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Testimony to the Kansas House of Representatives in Support of HB 2292
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INTRODUCTION

I am speaking in favor of HB 2292 because the adoption of Common Core State Standards in Kansas, as well as other states and territories in this country, was inconsistent with ethical, responsible, and constitutional governance; and implementation of the Common Core Initiative is inconsistent with the exercise of due diligence, and protection of the public's education for self-governance and preservation of our republic that is required of state government.

That is, governors, including Kansas's Governor Mark Parkinson, applied for and received State Fiscal Stabilization Funds in exchange for committing states to a common set of state standards and assessments aligned to them before they were written while lacking the statutory authority to adopt privately owned, copyrighted materials as public policy.

Kansans who support HB 2292 have expressed concerned that Kansas legislators are reluctant to pass HB 2292 due to fear of a law suit from the Kansas State Board of Education for legislative over reach. This concern is understandable, given (1) Oklahoma was sued last year by a state board of education member for passage of HB 3399,¹ (2) in October 2014, NASBE annual conference attendees selected Kansas State Board of Education member Jim McNiece as president-elect for 2015,² and (3) on the NASBE "Education Positions" webpage, it states, "NASBE strongly opposes efforts to remove state boards of education from the adoption process."³

¹ <http://www.districtadministration.com/news/national-association-state-boards-education-sues-oklahoma-over-common-core-repeal>

² <http://www.pressreleasepoint.com/nasbe-members-learn-leaders-annual-conference>

³ <http://www.nasbe.org/our-work/government-affairs/nasbe-public-education-positions/>

OKLAHOMA SUPREME COURT DECISION REGARDING THE AUTHORITY OF STATE LEGISLATURE OVER EDUCATION

You may know that in Oklahoma in 2014, the legislature passed, and Governor Fallin signed, House Bill 3399 that repealed the common core standards. Then, petitioners, reported to have been organized by the National Associations of State Boards of Education (NASBE) sued the state, arguing that the repeal of the Common Core standards is unconstitutional under Oklahoma state law. The Oklahoma Supreme Court upheld HB 3399 by an eight to one margin on the grounds that the legislature can send the proposed new standards back with instructions to the board. Representative Jason Nelson, co-author of HB 3399 summarized the decision as, “The Legislature is the supreme law-making authority in the state. . . .,” and, one of the Justices correctly pointed out, that the authors of the state’s constitution ensured the will of the people would be upheld through legislative oversight,”⁴

Similarly, the Kansas Constitution Article 6 § 1– Education reads:

The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law. ⁵

Given the precedence set by the Oklahoma Supreme Court and the authority of the legislature to make and pass legislation regarding educational “activities” of the Kansas constitution, if the Kansas State Board of Education were to sue the state of Kansas, the predictable outcome is that the legislature would be recognized as the supreme law-making authority having authority to change activities in Kansas education by statute.

⁴ <http://www.jasonnelson.org/2014/07/ok-supreme-court-says-common-core.html>

⁵ <http://law.justia.com/constitution/kansas/art6.html>

POTENTIAL CONFLICT OF INTEREST

Even the fear of such a lawsuit, exposes state board of education members as supporting Washington DC-based, non-government organizations rather than the people of their state. One need only review the Bill & Melinda Gates Foundation website to know that a potential conflict of interest exists for NASBE members to sue their state for nullifying adoption of the Common Core State Standards. The foundation has been funding NASBE to implement the common core state standards and the larger initiative since before the standards or tests aligned to the standards were written.^{6,7,8,9} NASBE's 2010 990 states that the October 2009 grant from the Bill & Melinda Gates Foundation was awarded to influence state boards of education to adopt the standards before they were published in final form:

. . . in 2009 48 states and 3 territories agreed to participate in the process of creating a set of common core standards . . . they must adopt 100% of the common core k-12 standards in English language arts and mathematics and begin assessment on the common core state standards within three years . . . NASBE is an equal partner with the Council Of Chief State School Officers and National Governors Association on the Common Core Standards Initiative the three organizations are working closely together to facilitate the dialogue related to standards adoption and implementation the focus of this effort is to engage state boards of education, other governing bodies, . . . NASBE conducted four regional conferences from January-March of 2010 to give state boards an opportunity to gain an information infrastructure of materials and resources on the common core as well as prepare state boards for the policy and advocacy work that will be essential to a

⁶ <http://www.gatesfoundation.org/How-We-Work/Quick-Links/Grants-Database/Grants/2009/10/OPPCR030>

⁷ <http://www.gatesfoundation.org/How-We-Work/Quick-Links/Grants-Database/Grants/2011/02/OPP1031276>

⁸ <http://www.gatesfoundation.org/How-We-Work/Quick-Links/Grants-Database/Grants/2013/06/OPP1082250>

⁹ <http://www.gatesfoundation.org/How-We-Work/Quick-Links/Grants-Database/Grants/2014/09/OPP1116980>

smooth approval process of the common core standards the conferences are funded by the Bill and Melinda Gates Foundation. (p. 2 attachment) [italics added]

CONCLUSION

Although NASBE's "Public Education Positions" webpage states, "The adoption of any common standards by individual states must not be a condition for the receipt of federal aid,"¹⁰ that point was disregarded from the outset of the standards adoption process. Further, the association of the a Kansas state board of education member with leadership in NASBE, an organization receiving funds from Bill Gates to promote Common Core State Standards, raises concern about state board members' conflict of interest when evaluating academic standards. Please be reminded that your first duty is to uphold the compact Kansas has with its citizens in the state constitution, and protect them from the privately supported workforce development agenda of Washington DC-based trade organizations.

¹⁰ <http://www.nasbe.org/our-work/government-affairs/nasbe-public-education-positions/>