

1 .

2 .

3 .

4 .

5 .

6 JOINT LEGISLATIVE BUDGET COMMITTEE HEARING

7 .

8 .

9 .

10 .

11 .

12 .

13 TRANSCRIPT OF PROCEEDINGS,

14 beginning at 8:35 a.m. on the 21st day of March,

15 2016, in Room 548S, Kansas State Capitol Building,

16 Topeka, Kansas, before the Joint Legislative

17 Budget Committee consisting of Chairman Ron

18 Ryckman, Jr., Chairman Ty Masterson,

19 Representative Sharon Schwartz, Senator Jim

20 Denning, Representative Jerry Henry, Senator Laura

21 Kelly and Representative Marvin Kleeb.

22 .

23 .

24 .

25 .



800 E. 1<sup>st</sup> Street, Suite 305  
Wichita, KS 67202  
316-291-1612

5111 SW 21<sup>st</sup> Street  
Topeka, KS 66604  
785-273-3063  
www.appinobiggs.com

6420 W. 95<sup>th</sup> Street, Suite 101  
Overland Park, KS 66212  
913-383-1131

1 APPEARANCES

2 .

3 .

4 ON BEHALF OF THE LEGISLATURE:

5 .

6 Mr. Toby Crouse

7 Foulston Siefkin

8 32 Corporate Woods

9 9225 Indian Creek Parkway

10 Suite 600

11 Overland Park, KS 66210-2000

12 913-498-2100

13 tcrouse@foulston.com

14 .

15 .

16 .

17 .

18 .

19 .

20 .

21 .

22 .

23 .

24 .

25 .



800 E. 1<sup>st</sup> Street, Suite 305  
Wichita, KS 67202  
316-291-1612

5111 SW 21<sup>st</sup> Street  
Topeka, KS 66604  
785-273-3063  
www.appinobiggs.com

6420 W. 95<sup>th</sup> Street, Suite 101  
Overland Park, KS 66212  
913-383-1131

## 1 INDEX

2 .

3 .

4 Certificate ----- 252

5 .

6 .

## 7 CONFEREES

8 WITNESS PAGE

9 JASON LONG

10 Questions by Mr. Crouse 10

11 Questions by Rep. Henry 26

12 Questions by Mr. Crouse 27

13 EDDIE PENNER

14 Questions by Mr. Crouse 28

15 Questions by Rep. Henry 55

16 Questions by Chairman Masterson 57

17 DALE DENNIS

18 Questions by Mr. Crouse 59

19 Questions by Chairman Masterson 78

20 Questions by Rep. Henry 79

21 Questions by Chairman Masterson 80

22 Questions by Rep. Henry 85

23 Questions by Senator Denning 88

24 .

25 .



1	DAVE TRABERT	
2	Questions by Mr. Crouse	89
3	Questions by Rep. Henry	106
4	DR. JIM HINSON	
5	Questions by Mr. Crouse	115
6	Questions by Chairman Masterson	140
7	Questions by Rep. Kleeb	143
8	Questions by Rep. Henry	145
9	MARK TALLMAN	
10	Questions by Mr. Crouse	149
11	RANDALL WATSON	
12	Questions by Mr. Crouse	169
13	Questions by Chairman Masterson	194
14	CONTINUATION OF MARK TALLMAN	
15	Questions by Mr. Crouse	200
16	Questions by Rep. Henry	221
17	Questions by Chairman Ryckman	224
18	Questions by Chairman Masterson	224
19	MIKE O'NEAL	
20	Questions by Mr. Crouse	233

21 .

## 22 EXHIBITS

23 LOB supplemental state general aid spreadsheet

24 Capital outlay state aid spreadsheet

25 .



1 CHAIRMAN RYCKMAN: Good morning. We are  
2 going to open today's meeting with the Legislative  
3 Budget Committee. In House Substitute Senate Bill  
4 161, the legislature authorized the hiring of an  
5 attorney to help to assist the legislature respond  
6 to the Court and ensure that we will keep our  
7 schools open. Today's meeting is a critical step  
8 towards that end.

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

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



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

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

14 512, which is the Senate's position on K-12,  
15 currently is on our floor today and we will hear  
16 that. We believe that to be the purest response,  
17 quoting from their opinion that they say,  
18 obviously, if we provide the relevant portions and  
19 funded those within the block grant system, they  
20 would have accepted the block grant system, that  
21 that is the purest response. But as we are a body  
22 of politic and can't guarantee where everybody  
23 votes, that that were to fail. They were also  
24 very clear in the opinion, from our standing, that  
25 if we deviate from that, that we need to create a



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

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

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

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

17 CHAIRMAN RYCKMAN: Your mike.

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

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



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

8 So I appear before you with a  
9 transcriptionist in an attempt to help the Court  
10 understand that this body faces a difficult task  
11 and intends to discharge its constitutional duties  
12 to provide for the finance of suitable education  
13 for all Kansans and to endeavor and faithfully  
14 comply with the Court's order so that the Court  
15 will not preclude the schools in Kansas from  
16 reopening in the summer -- after the summer of  
17 2016.

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

25 I'm grateful for this opportunity and have



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

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

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

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



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

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

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

14 EXAMINATION OF JASON LONG

15 QUESTIONS BY MR. CROUSE:

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

17 **A. Good morning. How are you?**

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

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



1 Committee.

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

4 A. This is my tenth session.

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

8 A. I started staffing the Senate Education  
9 Committee in 2011 and I've drafted the predominant  
10 school finance legislation since that time period,  
11 including House Bill 2506 in 2014 and Senate Bill  
12 7 last year.

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

18 A. That's correct.

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

21 A. Yes.

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



1 A. That's correct.

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

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

25 But then as soon as I get the approval of the



800 E. 1<sup>st</sup> Street, Suite 305  
Wichita, KS 67202  
316-291-1612

5111 SW 21<sup>st</sup> Street  
Topeka, KS 66604  
785-273-3063  
www.appinobiggs.com

6420 W. 95<sup>th</sup> Street, Suite 101  
Overland Park, KS 66212  
913-383-1131

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

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

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

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

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



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

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

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



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

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

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

25 **Q. And your interactions with the**



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

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

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

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

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

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



1 A. Yes, I am.

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

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

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

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

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

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



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

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

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

15          A.    Yes.

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

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



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

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

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

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



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

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

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



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

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

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

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

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



1 three buckets?

2 A. Yes.

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

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

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

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



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

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

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



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

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

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

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

20 A. That's correct.

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



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

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

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

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



1 Q. And are the equalization strategies  
2 contained in House Bill, I should have it here,  
3 2731 and SB 512, are those the equalization  
4 formulas that the Court was referring to?

5 A. Yes.

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

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

14 QUESTIONS BY REP. HENRY:

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

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

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

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



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

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

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

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

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

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

19 A. No, I --

20 MR. HENRY: Okay, thank you.

21 CHAIRMAN RYCKMAN: Mr. Crouse?

22 FURTHER QUESTIONS BY MR. CROUSE:

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



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

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

10 MR. CROUSE: Thank you very much.

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

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

18 EXAMINATION OF EDDIE PENNER

19 BY MR. CROUSE:

20 Q. Good morning, Mr. Penner.

21 A. Good morning.

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

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



1 analyst with the Kansas Legislative Research  
2 Department.

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

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

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

11 A. Yes, I am.

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

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

21 Q. Okay. And I assume that you either have  
22 heard of or have seen Mr. Long's February 25th,  
23 2016 legal memorandum with regard to Gannon and  
24 you're otherwise familiar with the school funding  
25 operations?



1 A. Yes, I have seen that.

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

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

8 A. Yes.

9 Q. Would you talk a little bit about that.

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

13 Q. And like the Revisor's office, you  
14 provide analysis to all 125 house members and all  
15 40 senators.

16 A. Yes, we do.

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

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



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

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

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

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

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



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

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

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

16 A. Yes.

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

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



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

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

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

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



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

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

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

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

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



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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

13 A. A run in this context is the estimated  
14 effects that an idea or proposal would have on all  
15 286 school districts, as well as, the state.

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

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

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



1 calculate general state aid?

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

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

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

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

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

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

25 A. The local option budget supplemental



1 general state aid is between 400 and \$500,000,000,  
2 and the capital outlay state aid is less than  
3 \$75,000,000.

4 **Q. Capital outlay is how much?**

5 A. It is always -- it's never been larger  
6 than \$75,000,000. I believe under the current  
7 appropriations there is somewhere in the range of  
8 \$27,000,000 that is appropriated attributable to  
9 capital outlay state aid and somewhere in the  
10 range of slightly under -- excuse me, around  
11 \$450,000,000 attributable to supplemental general  
12 state aid.

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

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

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

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

23 **Q. Okay. Where are those equalization**  
24 **formulas captured? Where do you get those**  
25 **equalization formulas?**



1 A. Those appear in statutes.

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

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

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

14 A. Yes.

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

19 A. Yes.

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

25 A. So all three equalization formulas



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

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

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

22 **A. The weighting of the pupils?**

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



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

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

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

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

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

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



1 A. Yeah, 2731, though.

2 Q. 2731.

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

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

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

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

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

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

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

25 Tell me, if you can, go through this



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

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

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

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



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

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

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

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



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

3 A. Yes.

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

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

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

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



1 following that is the amount of estimated local  
2 option budget state aid that each school district  
3 would receive under House Bill 2731 or Senate Bill  
4 512 if those two were to become law. And, then,  
5 the final column is the difference between those  
6 two numbers.

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

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

16 Q. And, for our purposes, that's fine. And,  
17 so, under the House Bill 2731, as well as Senate  
18 Bill 512, they would get zero. And, so, their  
19 budget impact would be they would lose roughly  
20 \$40,000?

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

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



1 particular district gains or loses AVPP?

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

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

16 A. The -- on the last page, the bottom line  
17 in the first column that shows the bottom line is  
18 the column of the local option budget state aid  
19 under the block grant bill and that shows  
20 \$450,491,513. The next column is the estimated  
21 cost of the state for local option budget state  
22 aid if House Bill 2731 or Senate Bill 512 were to  
23 become law, and that is \$465,003,991. And, then,  
24 the farthest right column is the difference, and  
25 that shows an increase of \$14,512,479.



