this for us. That's kind, that's kind of what I'm looking for. What types of solutions have you seen the legislature consider over your tenure and what, aside from the equalization plans that are in the two current bills, what are the equalization strategies that you would suggest considering or resolving this current issue?

A. Well, I'll try to answer that this way in terms of just what I have witnessed. Keep in mind that I was here during the time that we were still operating under the SDEA, the School District Equalization Act, which was repealed in favor of the QPA School Finance Act, the QPA Act in 1992.

I would confirm what Dr. Hinson has indicated and what the Kansas Legislative Research Department can confirm is that every year subsequent to the passage of a school finance formula we've had a new formula or an amendment to -- and as you know, when you amend an Act, you repeal the prior Act and you have a new Act even though it's maybe a minor amendment. So we've had amendments ever since.

Some of those have addressed overall funding. Some of them have addressed weightings. Some of them have addressed, if you will, equalization. And I think you have already heard some testimony today about the old 75 percent, the 82.1 percent. So there have been a variety of efforts to, to address equity over the years, but those have -- and I would -- again I would agree with Assistant Commissioner Dennis that in large part decisions like hold harmless from year to year and changes from year to year have been uniquely political. And I don't mean that in the term of -- I mean that in the literal term of the politics that creates legislation. It's the give and take between and among members of the legislature that arrives at a solution and passes the House and Senate and is signed by the Governor.

So inherently over the last 30 years, the exercise of creating a mechanism by which we finance -- creating a measure of finance for the educational interest of the state has been inherently a political process that literally changes from year to year based upon circumstances that are brought to the attention of the legislature.

You've asked -- I think the second part of your question was what recommendations I may have on equity. I have obviously opined about the Court's involvement in school finance litigation, but the new normal, the reality of it is, is the Court is very much involved in school finance, and that is something that we need to respect. Some states the courts will determine that because it's so inherently a part of the political process they will decline jurisdiction on a political question doctrine. This Court, and a number of other states, have found that this question is justiciable and they will hear school finance cases in which equity and/or adequacy are involved.

It has come to -- I have come to the realization, I guess is what I'm trying to say, that in view of that, in view of the fact that the Court will continue to look at this as a justiciable issue, that perhaps we are not doing ourselves or the districts any favors by continuing to try to operate in a political environment, knowing that the Court is not going to look at it as a political decision; they are going to look at it as a legal decision.

My experience over those years, and I think staff would agree, is that when you have a school finance question asked in the -- under this dome, if staff does not have an immediate off-the-top-of-their-head answer, and many times they will because they are that experienced, the next phone call goes to the Kansas State Department of Education because that's where the expertise resides in terms of doing the necessary calculations and knowing what those specific districts are doing, whether they have a bond issue that they are -- that they are about to propose or they are in the middle of, of what their enrollments are, of what their at-risk, of what their -- population is, what their free and reduced lunch populations are. Those are not questions or answers that the legislators have, those are answers that are uniquely within the purview of the Kansas State Department of Education.

One of the questions I find ironic that has not been asked, the Court has indicated, based upon their limited understanding of school finance law, a preference for a particular way of addressing equity. The legislature has had a

variety of different ways of addressing equity. No one has ever asked the Department of Education whether they think that that is the correct way of doing equity or questioned if the Court is asking us to reinstate the old formula, is this something that if the legislature were asked the Department of Education to do, would the Edu -- would the Department of Education come up with that formula on their own? Would that be the way they would do it, understanding the 286 school districts better than us. Maybe, maybe not. But perhaps the best answer would indeed come from those who know the 286 school districts.

Q. If I could interrupt you. Let me play devil's advocate and suggest there may be a mindset that the control would be more appropriate in this building, as opposed to the Department of Education. I mean, I think that's a concept that has prevailed and is currently the mechanism. How would that help -- how would that help this body satisfy equalization, I guess is what I'm wondering?

