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To: Kansas House Committee on Education

From: Harry McDonald representing MainStream Coalition

Subject: Opposition to HB 2292

Date: February 19, 2014

Mainstream Coalition holds that HB 2292 is an unconstitutional encroachment of the legislature into the constitutionally, legally-defined responsibilities of the state board of education and constitutes poor educational policy apparently motivated by political concerns and not concern for the best education of our students.

1. The Kansas Constitution provides for the establishment of a state board of education which “shall have general supervision of public schools, educational institutions and all the educational interests of the state, except educational functions delegated by law to the state board of regents.” The attempts in HB 2292 for the legislature to rescind state education standards duly adopted by the state board, and to specify the nature of state mandated testing are clearly an infringement on the constitutional powers of the state board of education. This seems a curious position for the legislature to adopt in light of its own struggle with another branch of government over constitutional responsibilities.
2. K.S.A. 72-6439 clearly establishes that it is the state board which shall establish curriculum standards. HB 2292 continues this charge, but, ironically, the act itself violates its own dictates as HB 2292 declares null and void several curriculum standards established in accordance with law by the duly elected state board of education. The state board is established by constitution and law, its duties are defined by constitution and statute, it is elected by the same people of Kansas who elect legislators, yet HB 2292 attempts to disenfranchise the voters of Kansas by overturning the work of the duly elected board. These previous actions by the state board are not alleged to be unconstitutional, nor are they alleged to be illegal, yet HB 2292 proposes to overturn that work for what appears to be political reasons. This is poor policy at best if not out-and-out unconstitutional. It is definitely a slap in the face to the voters of Kansas who elected their representatives to the state

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About MainStream

Founded in 1993, the MainStream Coalition is an advocacy group for moderate political views regardless of party. Our members do more than vote.

board to carry out the constitutional and legal responsibilities of that board.

3. Even if it is argued that the legislature has constitutional authority to undertake these actions, they constitute poor educational policy.
 - a. The most important reason to reject HB 2292 is that it forbids not only the state board of education but also all local boards of education from “aligning” any future state standards or local curriculum to the banned national standards. I guarantee you that Kansas schools have overwhelmingly, collectively and individually, made the decision that these standards constitute the model education we wish to provide for our students. Kansas educators and the broader education community followed the development and aided in the development of these standards. Once written they were further scrutinized to make sure they reflected our best judgement as to what would constitute the best model of what we want our citizens to be able to do. If we can’t align to these standards, HB 2292 will result in less than the best education for our children. It would be wise to remember not to cut off our nose to spite our face, “a needlessly, self-destructive overreaction to a problem.” (Wikipedia)
 - b. In many respects, the old standards reimposed by this legislation are aligned to the new, voided standards. Does the legislature expect the state board and local boards of education to remove all of these aligned pieces? That is what would be implied by Sec. 4 (a) when it says “the state board shall not implement any past academic standards or related assessments or any future academic standards or related assessments which are aligned with the academic standards described in section 3(c), and amendments thereto.” The very standards mandated to be implemented by this legislation are, in part, aligned with the banned standards. Where the old standards and new standards differ, changes reflect a better understanding of how students learn as well as a better alignment of learning expectations with skills necessary for successful career and civic engagement. The banned standards are definitely academically preferable to the mandated standards. The mandated standards, minus the pieces which align to the banned standards, leave us with an unintelligible mess.
 - c. The reason we have a state board of education is that the formation of reasonable, well-thought-out, and educationally appropriate policy is too detailed for the limited time available to the legislature. The legislature is charged with providing for “intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools.” In doing so it is charged with creating the state board, which it has done, and providing for the suitable financing of education, which some would charge it has not done. Clearly our founders envisioned the more deliberate, and better informed state board handling the details of administering public education. The state board meets monthly with no other concern than to supervise education. On what basis does the legislature, meeting only three months and with committee hearings and floor discussion totaling only hours of consideration feel it can make more reasonable education policy decisions than the state board and local boards of education? If the people of Kansas thought the legislature was the

most appropriate body to supervise education, they would have enumerated that as one of the charges of the legislature. Instead, they directed the legislature to establish the state board of education with supervisory powers. Subsequent Kansas law directs the state board to establish curriculum, so let them do their job. Legislation like K.S.A 6439 allows the legislature to set the broad direction of the state board without trying to micromanage our educational system. Good educational policy is more likely to be made by this arrangement than the meddling of the legislature into issues about which it has a limited background. For upper-level management in any organization there is a fine line between exercising appropriate oversight and meddling in the decisions of those most knowledgeable to make them. Even if one argues that the legislature has the authority to do what is contained in HB 2292, it is unwise of them to do so.