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

5 A. That's the estimated amount.

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

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

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

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

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



1 **strategy?**

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

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

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

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

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

25 Q. And skipping ahead a little bit, once



1     you've got your formula set and it's theoretically  
2     equalized among all districts under Senate Bill  
3     512, for example, my understanding then is that  
4     the local schools may change their mill levy rate  
5     and raise additional revenues, whereas other  
6     districts may either choose not to or already be  
7     at their cap and maybe not. So then once it's  
8     equalized, subsequent actions of the school  
9     district may or may not take that out of kilter.  
10    Is that correct?

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

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

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

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



1 A. Yes.

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

6 A. You would call them what?

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

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

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

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

25 Q. Would you be able to tell me what those



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

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

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

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

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



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

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

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

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

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

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

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

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



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

3 A. Yes.

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

7 A. Yes.

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

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

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

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

22 REP. HENRY: Thank you, Mr. Chairman.

23 QUESTIONS BY REP. HENRY:

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



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

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

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

12 A. That's correct.

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

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

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

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



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

6 A. The bills are not identical.

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

10 A. The bills are not identical, no.

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

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

15 REP. HENRY: Thank you.

16 CHAIRMAN RYCKMAN: Senator Masterson.

17 CHAIRMAN MASTERSON: Thank you, Mr.  
18 Chairman.

19 QUESTIONS BY CHAIRMAN MASTERSON:

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



1 those are identical?

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

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

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

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



1 A. That's correct.

2 CHAIRMAN MASTERSON: Thank you.

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

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

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

13 EXAMINATION OF DALE DENNIS

14 QUESTIONS BY MR. CROUSE:

15 Q. Good morning, Mr. Dennis.

16 A. Good morning.

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

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



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

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

7 A. In my division we take care of the  
8 distribution of all state and federal aid within  
9 the Department of Education. In fact, you were  
10 correct a little bit ago. It's a little over  
11 4,000,000,000 in state money and about 500,000,000  
12 in federal money. And I've been there for 48  
13 years and a half, if I make it.

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

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



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

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

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

18 A. Yes, sir.

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

25 A. Irregardless of who requested it, we



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

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

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

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

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



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

3 Q. Okay.

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

14 MR. DENNIS: Not for me.

15 CHAIRMAN MASTERSON: If it does not, I  
16 would like to put the meeting on pause for about  
17 15 minutes and we'll see where we are at. I did  
18 not anticipate this many hiking at the same time.

19 (THEREUPON, a recess was taken.)

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

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

24 BY MR. CROUSE:

25 Q. And Mr. Dennis, thank you for your



1     patience here.

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

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

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

13            A. Yes, sir.

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

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

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



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

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

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

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



1 -- funded with reducing general state aid.

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

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

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

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

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



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

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

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

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

18 Q. Okay. And --

19 A. It could go either way.

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

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

25 Q. And those will be 50 to 100 different



1 potential resolutions as to just equalization?

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

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

7 A. Yes, sir.

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

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

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

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



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

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

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

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

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

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



1 provision would be necessary for budgeting  
2 purposes?

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

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

13 A. Yes, sir.

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

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

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



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

6 A. Yes, sir.

7 Q. Okay. And the same thing with the LOB in  
8 2731, that's exactly what the Court requested?

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

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

13 A. Yes, sir.

14 Q. -- in both bills?

15 A. Yes, sir.

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

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

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



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

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

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

14 A. Correct.

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

23 A. That is correct.

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



1 419 and you were able to tell me within seconds  
2 what county I was from. The experiences I had  
3 aren't necessarily different from the experiences  
4 my wife had in Shawnee Mission. Can you talk a  
5 little bit about maybe studies that your office  
6 has done, as well as educational opportunities  
7 that are albeit different, but not necessarily  
8 dissimilar?

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

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



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

8 Q. Nor any metric by which one could  
9 measure?

10 A. No.

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

19 A. That's correct.

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

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



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

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

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

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

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

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

22 Q. Absolutely.

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



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

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

12 A. No, you're correct.

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

19 A. Yes, sir.

20 Q. And it moved to 81.2 percent, roughly, in  
21 2005, correct?

22 A. That's correct, sir.

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



1     **reaction to a political concern. Is that correct?**

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

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

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

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

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



1 property tax and increasing equity.

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

5 A. That would be pretty close.

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

12 MR. DENNIS: Thank you, sir.

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

16 MR. HENRY: No.

17 CHAIRMAN RYCKMAN: I'm sorry. Anyone  
18 else?

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

21 QUESTIONS BY CHAIRMAN MASTERSON:

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



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

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

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

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

20 CHAIRMAN MASTERSON: Thank you.

21 CHAIRMAN RYCKMAN: Representative Henry?

22 REP. HENRY: Thank you, Mr. Chairman.

23 QUESTIONS BY REP. HENRY:

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



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

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

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

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

17 REP. HENRY: Thank you.

18 CHAIRMAN RYCKMAN: Senator Masterson.

19 CHAIRMAN MASTERSON: Thank you, Mr.

20 Chairman.

21 QUESTIONS BY CHAIRMAN MASTERSON:

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



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

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

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

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

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

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

25 Q. I have one more question as it pertains



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

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

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

21 Q. So that would be the 2014 date?

22 A. Yes, sir.

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



1     **2014 enrollment numbers?**

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

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

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

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



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

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

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



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

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

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

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

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

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

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

22 CHAIRMAN MASTERSON: Thank you, Dale.

23 CHAIRMAN RYCKMAN: Representative Henry.

24 REP. HENRY: Thank you, Mr. Chairman.

25 QUESTIONS BY REP. HENRY:



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

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

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



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

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

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

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

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

21 A. Not that I recall, sir.

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



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

2 REP. HENRY: Thank you, Mr. Dennis.

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

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

10 QUESTIONS BY SENATOR DENNING:

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

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

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



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

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

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

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

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

19 MR. TRABERT: Happy to be here.

20 EXAMINATION OF DAVE TRABERT

21 QUESTIONS BY MR. CROUSE:

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



1     you just didn't have any propounded to you.

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

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

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

17            A.     Since 2009.

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



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

9 You are familiar with Gannon II, are you not?

10 A. I am.

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

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

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

22 A. Yes.

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



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

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

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

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



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

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

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



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

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

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

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



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

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

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

11 A. Yes, it is.

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

15 A. There was no support.

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

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

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



1 Is that your understanding, as well?

2 A. Yes, that is.

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

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

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

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

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

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



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

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

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

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



1 enough money or that they are inadequately funded.

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

6 A. Yes.

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

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

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

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

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



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

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



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



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

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

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

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



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

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

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

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



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

10 But beyond that, we found that districts  
11 aren't even spending all the money that they have  
12 been given over the last 10 years. And we looked  
13 at that by -- by studying their carryover cash  
14 reserves. So you have in 2005, July 1 of 2005,  
15 districts had collectively \$468,000,000 in  
16 operating reserves. That's not counting capital  
17 outlay or any bond indebtedness reserves, these  
18 are just operating funds. Over the next 10 years,  
19 by July 1 of 2015, those balances had gone to  
20 \$853,000,000. So there's a -- the difference  
21 represents \$385,000,000 of money that was given to  
22 schools to operate and for whatever reason they  
23 didn't spend it. They put it -- they used it to  
24 increase their cash reserves.

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



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

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

10 One of the metrics that we look at is how  
11 much money goes into instruction, which is a --  
12 and instruction is defined by the state's  
13 accounting manual, the Department of Education's  
14 accounting manual. And while funding has gone up  
15 quite significantly over the last 10 years, almost  
16 \$2,000,000,000, the percentage of money allocated  
17 to instruction has actually declined a little bit.  
18 If you -- we don't count any of the capital outlay  
19 in that measurement because capital can change and  
20 districts are allowed to allocate some of their  
21 capital to their current operating expenses.  
22 Factoring that out and just looking at what they  
23 are spending on current operating, the percentage  
24 allocated to instruction actually dipped below 53  
25 percent last year. I think it was 52.91 percent.



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

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

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

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

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



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

3 CHAIRMAN RYCKMAN: No.

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

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

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

13 QUESTIONS BY REP. HENRY:

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

19 A. No, I have not.

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



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

9 A. That their costs are going down?

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

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



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

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

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

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



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

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

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



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

8 Now, there are -- first of all, let me back  
9 up. No one really had an issue with any kind of  
10 cash reserve matters until we discovered, until  
11 Kansas Policy Institute covered in 2010 that there  
12 was about \$700,000,000 at that point in reserve,  
13 and that prompted -- and since then there have  
14 been a lot of districts say, well, we just don't  
15 have enough. Interestingly, there is no  
16 legislative record of districts prior to that  
17 saying we don't have enough in cash reserves. But  
18 at that point that \$700,000,000, that was already  
19 200,000,000, maybe \$250,000,000 more than what it  
20 was just in 2005. What we have -- we've looked at  
21 every district's carryover ratio back in 2005, and  
22 we find that there are dozens of districts  
23 operating with less than 10 percent reserves  
24 consistently.

25 Now, other districts say we don't have



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

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



800 E. 1<sup>st</sup> Street, Suite 305  
Wichita, KS 67202  
316-291-1612

5111 SW 21<sup>st</sup> Street  
Topeka, KS 66604  
785-273-3063  
www.appinobiggs.com

6420 W. 95<sup>th</sup> Street, Suite 101  
Overland Park, KS 66212  
913-383-1131

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

3 BY REP. HENRY:

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

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



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

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



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

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



800 E. 1<sup>st</sup> Street, Suite 305  
Wichita, KS 67202  
316-291-1612

5111 SW 21<sup>st</sup> Street  
Topeka, KS 66604  
785-273-3063  
www.appinobiggs.com

6420 W. 95<sup>th</sup> Street, Suite 101  
Overland Park, KS 66212  
913-383-1131

1 Crouse.

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

5 DR. HINSON: Good morning.

6 EXAMINATION OF DR. JIM HINSON

7 QUESTIONS BY MR. CROUSE:

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

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

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

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

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

24 Q. No, that's fine.

25 A. Jim Hinson, Superintendent of Shawnee



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

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



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

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



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

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

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



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

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

25 Q. And my understanding is that you are



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

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

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



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

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

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

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



1 I will call smooth out the budgetary process on a  
2 short-term basis, that being the school year for  
3 2016-17?

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

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



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

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

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

25 A. Yes.



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

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



1 uncertain on really how to budget.