A. Well, the current law has been called the block grant, school finance block grant law or class, but it's essentially been referred to as a

block grant. Frankly, mind you, that's a misnomer because it is not a grant, it is a block appropriation. In other words, an amount of money has been determined that will be appropriated for the purpose of education.

My concept of a block grant would be a grant, and that is a promise to provide a certain level of funding in exchange for a promise to allocate those funds in a legal way. And so to a large extent I think the legislature could satisfy its obligations and relieve itself of a lot of the political pressures that have, frankly, led to self-inflicted formulaic rules that have come back to bite them. You've heard the expression I think a couple times we continue to chase our tail from year to year, and that certainly has been my experience for almost three decades.

Q. So in your --

A. So you would literally -- we have two things the Court is looking at right now, and that is equity, and there is a definition of equity that they took from Texas: School districts must have reasonably equal access to substantially similar educational opportunity through a similar tax effort. What I would do, it sounds

simplistic, but I would say, Department of Education, you are going to get a grant of funds in exchange for a promise that you will distribute those funds in such a way that each school district has -- each student has reasonably equal access to a substantially similar educational opportunity through similar tax efforts. So if you want to do it very simplistically, that would be promise number one.

Promise number two we are not here to talk about, but the new definition of adequacy is a -- develop a -- a method which in structure and in allocation is reasonably calculated to lead to the outcomes set forth in the statute of the Rose standards. There isn't a single person in the legislature, unless they are currently teaching, and I will -- I will give them that, who is in a position to deliver the outcomes that we now expect, the Court now expects. Those are uniquely a part of the mission of the Department of Education to deliver the promise of an education that meets those criteria. So under no circumstances could the legislature really be a player in making that happen, other than to provide the resources to make it happen.

So again, the second part of that grant would be to say and we are going to grant you this lump sum of money in exchange for a promise that you will allocate those resources in such a way as reasonably calculated to have 286 school districts get our kids to meet the outcomes set forth in the statute. And that would then assist the legislature in getting to a situation where they do what they do best, and that is appropriate. They take into account all sorts of input from the Department of the Education, and even school districts, and arrive at an amount that they are going to spend this year, next year, the year after that.

I love the idea of two-year, of at least two-year budgeting to give some certainty. But then you are talking about numbers of, say, statewide enrollment, not the enrollment change from this district to this district, this district lost enrollment, this district gained enrollment. You are talking about the entire enrollment for the statewide.

As Assistant Commissioner Dennis indicated, when you look at it statewide, enrollment is changing very minutely. So in terms of the

overall numbers that you would look at to determine whether you increase funding or decrease funding, frankly I don't think you can do the latter, it has not been the history at least over the last eight or nine years or 10 years.

But you would have things like enrollment, you would look at costs. We saw that -- we heard testimony that their insurance costs are going up or certain things that affect school districts. Take a look at how that is affecting the education system statewide and make an adjustment based upon those factors and then make a block grant to the Department of Education who is -- because I think they were very modest today, particularly Randy Watson. I'm thrilled that he's the Commissioner of Education right now. He's got a great vision and I think -- I couldn't imagine anybody any better to oversee the development of a formula, if you will, for allocating resources, which he indicated was his job. I can't think of a better person to, to have that discussion.

I also agree with I think it was Superintendent Hinson who said the time has come we've got to get people in the room and get this hashed out. And with all due respect, the people

in this room who get together and hash it out are going to be affected by political pressures, and ultimately the decision will be a political decision. Every time you do -- you vote for hold harmless, according to Dale Dennis, it's done because you've got to get votes. You're literally buying votes. You're promising a district that's going to lose money that they are going to get more money in exchange for that elected representative to say, yes, I will vote for it. And to the extent that you do that, you then create almost automatically a disequalization situation that you then have to chase. You get the number right one day and literally almost the next day you're disequalized because of the decision that was made, either a hold harmless or a, or an LOB passes over here and all of a sudden you're chasing your tail again. And with all due respect, I think the legislature needs to get out of that business, as long as there is a litigation environment and you've got a separate legislative entity, the State Board of Education, who is very capable of handling these, these equity decisions.