- d. Currently state board practice utilizes writing committees of several dozen curricular experts in formulating and recommending suggested standards to the board. The individuals appointed to the writing committees have the necessary content expertise to formulate exceptional standards. To ensure that the committee has the requisite content knowledge new writing committees are formed for each set of content standards. The business community is often represented as are superintendents, local boards of education, teachers from all levels, college and university faculty and almost all members are parents of children who are or have been in the public school system. These committees usually have several dozen members to ensure an adequate voice for all stake holders and sufficient expertise to ensure a quality product. In the case of the case of the Kansas College and Career Readiness Standards which you are overturning, not only have these committees frequently contributed to the development of the national standards, but additions and changes have been made to the national standards to reflex the advice given by these committees. All of the national standards banned by HB 2292 were evaluated by committees, constituted as described, who used their knowledge and expertise in formulating recommendations to the state board of education. None of the national standards adopted by the state board of education to be our state standards have been adopted without such committee review and recommendation.
- e. There is little in the standards themselves, banned by this bill, that people don't see as appropriate to serve as our education standards. While most collaborative processes and the final product of any committee can be improved, the development of the banned standards was thorough, evidenced-based and reflected the multiple perspectives of key stakeholders. As a member of the Kansas committee helping develop the Next Generation Science Standards, I personally saw the national standards document be changed exactly as I recommended in one of our review sessions.
- f. HB 2292, Sec. 3 (b) does not actually forbid Kansas educational entities from joining any of the current national standards movements whose standards the law specifically bans, because joining in those movements does not "cede any measure of control over any aspect of Kansas public education" to those groups. The decision to modify the national standards

and adopt them in any form has been strictly that of our state board of education, so this authority was never ceded.

- g. The requirement in HB 2292 that advanced placement, international baccalaureate, and dual credit classes align with the mandated standards is not possible and flies in the face of local control of curriculum. (1) All of these curricula are established by their organizations to satisfy college credit requirements. Institutions of higher learning grant credit to graduating seniors based on their achieving these standards. Knowledge demonstrated in these courses is not at the level needed for high school graduation, but rather for university graduation. It is not possible for the state board nor local boards to dictate to universities what curricula they will accept for credit. (2) Even now, local districts establish their own curriculum. Administering any of these programs is strictly a local decision and not one that can be imposed by the state board. There is no current mandate that districts model their curricula after state standards, so HB 2292, Sec. 10(b)(2), "nothing in this subsection shall be construed in any manner so as to impinge upon any district's authority to determine its own curriculum" contradicts its own Sec. 4(c) which dictates curriculum to local districts.
- h. Section 3(d), by prohibiting the acceptance of public or private money for the purchase of materials or for providing in-service training that supports, aligns or is used to implement the banned standards, runs the risk of jeopardizing federal education funding. This risks over \$100 million dollars at a time when, by its own admission, the legislature is having difficulty funding schools at desired levels.
- i. HB2292 voids the social, emotional, and character development standards adopted by the state board of education on April 17, 2012. These standards were developed under the stipulations of K.S.A. 72.1128 as secular in nature and stress the "positive character qualities which include, but (are) not limited to, honesty, responsibility, attentiveness, patience, kindness, respect, self-control, tolerance, cooperation, initiative, patriotism and citizenship. The current legislation does not void K.S.A. 72.1128 which gives the state board the charge to develop such standards if requested. So what prevents the state board from adopting these again? We struggle to understand how the teaching of honesty, responsibility, attentiveness, patience, kindness, respect, self-control, tolerance, cooperation, initiative, patriotism and citizenship are objectionable in the first place? These standards are not assessed and so no local board is forced to utilize these standards. The state board has simply developed these as a resource which local districts can utilize in developing local curriculum.

This bill is potentially unconstitutional. It inserts the legislature into the legally established powers of the state board of education and weakens our democracy in that it overrides the voice of Kansas voters who elected the state board and local boards of education to execute their constitutional and legal mandates. It rescinds state standards developed constitutionally and legally by the state board of education. It denies, for political reasons, our students the benefit and direction of the best ideas we have for preparing our students. It mandates

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standards which are partially aligned to the very standards that are banned, so obviously these actions are not mandated out of academic concern. It risks millions of dollars in federal education aid at a time when our local schools cannot afford such cuts. Finally, it prohibits the state board from aiding local boards of education who desire to develop character education curriculum.

For all the reasons outlined above, MainStream Coalition strongly recommends that HB 2292 not be enacted.

Respectfully Submitted.

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