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

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

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



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

16 And so as we look back at the history of the  
17 formula, and I'll give you the exact date again  
18 because I brought it with me today, so July 15th  
19 of 2015, and so I'm going to give you an example.  
20 This is in relation to, and please give me some  
21 patience here, the at-risk pupil weighting, and  
22 this is from Kansas Legislative Research  
23 Department School Finance History July 15 of 2015,  
24 this is in relation to at-risk pupil weighting. A  
25 1997 amendment increased the at-risk pupil



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

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

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



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

10 Q. And I'm going to ask you a question that  
11 just popped in my head as you are talking. Do you  
12 have any equalization strategies that you would  
13 recommend to the legislature for a remedial fix  
14 for this cycle that's different from, for example,  
15 the House bill you testified on and Senate Bill  
16 512? And if you don't, that's fine. It popped  
17 into my head as you were talking and I wanted to  
18 get it out.

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

25 So in the Shawnee Mission School District, if



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

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

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



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

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

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

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



1 in the state of Kansas.

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

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



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

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

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



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

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

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



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

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

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

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

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

23 **Q. Okay.**

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



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

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

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

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

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



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

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

15 A. That's correct.

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

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



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

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

25 **Q. Just a few final questions, and I will**



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

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

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

20 Q. Consternation is probably a good word for  
21 it.

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



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

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

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

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



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

7             A. That is correct.

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

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

14            CHAIRMAN MASTERSON: Thank you, Mr.  
15    Chairman.

16            QUESTIONS BY CHAIRMAN MASTERSON:

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

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



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

25 A. I think the question or the premise has



6420 W. 95<sup>th</sup> Street, Suite 101  
Overland Park, KS 66212  
913-383-1131

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

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

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



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

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

16 CHAIRMAN MASTERSON: Thank you.

17 CHAIRMAN RYCKMAN: Representative Kleeb.

18 MR. KLEEB: Thank you, Mr. Chairman.

19 QUESTIONS BY REP. KLEEB:

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

25 A. Yes.



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

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

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

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

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

24 A. Yes.

25 Q. What was it again?



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

6           **Q.     So that would seem not particularly**  
7 **equitable?**

8           A.     I think it's inequitable.

9           MR. KLEEB: Thank you, Mr. Chairman.

10          CHAIRMAN RYCKMAN: Any others?  
11 Representative Henry.

12          REP. HENRY: Thank you, Mr. Chairman.

13          QUESTIONS BY REP. HENRY:

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

20          A.     Yes.

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

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



1 Q. Very good. I appreciate that. That's  
2 exactly how I would say that. So it's a 1.45  
3 percent across the board cut for every school  
4 district, and do you become a winner or loser in  
5 512?

6 A. We're a loser.

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

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

13 Q. I know there is a sunset.

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

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

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



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

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



1 advocate that that plan needs to exist very  
2 quickly.

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

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

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

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

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

24 MR. CROUSE: Thank you, Mr. Chairman.

25 EXAMINATION OF MARK TALLMAN



1 QUESTIONS BY MR. CROUSE:

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

4 A. You're welcome.

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

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

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

24 A. DeSoto and Hamilton.

25 Q. Okay. I learned something new today.



1 Thank you.

2 And you are -- and I'll go through, the  
3 purpose is I'm new to the education funding world.  
4 I heard your testimony on I believe it was the  
5 15th and 16th. I was intrigued by some of your  
6 comments, some of your ideas. You were kind  
7 enough to meet with me privately, as well, to talk  
8 about some of those as potential solutions to the  
9 equalization matter that we have currently before  
10 us, as well as the larger picture going forward.  
11 And, so, I would let the committee know Mr.  
12 Tallman was unbelievably gracious again with his  
13 time, just like everyone has been, and I  
14 appreciate you coming forward.

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



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

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

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

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

20            A.    Yes.

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

25            First of all, with regard to House Bill 2731,



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

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

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

23 A. Yes, sir.

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



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

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

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

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



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

3 Q. I'm sorry --

4 A. Slow --

5 Q. Slow down. State standards and NAEP?

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

9 Q. Thank you.

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

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



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

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

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

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



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

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

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



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

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



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

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

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



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

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

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

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



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

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

25 **A. Yeah, I would say LOB is different**



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

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

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

1 a range of local sources.

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

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

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

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

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

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



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

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

25 Q. Would you sup -- or would your



800 E. 1<sup>st</sup> Street, Suite 305  
Wichita, KS 67202  
316-291-1612

5111 SW 21<sup>st</sup> Street  
Topeka, KS 66604  
785-273-3063  
www.appinobiggs.com

6420 W. 95<sup>th</sup> Street, Suite 101  
Overland Park, KS 66212  
913-383-1131

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

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

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

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

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



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

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

6 CHAIRMAN RYCKMAN: When would you be able  
7 to return?

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

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

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

15 BY MR. CROUSE:

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

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



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

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

24 A. I see.

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



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

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

25 Q. And the last question before I let you



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

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

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

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

25 CHAIRMAN RYCKMAN: That would be great.



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

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

14 CHAIRMAN RYCKMAN: Then please continue.

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

17 EXAMINATION OF RANDALL WATSON

18 QUESTIONS BY MR. CROUSE:

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

25 As I mentioned to you when we met last



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

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

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

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

25 Q. And tell me some of those school



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

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

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

16 A. That is correct.

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

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



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

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

13 A. Generally, that's correct.

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

20 A. I believe that's fair.

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

25 A. Yes.



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

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

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



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

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

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



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

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

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

16 A. Yes, that is correct.

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



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

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

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



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

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

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



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

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

15 A. Correct. The difficulty, if I may, in  
16 2014, when the Court ruled and the legislature  
17 responded, that was -- and the school districts  
18 set their budget. What happened in the fall is,  
19 as they know, that dollar amount moved for the  
20 factors I think you have been discussing today.  
21 And so, therefore, budgets have to be readjusted.  
22 That's terribly hard on school districts. And, I  
23 think, we got into semantics about whether it was  
24 a raise or a raise is a raise. But from a school  
25 district standpoint, you set a budget and now



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

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

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



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

6           **Q.     Talk about that. Talk about that, if you**  
7     **will.**

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



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

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

21           **A.   Well, I think, there are certain items**  
22 **outside of funding that we definitely would agree**  
23 **with that on; that we think that certainly Article**  
24 **6 gives the State Board of Education general**  
25 **oversight of schools, and the two primary**



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

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

12           **Q.   What are you doing on nights and weekend?**

13           A.   Yeah.

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

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

24           A.   Yes.

25           **Q.   Doctor Hinson seemed to think that**



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

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

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



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

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

14 You know, sometimes when you're looking at a  
15 formula, in essence, until the block grant, that's  
16 20 years old, you start to operate as that's the  
17 way that operates. So, I had not -- I have not  
18 given that much thought as to whether or not that  
19 could be done or what the issues would be with  
20 that.

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



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

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

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

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

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



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

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



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

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

24           A.     No.

25           Q.     Tell me -- tell me why.



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

3 Q. Less efficient for school operations  
4 or --

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

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

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

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



1 the state for state distribution?

2 A. It would not be my preference.

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

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

23 Q. Why is that?

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

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

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

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



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

3 A. Yes. And, again, if we go back to the  
4 92-93 law, and you could go back into the start of  
5 school finance litigation, as I'm sure you've  
6 looked at. Everything at some point comes down to  
7 whatever the formula was at the time wasn't funded  
8 because of whatever reason, a recession or, you  
9 know, a lowering of taxes or choices or a variety  
10 of things and, then, ends up in litigation at some  
11 point and there is a new formula that comes about.

12 So, lowering, if you go back again previous  
13 to '92, most school districts saw a lowering of  
14 their mill levy, not all. I remember when that  
15 happened, those -- you know, Southwest Kansas was  
16 going to secede from the state because their mill  
17 levies were going to go up. So, but, the overall  
18 mill levies went down significantly. So, I think,  
19 there is some appeal in lowering that LOB amount  
20 and putting it in the general state aid. I still  
21 think there ought to be some ability to raise that  
22 locally, especially if the legislature said we  
23 have no money this year to keep up with that  
24 formula, otherwise you're going to be back in  
25 litigation probably very quickly on the base state



1 aid.

2 Q. And I would assume that your position is  
3 that litigation is not conducive to furthering  
4 education?

5 A. No. I think, we all would agree with  
6 that.

7 Q. One of the questions that I have is what  
8 the Supreme Court meant by substantially similar  
9 access to or reasonable educational opportunities  
10 or substantially similar educational  
11 opportunities, and I've asked the folks that have  
12 talked before us today how would the legislature  
13 measure substantially similar educational  
14 opportunities? And, I think, I gave Dr. Hinson,  
15 I'm not sure if you were aware, a McPherson County  
16 versus Johnson County example. Are you aware of a  
17 metric by which we could measure a substantially  
18 similar educational opportunity across the 105  
19 counties, whatever they may be?

20 A. No, not a specific metric on that. You  
21 know, it wasn't until the late eighties, early  
22 nineties that we even asked schools to kind of  
23 look at a measure of what you're producing, and  
24 that was revolutionary when we went through that.  
25 And, so, what we are trying to measure at the



1 state level now are the outcomes by which we see  
2 some correlation, at least, to future success of  
3 students. And, we're trying to move -- the  
4 Board's vision is trying to move then of holding  
5 schools accountable through an accreditation model  
6 of very broad outcomes that we think, at least,  
7 the best research state lead to that success when  
8 people graduate high school and college. But, I  
9 don't know of any metrics that would say let's  
10 measure McPherson County, Johnson County as to the  
11 adequacy, I guess, of equalization of programming  
12 or offerings.

13 Q. And, so, I'm looking at for one maybe  
14 like advanced placement or things like that. We  
15 certainly didn't have that in McPherson County,  
16 or, at least, at my small school. You guys  
17 probably had it.

18 A. We did. We would have welcomed you over  
19 there.

20 Q. I wouldn't have qualified for it. Okay.  
21 And, then, I touched briefly on this, and I don't  
22 think you seemed overly enthused about it, but is  
23 taking the role of equalization in-house, removing  
24 it from the legislature, is that something you  
25 would want to do or would you have the capacity to

1 do it?

2 A. I would say we have not studied that, to  
3 my knowledge. And Dale may know in previous  
4 years. In the short time that I've been there, I  
5 have not been a part of any conversations about  
6 that. So, I could not give an opinion one way or  
7 the other on that.

8 MR. CROUSE: Dr. Watson, I appreciate  
9 your time. I thank you very much. Again, you  
10 were great on Friday and I appreciate your  
11 McPherson county thoughts. Thank you very much.