That, that piece of advice doesn't come easily because I have been one who has been all

too willing to really get involved and get into the weeds on education funding, education policy and whatever, but to what end? We keep finding ourselves in a litigation environment that is unnecessary.

And if you look at the Court's -- if you look at what the Court has said, the test of the funding scheme becomes a consideration whether it sufficiently reduces the unreasonable wealth-based disparity so the disparity then becomes Constitutionally acceptable, not whether the cure necessarily restores the funding to prior levels. The Court is not telling you that you have to add more money, the Court is not telling you that you have to -- every district has to be equal. You can do this within the confines of the block grant.

It's not needs-based. The Court has indicated it's not needs-based. It -- literally, equity is not a needs-based determination. Rather, equity is triggered when the legislature bestows revenue-raising authority on school districts to restore so values vary widely from district to district such as the local option, mill levy on property.

Q. And would you agree that the two equalization strategies set forth in the bills that are currently before this legislature satisfy that command?

A. Absolutely, they do. Not that that necessarily would be my preference, but without question the Court made it very clear that doing it under this old formulaic process, even though the legislature actually spent more time on coming up with the equalization percentiles in the most recent block grants than they did under the 81.2, the Court seems to like the 81.2 and so it would be foolish not to at least try to address what the Court has articulated in its opinion.

My point is, is that, is that the extent that you have a legal issue right now that's self-inflicted. As soon as you have -- as soon as you have a formula and as soon as it's perceived that you have not funded a particular formula or that a formula suggests a different amount, you're also going to be behind the eight ball. When a formula is not necessary. Equity does not require. It is not a math calculation. Equity is equity.

I'm disturbed that we are dealing with equity before adequacy because you actually have to look

at adequacy first before you get to equity. Equity has nothing to do with the amount, it has to do with what you do with the amount. And so you start out with an amount that's adequate and then the obligation is to equalize, to make sure that that equal opportunity is there with the amount that has been allocated. So some of the things that I have come up with, some of them would not be popular, but the LOB seems to be the prime problem. It's less bond and interest, it's less capital outlay. That bond and interest really doesn't play a role here. Capital outlay is not a big issue, but it's the fact that we have been very, very generous with allowing local districts to pass LOBs, but those LOBs have caused the need for equalization.

You could have a provision that says if you are going to raise your LOB, and you can, and you can even make that amount higher, but within that LOB you have to capture an amount that would be necessary to equalize as a consequence of your raising the LOB. Because you know when you raise the LOB, you're getting the money you want locally, but as a consequence you're creating an unexpected entitlement someplace else through

equalization. You could actually force the LOB to capture an amount that could be set aside for equalization. Not very popular. I think you had a couple witnesses -- you floated that out with a couple of witnesses and you got the expected result.

Another way of doing it would be to create an equalization fund within your 20 mills, so you've got -- it's still property tax related, but you capture an amount within your 20 mills to take care of equalization.

Another way would be to go back to the old 35 mills. I think you floated out that the idea of let's do away with the LOBs, go back to the old law where you have 35 mills statewide and you take care of equalization within that. I don't know how popular that would be, but if you're looking for ways and the Court said any number of ways would satisfy them.

We did, I will mention one other thing, and that is if you would increase the amount that's coming from the locals, and as Mr. Tallman correctly pointed out, Kansas is high on the percentage of SGF that is used compared with other states, and --

Q. I'm going to interrupt you. SGF?

A. State general fund, I'm sorry. So you could -- you could go to a situation where you have a little bit more capacity on the local side, local option or -- or the property tax mill levy.

We flirted a number of years on what we call LABs, instead of a local option budget; that we've learned over time have caused districts to, instead of using it on tax rates, it just builds right into their operating budgets. You create a local activities budget, which is outside the equalization requirements. It's for if you want a facility that's better than the neighbor down the road, if you want astro turf, if you want certain bells and whistles that are extra, give them a limited authority to pass a local activities budget that is uniquely within the control of the locals who want it, but does not trigger equalization someplace else. That's another way of doing it. But then I sort of started with my last one, and that is it has to be something that the Kansas State Department of Education figures out, and you're in the business of making a block grant in exchange for promises to allocate it in a Constitutional manner.