12 CHAIRMAN RYCKMAN: Thank you for being  
13 here, Mr. Watson. Questions from Senator  
14 Masterson.

15 CHAIRMAN MASTERSON: Thank you, Mr.  
16 Chair.

17 I have some follow-up on some of the  
18 questions that he asked because I think there is  
19 some general population confusion.

20 QUESTIONS BY CHAIRMAN MASTERSON:

21 Q. You, as the Commissioner of Education,  
22 answer to the State School Board, correct?

23 A. That is correct.

24 Q. Which is a separate Constitutional entity  
25 elected by the population of Kansas?



1 A. That is correct.

2 Q. With the sole function of interest in  
3 education?

4 A. That is correct.

5 Q. So, following up to a very interesting  
6 line of thought, the Constitution gives the  
7 legislature the task of a suitable provision for  
8 finance. There is all these questions and then  
9 the case law has determined that that has two  
10 aspects, adequacy and equity. With the vast  
11 experience and expertise of your organization, Mr.  
12 Dennis being an example of the years he has been  
13 there participated in that, would you not be a  
14 better entity to determine -- to be arbiter of  
15 distribution, i.e. the equalization side of things  
16 as it pertains to the districts versus the  
17 legislature?

18 A. And, again, Senator, I appreciate that  
19 question. I just haven't looked at it before that  
20 question came up today, so I really couldn't give  
21 you an answer without studying it.

22 Certainly, we take our role, the education  
23 role very seriously as it relates to the  
24 operations that we do now. So, I would just have  
25 to look at it and say, first of all, to say is



1 that -- is that a better choice? And if it is, do  
2 we have the capacity with the existing staff to do  
3 that? I just don't have an answer for you today.

4 Q. I'm not asking you necessarily in the  
5 sense of capacity versus expertise because we're  
6 being asked to develop a formula, quote-unquote  
7 formula which we may not have the expertise to  
8 develop that formula internally and here is where  
9 I'm getting at. It seems to me that during the  
10 decades of litigation Kansas has undertaken to  
11 make the question of distribution potentially more  
12 of an administrative function or appeal, if you  
13 will, to the State School Board through your  
14 organization, i.e. we're leaving adequacy with the  
15 legislature but if a local district believes  
16 they're not getting an equitable portion, that  
17 would be a more administrative function within  
18 your organization because you are a year-round  
19 entity versus a citizen legislature that meets 90  
20 days, give or take, in a given year. It seems you  
21 would be more nimble and responsive to the  
22 districts. Your thoughts.

23 A. I think the word we would be nimble and  
24 quick to respond, so I appreciate that. I think  
25 -- I think that's worth looking at, but I want to



1 come back to that even the cases of equitable  
2 distribution can come into the term adequacy. If  
3 the funds haven't been allocated to equally  
4 distribute whatever the formula is, then it  
5 doesn't matter who does the distribution.

6 And I will go back to '14. The Court found  
7 -- the Court gave away control and said that the  
8 legislature had met its mandate to be equitable;  
9 we distributed that. So, given today, we can  
10 distribute that. But if the Court would say it's  
11 still not equitable because there has been money  
12 that's been taken from that equality, so I think  
13 they are tied. And, so, I don't think that we  
14 just get by the Court of saying who distributes it  
15 or who would be better to distribute it, we may or  
16 may not. We certainly have some expertise to do  
17 that. But, if the -- if the dollar amount changes  
18 or the formula changes or whatever happens is  
19 certainly within the legislative control, we can  
20 distribute that and still may not, in my opinion,  
21 still may not meet the Court's intent.

22 **Q. I may have found a disconnect in the**  
23 **logic. Do you see adequacy as an aggregate**  
24 **number, the billions taken from the taxpayers of**  
25 **Kansas for this purpose, do you see adequacy as at**



1     some level that aggregate amount or are you seeing  
2     that as an individual, constantly fluid number to  
3     each district?

4           A.     That's a good question. I was looking at  
5     the equity only, thinking of that and saying,  
6     okay, when there was a formula for equity and the  
7     Court said it had not been funded in '14, the  
8     Court said that the legislature met that mandate.  
9     And, then, the Court now is saying but in the  
10    intervening years it has not met that. So, have  
11    -- had the block grant not gone into effect in  
12    terms of a distribute -- that's the money that was  
13    to be distributed, we distributed that money based  
14    upon the block grant. Had that -- had the old  
15    formula stayed in effect and the way that it was  
16    funded in 2014 went forward and we distributed it,  
17    I think we would be okay. The problem was it  
18    changed, and so the amount of money put into that  
19    equity part changed. And I think that's not a  
20    distribution issue, it's an adequacy not overall  
21    within the equity part of it.

22           Q.     I'm not so sure -- I think going back, is  
23    there an overall number, whatever billions that  
24    is, that you think you could be deemed adequate to  
25    fund the educational system of Kansas, or is that



1 a constantly by-district fluid number? That's a  
2 by-district fluid number to me is 100 percent  
3 equity, where adequacy is 100 percent how much do  
4 you draw in total volume from your taxpayers for  
5 this purpose. Would you disagree with that?

6 A. I think it is going to be different. The  
7 kids in Bird City, with the cost of doing that, is  
8 going to be different than the cost of doing  
9 business in Wichita for a variety of reasons.

10 Q. They're not equity.

11 A. That is both, adequacy and equity. It's  
12 both, because in some cases it may take more money  
13 to educate a kid in certain parts of the state.  
14 And, then, where equity comes in is when you look  
15 at the -- the assessed value, the current way we  
16 look at it, of that district to provide those  
17 resources. So, it's a combination of both.

18 Q. I think I need to be back into my  
19 question.

20 A. I'm sorry.

21 Q. Assuming, then, I give -- I, the  
22 legislature, appropriates. Assuming the district  
23 receives adequate and equitable funding and I add  
24 those numbers up to 286 districts and I have this  
25 number. That could be deemed adequate funding for



1 the system, that single number could be an  
2 adequate draw from the population for the system  
3 because every district, there is some number at  
4 which it's adequate at the total aggregate?

5 A. I think that that would be correct for  
6 that year and then does that change in the future.

7 Q. I understand that. Thank you.

8 A. I think. I think we got close on the  
9 same page. Thank you.

10 CHAIRMAN RYCKMAN: Any further questions  
11 or omissions again, Mr. -- Dr. Watson? Thank you  
12 so much for being here and answering questions  
13 today. The committee will take a recess until two  
14 o'clock.

15 (THEREUPON, a recess was taken.)

16 CHAIRMAN RYCKMAN: We will reconvene.  
17 It's a little after two o'clock. I believe we had  
18 some follow-up questions for Mr. Tallman.

19 CONTINUED EXAMINATION OF MARK TALLMAN

20 QUESTIONS BY MR. CROUSE:

21 Q. All right. Thank you, Mr. Tallman. We  
22 will continue the discussion we were having. I  
23 was about getting ready to ask you a question with  
24 regard to Senate Bill 512 and the testimony that  
25 you previously provided to the committee. Much



1 like the House bill we previously discussed, my  
2 notes reflect that you again supported equity but  
3 had concerns for adequacy. Is that fair?

4 A. Yes.

5 Q. And I have in my notes is, this may or  
6 may not be a direct quote, but I have quotes  
7 around we don't have a metric to measure  
8 educational opportunity and also the question is,  
9 quote, much more complex than dollars per pupil.  
10 Is that a fair assessment of your testimony?

11 A. Well, I don't think my written testimony  
12 would have included the part about the metrics. I  
13 don't think that's in there. I think in the  
14 discussion I certainly may have acknowledged that  
15 we don't have a completely agreed-upon definition.  
16 And I think the other thing that makes that very  
17 complicated in my time here is a lot of people  
18 tend to view education, what we are doing, in two  
19 ways: One, is outcomes, which has been the  
20 movement we have been trying to get to. And the  
21 other is inputs. So you then sometimes get the  
22 discussion, well, is it an equal educational  
23 opportunity if you don't have the range of  
24 curriculum or you don't have the services?

25 The second way of looking at it is, you know,



1 are kids graduating? Are they prepared for  
2 college careers? Those kinds of things, and I  
3 think what I would say is we have some measures,  
4 but I don't think we have complete agreement on  
5 what they are or should be going forward.

6 Q. And so two points on that. One, is my  
7 next note from the testimony is that you mentioned  
8 even within the members within your delegation,  
9 you have varying views on what are educational  
10 opportunities throughout the district, I think is  
11 one point that you would agree with?

12 A. I think that's probably true because I  
13 think within, and I think it's fair to say that  
14 within school districts across Kansas, you  
15 probably have a mixture of those who are pretty  
16 comfortable with where they are, strong public  
17 support, that sort of thing, field days where they  
18 maybe gone to excellence and what they are most  
19 worried about is losing it, and I think you have  
20 another set of districts that basically feel their  
21 challenges are such that they really feel they are  
22 not where they need to be. And, of course, the  
23 challenge then is how do you come up with a  
24 formula.

25 Dr. Hinson talked about kind of getting



800 E. 1<sup>st</sup> Street, Suite 305  
Wichita, KS 67202  
316-291-1612

5111 SW 21<sup>st</sup> Street  
Topeka, KS 66604  
785-273-3063  
www.appinobiggs.com

6420 W. 95<sup>th</sup> Street, Suite 101  
Overland Park, KS 66212  
913-383-1131

1 everyone together in the room. I think we all  
2 agree with that, it's just the challenge of doing  
3 that when you have such different perspectives of  
4 even where you are at a given point.

5 Q. And so you mentioned something else just  
6 moments ago, and I'm sorry I met you in the  
7 hallway and I'm sorry I'm springing things on you,  
8 but you said some things which caused me to react  
9 and I've thought some more on this continuum of  
10 education here.

11 You mentioned that I think your organization  
12 is trying to get more to an output based metric  
13 system instead of input based metric system. Is  
14 that fair?

15 A. Yes, I -- we, as an association, have  
16 specifically adopted the Rose standards as, as the  
17 goals. And perhaps to reflect a little bit on  
18 what Dr. Hinson said, certainly we have had even  
19 discussions internally. These are 1980s. I think  
20 our view is the next step is defining so what  
21 does, and I'm trying off the top of my head,  
22 sufficient communication skills or sufficient  
23 preparation for further study. Those things have  
24 certainly changed, but that idea that students  
25 should have kind of a basic foundation, be able to



1 function as a citizen, be reasonably healthy, be  
2 able to function in a democracy and in an economy  
3 and then be prepared for life after high school,  
4 that's really what they are. Because I think what  
5 we are all saying, yes, that's what we need to  
6 aspire to to every child. Where there is still  
7 some disagreement is how, in 2016 and beyond, do  
8 we measure what that would look like.

9 **Q. And I may have asked you or one of the**  
10 **other witnesses we've talked to today, do you have**  
11 **particular school districts that are failing to**  
12 **meet those standards today?**

13 A. Well, I think that, yes, I think we would  
14 say that without -- and you'll pardon me if I  
15 don't identify my members specifically, but to  
16 simply say I think if we look at the collective  
17 results of the state -- again, I would put it this  
18 way, and you again in your conversation with Mr.  
19 Trabert today which talked about, well, are we  
20 doing good? Are we doing bad? You know, a phrase  
21 that is often used is only, say, 30-some percent  
22 of Kansas students are ready for college. Well,  
23 you know, we would point out by all measures  
24 that's higher than it's ever been. It's basically  
25 where the adult population is today. So on the



1 one hand we can say, oh, we have come a long way  
2 and we are good. Statistics would tell us that  
3 probably 40 to 50 percent of kids, though, in  
4 future jobs will need an academic background  
5 beyond high school. So we are not there.

6 So I think, in our view, is more we've made a  
7 lot of progress; we are not satisfied with where  
8 we are going. We don't think the legislature is  
9 either. On the other hand, we -- we do believe  
10 that over the past 25 or so years we have made  
11 great strides with the resources that have been  
12 provided.

13 Q. Well, and for the committee's benefit,  
14 that's why I think -- or I found your testimony  
15 and Mr. Trabert's testimony, one would  
16 automatically assume may be diametrically  
17 opposite, I think you guys have common ground  
18 among you and can enunciate that and that's why I  
19 think it's helpful for the committee to hear.

20 One other thing or a couple other things that  
21 we discussed, and I suspect that this was in our  
22 private discussion when I met with you, just about  
23 ideas as to how we -- what resolutions can we  
24 find. Tell me a little bit about the hold  
25 harmless and your perspective as to hold harmless,



1    how it may impact equalization or how it may  
2    impact the administration of schools?

3           A.    Well, I think I will start by saying that  
4    our association has always had a position  
5    supporting the concept of hold harmless, the idea  
6    that you don't want to go in and remove resources.  
7    And as I listened to discussion this morning, I  
8    think the one point I would say is if we had been  
9    able to hold people harmless over the last several  
10   years we probably wouldn't be here. I mean, it  
11   has been the fact that we weren't able to meet the  
12   budget set in 2015 that kind of -- the legislature  
13   reacted, ultimately we did the block grants. I  
14   think at the time our position was we don't want  
15   to see districts lose dollars. Now we are just  
16   kind of a different set.

17           So philosophically we think it's an important  
18   idea, but I think we have to acknowledge that  
19   perpetual hold harmless then you don't -- again,  
20   you don't respond over the long term to perhaps to  
21   changes in the district's situations that you need  
22   to do. So, for example, if we are going to say  
23   that there is a rational reason for what a  
24   district gets for its kids, if you simply say  
25   forever you're going to get the same amount of



1 money no matter what happens, I think you at some  
2 point get to a situation where I think the Court  
3 would look -- would look afoul of that. But at  
4 least historically I think the idea of saying we  
5 are not going to have to take away while we try to  
6 help a different set, at least I'm not aware of  
7 any time in Kansas where the courts have found a  
8 problem with that.

9 Q. Okay. Would it, and again this is I  
10 guess on-the-fly thinking outside the box  
11 scenarios, would it be more beneficial for the  
12 legislature to say here is your box of funds,  
13 Department of Education, I think that's what we  
14 talked about before lunch, here is your box of  
15 funds, you figure out how to spend it. Is that a  
16 concept or a model that makes sense if the -- in  
17 other words, what I'm wondering is does their  
18 year-round staff and educational background  
19 suggest they would be a better body in which to  
20 make those educational decisions or would you  
21 prefer they remain with the legislature?

22 A. You know, honestly, that's not something  
23 that we've talked about within our association. I  
24 think there is a great deal of trust in the  
25 department and how they do administer the programs



1 that they are given.

2 It's still going to come down to, number one,  
3 what are the dollars available to make that  
4 distribution? And I suspect that no matter who  
5 makes the decision, whoever is perceived to be  
6 disadvantaged by it will probably be no happier if  
7 the State Board has done it than if the  
8 legislature has. But if the idea is that you can  
9 somehow bring a -- a -- I hate to use the term  
10 political, it's a political environment, but just  
11 a more rational reason for those decisions.

12 Q. Well, that's what I'm wondering is, is  
13 there a way in which the legislature can say, and  
14 I'll just pick \$100 for education, but here is  
15 \$100, you figure out how to divide it up. Then it  
16 would seem that the Department of Education may be  
17 more responsive to or cognizant of the emergent  
18 needs. And then we can argue about whether the  
19 \$100 allocation was appropriate. You know, and I  
20 realize that tug-of-war is always going to be  
21 there, and so I come at this, as we talked about  
22 in an ideal world, all politics would be removed.  
23 And I realize that's an imperfect world that would  
24 never be there, but I wonder if that would get  
25 closer to that purity of example that we



800 E. 1<sup>st</sup> Street, Suite 305  
Wichita, KS 67202  
316-291-1612

5111 SW 21<sup>st</sup> Street  
Topeka, KS 66604  
785-273-3063  
www.appinobiggs.com

6420 W. 95<sup>th</sup> Street, Suite 101  
Overland Park, KS 66212  
913-383-1131

1 **discussed?**

2 A. Well, I guess I would just say that I  
3 think the politics would be removed until the next  
4 session. Because every change that has been made  
5 in the formula has been a political decision that  
6 the legislature has made because some legislators  
7 felt that the formula wasn't working right and  
8 were able to convince enough of their colleagues  
9 and a Governor to make that change.

10 Q. Do you think that that would be more or  
11 less if that decision was moved to the Department  
12 of Education, for example?

13 A. It's hard -- again, it's a little hard  
14 for me to see it in the long run that it would  
15 make a vast difference. It might be a better  
16 starting point, but I think from the State Board's  
17 viewpoint, you know, it's the amount of money to  
18 work with would then have been a political  
19 decision and then how you would allocate that will  
20 probably create a set of political reactions.

21 Q. And I appreciate that. I'm just trying  
22 to get our discussion going.

23 A. Sure.

24 Q. Excuse me. Another concept that we had  
25 talked about that came up in a committee hearing



1 was eligibility for equalization aid, and I think  
2 you and I talked about, for example, if my home  
3 school district were to receive aid and made the  
4 decision to increase or decrease their mill levy,  
5 should -- should educational policy require them  
6 to max out, so to speak, in their mill levy before  
7 they are entitled to any equalization funds? I  
8 was looking at it in a is that a good policy? And  
9 I think you may or may not have espoused, A,  
10 whether it was a good policy, but, B, you found  
11 some problems with that. Could you tell the  
12 committee what your thoughts were as to the  
13 eligibility issue that we talked about?

14 A. Well, I think one thing you would  
15 certainly do is incentivize more spending. I  
16 mean, I think historically that has somewhat been  
17 the case that if you -- if you have to spend to a  
18 certain level to get more, you have created an  
19 incentive to do that. As I understand the, the  
20 LOB formula, and remember what the formula does is  
21 say what share of whatever budget amount you're  
22 doing, the state is allowing you to achieve that  
23 level of spending at a comparable tax rate to  
24 everyone below the 89.2 percent. What you  
25 basically do in that case is say, okay, if we



1 think we can be more efficient and be relatively  
2 low spending, then, yes, we are relatively low  
3 taxing, but we are also not taking as much from  
4 the state as we could.

5 And so while on the other hand I do  
6 understand the frustration, I think in some  
7 quarters they are saying, well, we are taxing  
8 ourselves to the max and if you're not yet, it  
9 must not be as -- to me, that is a political  
10 argument. But under the way the LOB system really  
11 works, it seems to me you still create an  
12 incentive for districts to be efficient if they  
13 want to be because they do have that control over  
14 their mill levy still.

15 **Q. But then if they choose not to go to the**  
16 **top rate, I understand that some of them may still**  
17 **receive equalization funds and so --**

18 A. But only, but only proportionate. So if  
19 you're saying instead of being a 25 percent LOB  
20 I'm going to be a 20 percent LOB, if you are to  
21 throw more percentages around, if you're a  
22 district where 30 percent of your LOB is funded by  
23 the state, you're only going to get 30 percent of  
24 whatever you choose to set your LOB at and you  
25 choose to participate. So a district that is not



1 fully using its LOB authority and is not fully  
2 taxing itself is also saving the state money.

3 Q. Which is the point I was trying to -- I  
4 know we had talked about that you think it would  
5 both encourage more spending, as well as encourage  
6 everyone to go to the top, so to speak?

7 A. Well, the example I think we did talk  
8 about was in the -- the old formula had a feature  
9 that to get, and the legislators will remember new  
10 facilities weighting, you had to be at 25 percent  
11 LOB. And I know because I lived in a community  
12 where part of the discussion was, you know, to get  
13 more state aid, we need to raise our LOB to 25  
14 percent because then the taxpayers are saying,  
15 well, yeah, we are going to put in another mill or  
16 two effort, we'll bring more state money in. Now,  
17 that additional state dollars is also more  
18 spending. It wasn't, though, by doing that they  
19 would then turn around and lower their property  
20 taxes, but it did meant that they would bring more  
21 resources to the district to help open new  
22 schools. And I'm just saying I think you always  
23 have to be -- there will always be an unintended  
24 consequence to anything you do.

25 Q. And I can appreciate that. One of the



800 E. 1<sup>st</sup> Street, Suite 305  
Wichita, KS 67202  
316-291-1612

5111 SW 21<sup>st</sup> Street  
Topeka, KS 66604  
785-273-3063  
www.appinobiggs.com

6420 W. 95<sup>th</sup> Street, Suite 101  
Overland Park, KS 66212  
913-383-1131

1 things I talked to someone, and I don't remember  
2 who it was so I'm not going to attribute it to  
3 them because I raised the same question with them,  
4 and their suspicion was that, you know, in the  
5 communities in which they weren't already at the  
6 max, that it would be politically unpopular  
7 locally to ask for even more. And so I wonder,  
8 again, I don't want to assert that -- attribute it  
9 to somebody, but in your experience working with a  
10 variety of school districts across the state, can  
11 you see that?