Appino & Biggs Reporting Service Inc.
Technology Specialists in Today's Complex Litigation
800 E. 1st Street, Suite 305
Wichita, KS 67202
316-201-1612
5111 SW 21st Street
Topeka, KS 66604
785-273-3063
www.appinobiggs.com
6420 W. 95th Street, Suite 101
Overland Park, KS 66212
913-383-1131

MR. CROUSE: Thank you, Mr. Speaker. Mr. Chairman, I have no further questions.

CHAIRMAN RYCKMAN: Any questions for Mr. O'Neal? Not seeing any, thank you so much for being here.

MR. O'NEAL: Thank you.

MR. CROUSE: If I may, just Mr. Chairman, and respected members of the legislature, thank you again for the opportunity to serve by making a record of this proceeding. I deeply appreciate it.

CHAIRMAN RYCKMAN: Thank you today for your patience and your attendance. I do thank all the folks who came in and gave testimony to assist us today. The Supreme Court held that school districts must have reasonable equal access to substantially similar educational opportunity through similar tax effort. This standard, the Court, recognized can be met in a variety of ways. One of those, of course, is to revive the relevant portions of the previous school funding system and totally fund them within the current block grant system.

HB 2731 did just that. But as you have heard, there does not appear to be public or

political support for this plan. Fortunately, the Court allowed this body the discretion to choose other options to satisfy the Constitutional standard of equity, but it warned that any other funding system this body enacts must be demonstrated to be capable of meeting the equity requirements of Article 6, while not running afoul of the adequacy requirement. If other options are considered and ultimately adopted, the Court respectfully requests some evidence of why this body chose a particular option and the basis for its belief that the options chosen satisfies the Constitutional standard. The state would help its case by showing its work and how it determined that any other proposed solution complies with Gannon I.

The testimony that you heard today is the first step in helping establish this body's rational basis for whatever legislation solution may follow. In particular, you undoubtedly noticed that a transcriptionist has been recording the events of today's committee hearing. That is unusual for this body, but a necessary step to adequately respond to the Supreme Court's order, and it's anticipated that the transcriptionist

Appino & Biggs Reporting Service Inc.
Technology Specialists in Today's Complex Litigation
800 E. 1st Street, Suite 305
Wichita, KS 67202
316-201-1612
5111 SW 21st Street
Topeka, KS 66604
785-273-3063
www.appinobiggs.com
6420 W. 95th Street, Suite 101
Overland Park, KS 66212
913-383-1131

will memorialize all subsequent hearings that this body has concerning our efforts to comply with the Supreme Court's remedial order and will reflect the competing interests, conflicting positions and the difficult policy choices that this body must resolve as it discharges its Constitutional duty.

The specific steps we have taken demonstrate our commitment to a single goal: Satisfy the Supreme Court directive so that public education is not disrupted by litigation.

Committee, we are adjourned.

(THEREUPON, the hearing concluded at 3:10 p.m.)

.

.

.

.

.

.

.

.

.

.

.

.

CERTIFICATE

STATE OF KANSAS

SS:

COUNTY OF SHAWNEE

I, Lora J. Appino, a Certified Court Reporter, Commissioned as such by the Supreme Court of the State of Kansas, and authorized to take depositions and administer oaths within said State pursuant to K.S.A. 60-228, certify that the foregoing was reported by stenographic means, which matter was held on the date, and the time and place set out on the title page hereof and that the foregoing constitutes a true and accurate transcript of the same.

I further certify that I am not related to any of the parties, nor am I an employee of or related to any of the attorneys representing the parties, and I have no financial interest in the outcome of this matter.

Given under my hand and seal this 22nd day of March, 2016.

Lora J. Appino, C.C.R. No. 0602