12 A. I, I absolutely can, and it may well be  
13 that those districts are so sensitive to the  
14 property tax for whatever reason, that even in  
15 this case they wouldn't do it. But I'm only  
16 saying that there would be an additional fact now  
17 for those voters in that community to consider.

18 Q. Talk to me a little bit about the LOB  
19 budget, now 81.2 percent. I think I talked to Mr.  
20 Dennis earlier today about that going from 75 to  
21 81.2 percent, and my understanding from him and  
22 others is that there is no basis in educational  
23 policy, but rather that was a property tax value.  
24 Is that consistent with your opinion?

25 A. That is my -- consistent with my memory



1 of that special session.

2 Q. So the other thing that I thought was  
3 interesting in your discussion at one of the  
4 hearings, and I forget which one, is that you also  
5 were supportive of the block grant concept. I  
6 believe it was either you or Dr. Hinson mentioned  
7 the word pause button so we could take a look at  
8 how to solve this educational problem. A, did I  
9 correctly capture? And, B, would you like to talk  
10 about it?

11 A. You did not. We are not supportive of  
12 that. Now, I think we did say we understood the  
13 growing legislative frustration with the system,  
14 and we're certainly not advocating that there  
15 should be no changes or study to the system. I  
16 think the choice was only do you potentially look  
17 at developing a new system? Do you pause while  
18 doing it, is that more helpful, or could you start  
19 working on a new formula without that? That was  
20 our major point of the debate.

21 Q. And so your, your organization's position  
22 would be not to do a block grant but to work in  
23 two tracks, so to speak?

24 A. Well, I think that's the position we  
25 have. I mean, I don't really -- now I think we



800 E. 1<sup>st</sup> Street, Suite 305  
Wichita, KS 67202  
316-291-1612

5111 SW 21<sup>st</sup> Street  
Topeka, KS 66604  
785-273-3063  
www.appinobiggs.com

6420 W. 95<sup>th</sup> Street, Suite 101  
Overland Park, KS 66212  
913-383-1131

1 have -- I wouldn't say we've learned to love the  
2 block grant, but I think we basically accepted  
3 it's going to be there and so let's, let's work  
4 toward whatever the better next step would be.

5 **Q. You can see the benefit to pausing so**  
6 **that the legislature's position isn't reacting to**  
7 **remedial orders, it's looking progressively at new**  
8 **ideas, I assume?**

9 A. I can, although I think in reality the  
10 way it has turned out is it didn't work precisely  
11 because, since the block grant wasn't acceptable  
12 to the Court, you know, that didn't happen. And I  
13 guess my argument is, just as I think I said this  
14 morning or just another time repeating myself, is  
15 that I think perhaps maybe the Court would look at  
16 it in the same way we did if you could truly  
17 freeze everything, then it might make sense. I  
18 think the frustration of our members who were not  
19 supportive and I think, not, I'm no attorney,  
20 obviously, that part of what the Court reacted to  
21 is that you were freezing the state side, you  
22 weren't freezing the local side. And, you know,  
23 in my testimony to both committees, I presented a  
24 study that we did which kind of showed those very  
25 differing impact on mill levies across different



1 districts. And I think that was some of what the  
2 Court was saying that part of the situation was  
3 frozen, but part of it wasn't.

4 Q. And so that's what I was trying to get  
5 with you this morning about. My recollection is  
6 that it was you thought the freezing aspect of  
7 part of it on the state level was fine, you were  
8 concerned about the local issues and it was the  
9 mill levy. In other words, it may have been on a  
10 more palatable option if the legislature had said  
11 we will freeze your mill levy rates, is that --

12 A. I think it would have been more popular.  
13 I also want to indicate that, you know, at least  
14 for some of our members that where they are  
15 particularly sensitive to, you know, special needs  
16 kids, for example, they also have those same kind  
17 of concerns. If you have a significant increase  
18 in your at-risk population or bilingual or  
19 something like that. Now, I think as Mr. Dennis  
20 indicated, enrollment and student characteristics  
21 don't change as fast as mill levies sometimes do,  
22 but I would not want to say that there weren't  
23 also concerns relative to the block grant about  
24 the changes in student population.

25 Q. So that was my next question is, if you



1 could cap that, you still have to deal with the  
2 emergent needs of the student population?

3 A. And in fairness to the legislature, I  
4 think that was the point of the extraordinary  
5 needs fund. I think there is certainly a debate  
6 among our members about whether that was adequate,  
7 but we would certainly acknowledge that's what its  
8 point was.

9 Q. I think one of the final things that you  
10 and I talked about in -- is potential other  
11 equalization strategy solutions. Part of my role,  
12 I think, is to share with the committee what I  
13 have found in my fact-finding of potential  
14 solutions, so I would invite you to share other  
15 potential solutions that either you have worked  
16 with some legislators on or you would propose that  
17 the legislature consider and talk about them and  
18 you'll probably get asked questions about them.

19 A. Well, I was going to say, unless I told  
20 you something the other day, I don't know as I or  
21 we have any. I think we understand what the Court  
22 has said that there may be other ways to do it.  
23 And I will tell you that over the summer and fall,  
24 as part of our research, we've started looking at  
25 other states to try to see whether we could find



1 other good ideas. We certainly didn't get to  
2 anything definitive before the session started and  
3 we kind of put those, those things on pause.

4 As I've said, one of the things I think is an  
5 issue is, in general, the more -- the more local  
6 you are the more challenges you have in  
7 equalizing. And yet, as we know, as I tried to  
8 talk about with legislatures, Kansas is a  
9 relatively high state proportion within our  
10 system. So, you know, I don't know what other  
11 states and their courts -- I mean, equalization,  
12 of course, you know has been the principle in  
13 school finance litigation since the '70s, so  
14 clearly many states have done this. I don't know  
15 how -- my sense is from some states is that they  
16 find a way to have a -- a perhaps less range of  
17 budget. And whether that is done by having larger  
18 minimum requirements, I mean, whatever their  
19 equivalent to 20 mills would be higher, I don't  
20 know, but --

21 **Q. So in other words, you mentioned that**  
22 **Kansas was high in something and so I want to make**  
23 **sure that you inform the committee what high in**  
24 **regard to?**

25 **A. We, as a share of total funding by**



1 revenue source, we are higher than average, higher  
2 than many states in terms of the share that is  
3 directly appropriated by the state.

4 **Q. In other words, the state money is a**  
5 **higher proportion of public education spending**  
6 **than other states?**

7 A. The state paid -- the state  
8 appropriations pay a bigger percentage of the bill  
9 than local or federal, whereas in other states,  
10 regardless of whether they spend more or less than  
11 Kansas, the average is that local resources play a  
12 larger role than state and federal also than  
13 Kansas. But what I don't know is the various  
14 makeup or structure that might affect that. I did  
15 a project for one legislator that came to no  
16 conclusions whatsoever that I could tell about how  
17 states -- how they do it, you know. I think that  
18 will take more research and we are certainly  
19 interested in trying to do that if we can.

20 **Q. One of the things that I'm interested in**  
21 **is does -- are there other metrics or variables**  
22 **that this legislature should consider that may**  
23 **reduce the polarization of rich to poor, high**  
24 **income to low income, such as number of teachers,**  
25 **number of schools, number of -- is there another**



1 metric that we could use besides such varying  
2 property? And so I don't know if you tax just  
3 something else other than property because it  
4 seems -- that seems to be the real problem is the  
5 property valuations are so greatly in divergence.

6 A. That is correct. Now, and I guess what  
7 the principal has always been that you -- you  
8 should only measure for wealth for -- for local  
9 option what the district can access. And since  
10 the only thing the district can tax is property,  
11 at least under the system, then it seems  
12 appropriate to use that as the measure. And I  
13 don't know, I've not been able to locate any state  
14 which would -- which doesn't have either some kind  
15 of per pupil or per capita or some measure of  
16 dividing wealth by the number of people you have  
17 to serve. So that's why I think it's difficult to  
18 come up with a different concept, unless we  
19 perhaps looked at some other things, as well.

20 MR. CROUSE: Mr. Tallman, you were  
21 unbelievably patient with me throughout this whole  
22 process. I appreciate it. I'm sorry we had to  
23 split your lunch hour. I can't thank you enough  
24 for the help you provided. Thank you.

25 CHAIRMAN RYCKMAN: Representative Henry.



800 E. 1<sup>st</sup> Street, Suite 305  
Wichita, KS 67202  
316-291-1612

5111 SW 21<sup>st</sup> Street  
Topeka, KS 66604  
785-273-3063  
www.appinobiggs.com

6420 W. 95<sup>th</sup> Street, Suite 101  
Overland Park, KS 66212  
913-383-1131

1 QUESTIONS BY REP. HENRY:

2 Q. You talked about student achievement and  
3 funding. Have you done some look at student  
4 achievement in learning compared to other states?  
5 What we do really well? Are we not teaching  
6 children better in this state than many other  
7 states? What have you found out on that?

8 A. Well, we believe we are. And to shadow  
9 debate with Mr. Trabert, because I know what he'll  
10 say and I understand where he comes from, KPI  
11 really tends to focus pretty exclusively on NAEP  
12 scores. And I understand that that is one uniform  
13 measure, although it is only a sampling of  
14 students.

15 When we have talked about achievement, we  
16 also look at graduation rates. We look at things  
17 like ACT, SAT scores. We look at percent of the  
18 population with advanced degrees. We try to look  
19 at multiple, multiple metrics, freely  
20 acknowledging there are problems with any one of  
21 them. I don't want to speak for KPI. I think  
22 their views. They kind of settle on one that  
23 perhaps they think is the best. We tend to think  
24 that because there are limitations in all of them,  
25 the more you look at the better. And I will tell



800 E. 1<sup>st</sup> Street, Suite 305  
Wichita, KS 67202  
316-291-1612

5111 SW 21<sup>st</sup> Street  
Topeka, KS 66604  
785-273-3063  
www.appinobiggs.com

6420 W. 95<sup>th</sup> Street, Suite 101  
Overland Park, KS 66212  
913-383-1131

1 you, because I just -- in fact, it may have been  
2 attached to one of my testimonies but you probably  
3 all didn't get to it because it was on page 20 or  
4 something like that, that if you really rank  
5 ironically we probably do worse on fourth grade  
6 NAEP reading. I mean, we are right about in the  
7 middle of the country there. Other NAEP scores,  
8 other rates, we tend to do better. If you average  
9 them all out, we tend to come somewhere in the top  
10 10 of all states.

11 And one thing about that that I find  
12 interesting is we tend to be higher if you average  
13 everything than if you look at anything  
14 individually because for some reason we do pretty  
15 well on almost everything, where there are some  
16 states that maybe they've got great graduation  
17 results, but not very good NAEP scores, or really  
18 good NAEP scores but not many kids go on to  
19 college, you know, factors like that. And so  
20 while we are not spectacular on anything, when you  
21 average them all together, we tend to run very  
22 high. So in terms of those comparisons, that's  
23 how we justify when we say we think we are a  
24 pretty high-achieving state.

25 And I will say one other thing, and I'll



1 give, I'll give my friend Dave Trabert credit for  
2 making us look at this. You know, we don't just  
3 look, where possible, at overall scores. We  
4 include how do we do with free lunch kids and how  
5 do we do with non free lunch kids. So we try to,  
6 where we can, even out some of those differences  
7 in student populations.

8 **Q. Have you been involved at all in**  
9 **discussions in development of a new school funding**  
10 **formula? You or your organization have been**  
11 **approached by the legislature to start the process**  
12 **of developing a new school funding formula?**

13 A. We, well, trying to be proactive. We  
14 have had some meetings and done some research that  
15 we have invited legislators to, and we have had  
16 some comments, some conversations simply on  
17 individual bases with some legislators. I, at  
18 least, have not been kind of privy to any planning  
19 of a comprehensive plan.

20 We have worked some with the group, the  
21 United School Administrators and Superintendents  
22 Association, they have put together a group where  
23 they are kind of trying to get into more of the  
24 details, and we've kind of taken the position we  
25 try to give them research and support. But



1 because they are really the practitioners, we have  
2 not yet weighed in on what they have done. We are  
3 trying to support that and we've just tried to  
4 share information with legislators.

5 MR. HENRY: Thank you.

6 QUESTIONS BY CHAIRMAN RYCKMAN:

7 Q. I'd like to follow up on that. I'm not  
8 sure if you can answer this, but I'm speaking for  
9 myself personally and for you. How many times do  
10 you think we've talked about this subject since  
11 the passing of the block grant, either on a one-  
12 on-one meeting or a small group meeting or in a  
13 forum you sponsored?

14 A. A number, many.

15 CHAIRMAN RYCKMAN: Okay, thank you.  
16 Senator Masterson.

17 QUESTIONS BY SENATOR MASTERSON:

18 Q. I echo that same question to you. I  
19 believe that every formula that I have been  
20 involved with or opinion has in some way involved  
21 discussions with you or around your material.  
22 Would you agree with that?

23 A. Yes. I think you and the legislature  
24 have been very good to listen. We haven't always  
25 agreed, but we understand that.



1           Q.    Fair.  My question, what do you think is  
2   -- your comments about NAEP scores being utilized  
3   by KPI, what do you think the best indicator is?  
4   Is it the state assessments that would indicate  
5   that a school is meeting the Rose standards or  
6   providing a suitable access to an educational  
7   opportunity?  What do you think our best  
8   measurement is?

9           A.    Well, there are two ways of looking at  
10   that.  Probably the best measures are, I think the  
11   things the K-12 interim committee kind of  
12   identified:  State assessments, because they  
13   really look at every child; graduation rates, some  
14   type of college participation rate.  I would say I  
15   think it's fair to look at remediation rates, but  
16   I think there has to be a big caveat because we  
17   don't require -- to graduate from high school, you  
18   don't you have to take a college prep curriculum,  
19   and I've always thought it was unfair to sort of  
20   blame schools of kids that graduate and chose not  
21   to take college prep courses and then decide to go  
22   to college, and you wouldn't expect them to be  
23   prepared.

24           And then I think we need to look for ways  
25   where perhaps those could be supplemented somewhat



1 for other NAEP factors, but I think what the State  
2 Board said and our members tend to say is things  
3 like citizenship and some of those issues would  
4 best -- may best be done just by letting the local  
5 boards figure out a measure that the state would  
6 approve so there were some parameters around that.  
7 Those would be harder to be uniform. That's what  
8 I think you can look at as sort of a state and  
9 kind of a baseline.

10 Then on the -- on -- if you are looking to  
11 compare Kansas, because I think context is always  
12 important, while there are problems with NAEP,  
13 we've used NAEP when Kansas looked really good and  
14 we are still using NAEP when we don't look as  
15 good. But we would add there are probably three  
16 different recognized national graduation rates.  
17 We include all those in our rankings. We look at  
18 ACT and SATs, knowing you have to make some  
19 adjustments because different states use them  
20 differently. And we look at things like the  
21 percent -- census data that looks at the percent  
22 of kids that have either gone -- have any type of  
23 post secondary experience, have they completed a  
24 one or two-year degree? Have they completed a  
25 four-year degree? Those are all things that there



1 is comparable national data around, as well as  
2 Kansas, and we think those -- you know, that fills  
3 a fair amount of what we think you would need to  
4 look at the Rose standards, but it certainly  
5 doesn't do everything.

6 Q. And my second question was I think you  
7 had an earlier statement that the Supreme Court  
8 had not accepted the block grant with the -- I  
9 read the quote from their opinion earlier that one  
10 obvious way the legislature could comply with  
11 Article 6 would be to revive the relevant portions  
12 of the previous school funding system and fully  
13 fund that within the current block grant system.  
14 That would indicate to me, would you agree, that  
15 it was the freezing of those two relevant portions  
16 that was the disagreement with the system, not the  
17 system in and of itself?

18 A. I would say, based on their ruling to  
19 this point, absolutely. And if I misspoke, I  
20 don't think the Court has opined on the whole  
21 system.

22 Q. I just wanted to -- I think I agree. I  
23 just wanted to make sure I didn't misunderstand  
24 your characterization.

25 And then the final comment I want to make



1 sure I understand is you made the statement if we  
2 would have held harmless prior to now, we probably  
3 wouldn't be here, something like that. And I'd  
4 like you to -- I'm not sure what you mean by that  
5 in the context of -- in my tenure here since the  
6 collapse of '08, the national collapse of '08 and  
7 the 20 percent into the state's funds and under  
8 Governor Parkinson there was adjustments there, as  
9 well. But there has not been a year in which we  
10 didn't appropriate additional money every single  
11 year consecutively, so I just want to make sure I  
12 understand what you mean by loss of money. Are we  
13 in the realm of disagreeing on the rate of the  
14 increase? Is it a reduction in the increase of  
15 loss? Is that what you are talking about here?  
16 What do you mean  
17 by --

18 A. Well, Senator, I want you to know that  
19 your comments are ever in my mind when I talk to  
20 my members about how they need to characterize  
21 these issues and explain to them that, in fact,  
22 that you are correct. The fateful year of, I  
23 guess it was 2014-15, that from the state's  
24 perspective the dollars appropriated in LOB  
25 capital outlay and other things were higher than



1 the year before and remain so.

2 From the school district perspective, the  
3 budgets that were adopted based on the formulas  
4 were not funded. And so just as we may now be  
5 talking about the educational consequences of next  
6 year, if there is winners and losers, in that year  
7 we had people that lost from what they were  
8 expecting to spend, and then those things again  
9 kind of froze in place for the next two years. I  
10 don't know how the Court necessarily would agree.  
11 I guess I'm trying to make the point that this --  
12 now looking at hold harmless, which again we  
13 support, we're just trying to make a point we have  
14 -- we have had years where individual districts  
15 may have lost or just under the working of the  
16 81.2, there are districts every year that may lose  
17 state aid that they have -- that's been common,  
18 but it's just this year there are 79 of them and  
19 it's very clear that a single state action of  
20 whether you fund this formula or not will have  
21 consequences.

22 **Q. So you just reminded me of one final. On**  
23 **the hold harmless, which I agree with, your**  
24 **comments on whether or not that hold harmless**  
25 **should have some factor as it pertains to local**



1 participation, I don't know if you were here when  
2 I asked that question earlier, if we decided to  
3 hold harmless the amount was X, you would look at  
4 the local district and look at their local  
5 participation and make some calculation by which  
6 you would require at least an average local effort  
7 before harmless was put in place?

8 A. Well, I think the discussion I had with  
9 that, and may not have been clear, just to say,  
10 one, we really haven't discussed that. So I don't  
11 know as I can give you a KASB position on that.

12 What I can say, though, is I think at least  
13 the caution is if you do that, you really are, I  
14 think, kind of creating an incentive for those  
15 districts to -- to spend more because, and I want  
16 to make sure I understand you and we are on the  
17 same page. I think there is something I think you  
18 or some of the others may have talked about this  
19 morning is should equalization or equity take into  
20 account local efforts or local mill rates? And  
21 when you -- what I thought of I think the answer  
22 to that is equal mill rates should be the  
23 consequence of equalization. I mean, and that's  
24 where I go back to saying we have long said  
25 districts don't all have to spend at the same



1 level. The idea is to say whatever level you  
2 choose to spend, we are going to give you the same  
3 -- the same share or the -- you know, so the  
4 policy has always been you don't have to maximize  
5 your spending to get something, we'll participate  
6 with you at whatever level it is. So what you're  
7 talking about I think would be a pretty big change  
8 in policy.

9 Q. I think you might be going beyond what  
10 I'm referring to and I'm not sure we are on the  
11 same page. My example is if we are doing a  
12 stopgap, if you will, this one year and so as you  
13 equalize, equalization by definition, has winners  
14 and losers or givers and receivers, or however you  
15 characterize this or shifts. So for those who  
16 would be receiving less, the loser, if you will,  
17 would be due -- the way I envision after the  
18 stopgap maybe X amount of dollars to fill that  
19 gap. That would be a hold harmless so they didn't  
20 have a reduction. All I'm saying is if that  
21 number was calculated, whether you were in a  
22 district, for example, that was taxing  
23 significantly under the average, they would have  
24 an opportunity to bring that up to average,  
25 compared to this hold harmless. So it would be



1 doing exactly what you're characterizing,  
2 compressing the poles. So those that are -- those  
3 that were above would get the hold harmless and  
4 reduce and those below would have to come up to  
5 some level before the hold harmless came into  
6 effect so if it would be bringing those equal  
7 taxations closer together.

8 A. I hate to quote someone from earlier this  
9 morning and say I would want to see a run. I'm  
10 not -- again, I think what you're asking I'm a  
11 little reluctant to weigh on too much because I'm  
12 not sure I completely understand, and I'm pretty  
13 sure my membership does not fully understand it  
14 yet. But if you propose it, we will share the  
15 information.

16 CHAIRMAN RYCKMAN: Anyone else have  
17 questions for Mr. Trabert?

18 MR. TALLMAN: Morphing together.

19 CHAIRMAN RYCKMAN: For the record, Mr.  
20 Tallman. Mr. Crouse.

21 MR. CROUSE: Thank you, Mr. Speaker. I  
22 think the final person that we have is former  
23 Speaker O'Neal. I called you, Mr. Speaker, so I  
24 apologize. It's been a long day.

25 EXAMINATION OF MIKE O'NEAL



1 QUESTIONS BY MR. CROUSE:

2 Q. Good morning -- or good afternoon. I'm  
3 ready to give up and go home.

4 I'm sorry. Mr. O'Neal, everyone in the room  
5 knows who you are and your relationship, but just  
6 so we can have a record would you please state  
7 your name, your kind of background and your unique  
8 relationship and perspective with regard to the  
9 school financing in Kansas?

10 A. Very well. My name is Mike O'Neal.  
11 Currently I serve as the President and CEO of the  
12 Kansas Chamber. But probably for purposes of  
13 relevance to this particular hearing, I served in  
14 the legislature for 28 years, retiring in 2012. I  
15 did serve as Chairman of the Education Committee  
16 approximately 20 years ago. I served as judiciary  
17 chairman for 16 years and I did serve as Speaker  
18 for two terms. I did serve on the Special  
19 Committee on School Finance back in the Montoy  
20 2005 special session year. And most recently,  
21 have served on the K-12 efficiency special  
22 committee that met in the summer. And even more  
23 recently than that, have been somebody who has  
24 opined and done responses to the most recent  
25 Gannon decision on equity and have offered a



1 handful of suggestions.

2 Q. Well, it seems to me we should have had  
3 you in here earlier and you could have solved this  
4 for us. That's kind, that's kind of what I'm  
5 looking for. What types of solutions have you  
6 seen the legislature consider over your tenure and  
7 what, aside from the equalization plans that are  
8 in the two current bills, what are the  
9 equalization strategies that you would suggest  
10 considering or resolving this current issue?

11 A. Well, I'll try to answer that this way in  
12 terms of just what I have witnessed. Keep in mind  
13 that I was here during the time that we were still  
14 operating under the SDEA, the School District  
15 Equalization Act, which was repealed in favor of  
16 the QPA School Finance Act, the QPA Act in 1992.

17 I would confirm what Dr. Hinson has indicated  
18 and what the Kansas Legislative Research  
19 Department can confirm is that every year  
20 subsequent to the passage of a school finance  
21 formula we've had a new formula or an amendment to  
22 -- and as you know, when you amend an Act, you  
23 repeal the prior Act and you have a new Act even  
24 though it's maybe a minor amendment. So we've had  
25 amendments ever since.



1           Some of those have addressed overall funding.  
2       Some of them have addressed weightings. Some of  
3       them have addressed, if you will, equalization.  
4       And I think you have already heard some testimony  
5       today about the old 75 percent, the 82.1 percent.  
6       So there have been a variety of efforts to, to  
7       address equity over the years, but those have --  
8       and I would -- again I would agree with Assistant  
9       Commissioner Dennis that in large part decisions  
10      like hold harmless from year to year and changes  
11      from year to year have been uniquely political.  
12      And I don't mean that in the term of -- I mean  
13      that in the literal term of the politics that  
14      creates legislation. It's the give and take  
15      between and among members of the legislature that  
16      arrives at a solution and passes the House and  
17      Senate and is signed by the Governor.

18           So inherently over the last 30 years, the  
19      exercise of creating a mechanism by which we  
20      finance -- creating a measure of finance for the  
21      educational interest of the state has been  
22      inherently a political process that literally  
23      changes from year to year based upon circumstances  
24      that are brought to the attention of the  
25      legislature.



1           You've asked -- I think the second part of  
2   your question was what recommendations I may have  
3   on equity. I have obviously opined about the  
4   Court's involvement in school finance litigation,  
5   but the new normal, the reality of it is, is the  
6   Court is very much involved in school finance, and  
7   that is something that we need to respect. Some  
8   states the courts will determine that because it's  
9   so inherently a part of the political process they  
10  will decline jurisdiction on a political question  
11  doctrine. This Court, and a number of other  
12  states, have found that this question is  
13  justiciable and they will hear school finance  
14  cases in which equity and/or adequacy are  
15  involved.

16           It has come to -- I have come to the  
17  realization, I guess is what I'm trying to say,  
18  that in view of that, in view of the fact that the  
19  Court will continue to look at this as a  
20  justiciable issue, that perhaps we are not doing  
21  ourselves or the districts any favors by  
22  continuing to try to operate in a political  
23  environment, knowing that the Court is not going  
24  to look at it as a political decision; they are  
25  going to look at it as a legal decision.



1 My experience over those years, and I think  
2 staff would agree, is that when you have a school  
3 finance question asked in the -- under this dome,  
4 if staff does not have an immediate off-the-top-  
5 of-their-head answer, and many times they will  
6 because they are that experienced, the next phone  
7 call goes to the Kansas State Department of  
8 Education because that's where the expertise  
9 resides in terms of doing the necessary  
10 calculations and knowing what those specific  
11 districts are doing, whether they have a bond  
12 issue that they are -- that they are about to  
13 propose or they are in the middle of, of what  
14 their enrollments are, of what their at-risk, of  
15 what their -- population is, what their free and  
16 reduced lunch populations are. Those are not  
17 questions or answers that the legislators have,  
18 those are answers that are uniquely within the  
19 purview of the Kansas State Department of  
20 Education.

21 One of the questions I find ironic that has  
22 not been asked, the Court has indicated, based  
23 upon their limited understanding of school finance  
24 law, a preference for a particular way of  
25 addressing equity. The legislature has had a



1 variety of different ways of addressing equity.  
2 No one has ever asked the Department of Education  
3 whether they think that that is the correct way of  
4 doing equity or questioned if the Court is asking  
5 us to reinstate the old formula, is this something  
6 that if the legislature were asked the Department  
7 of Education to do, would the Edu -- would the  
8 Department of Education come up with that formula  
9 on their own? Would that be the way they would do  
10 it, understanding the 286 school districts better  
11 than us. Maybe, maybe not. But perhaps the best  
12 answer would indeed come from those who know the  
13 286 school districts.

14 **Q. If I could interrupt you. Let me play**  
15 **devil's advocate and suggest there may be a**  
16 **mindset that the control would be more appropriate**  
17 **in this building, as opposed to the Department of**  
18 **Education. I mean, I think that's a concept that**  
19 **has prevailed and is currently the mechanism. How**  
20 **would that help -- how would that help this body**  
21 **satisfy equalization, I guess is what I'm**  
22 **wondering?**

23 **A. Well, the current law has been called the**  
24 **block grant, school finance block grant law or**  
25 **class, but it's essentially been referred to as a**



1 block grant. Frankly, mind you, that's a misnomer  
2 because it is not a grant, it is a block  
3 appropriation. In other words, an amount of money  
4 has been determined that will be appropriated for  
5 the purpose of education.

6 My concept of a block grant would be a grant,  
7 and that is a promise to provide a certain level  
8 of funding in exchange for a promise to allocate  
9 those funds in a legal way. And so to a large  
10 extent I think the legislature could satisfy its  
11 obligations and relieve itself of a lot of the  
12 political pressures that have, frankly, led to  
13 self-inflicted formulaic rules that have come back  
14 to bite them. You've heard the expression I think  
15 a couple times we continue to chase our tail from  
16 year to year, and that certainly has been my  
17 experience for almost three decades.

18 **Q. So in your --**

19 **A.** So you would literally -- we have two  
20 things the Court is looking at right now, and that  
21 is equity, and there is a definition of equity  
22 that they took from Texas: School districts must  
23 have reasonably equal access to substantially  
24 similar educational opportunity through a similar  
25 tax effort. What I would do, it sounds



1     simplistic, but I would say, Department of  
2     Education, you are going to get a grant of funds  
3     in exchange for a promise that you will distribute  
4     those funds in such a way that each school  
5     district has -- each student has reasonably equal  
6     access to a substantially similar educational  
7     opportunity through similar tax efforts. So if  
8     you want to do it very simplistically, that would  
9     be promise number one.

10           Promise number two we are not here to talk  
11     about, but the new definition of adequacy is a --  
12     develop a -- a method which in structure and in  
13     allocation is reasonably calculated to lead to the  
14     outcomes set forth in the statute of the Rose  
15     standards. There isn't a single person in the  
16     legislature, unless they are currently teaching,  
17     and I will -- I will give them that, who is in a  
18     position to deliver the outcomes that we now  
19     expect, the Court now expects. Those are uniquely  
20     a part of the mission of the Department of  
21     Education to deliver the promise of an education  
22     that meets those criteria. So under no  
23     circumstances could the legislature really be a  
24     player in making that happen, other than to  
25     provide the resources to make it happen.



1           So again, the second part of that grant would  
2   be to say and we are going to grant you this lump  
3   sum of money in exchange for a promise that you  
4   will allocate those resources in such a way as  
5   reasonably calculated to have 286 school districts  
6   get our kids to meet the outcomes set forth in the  
7   statute. And that would then assist the  
8   legislature in getting to a situation where they  
9   do what they do best, and that is appropriate.  
10   They take into account all sorts of input from the  
11   Department of the Education, and even school  
12   districts, and arrive at an amount that they are  
13   going to spend this year, next year, the year  
14   after that.

15           I love the idea of two-year, of at least two-  
16   year budgeting to give some certainty. But then  
17   you are talking about numbers of, say, statewide  
18   enrollment, not the enrollment change from this  
19   district to this district, this district lost  
20   enrollment, this district gained enrollment. You  
21   are talking about the entire enrollment for the  
22   statewide.

23           As Assistant Commissioner Dennis indicated,  
24   when you look at it statewide, enrollment is  
25   changing very minutely. So in terms of the



1 overall numbers that you would look at to  
2 determine whether you increase funding or decrease  
3 funding, frankly I don't think you can do the  
4 latter, it has not been the history at least over  
5 the last eight or nine years or 10 years.

6 But you would have things like enrollment,  
7 you would look at costs. We saw that -- we heard  
8 testimony that their insurance costs are going up  
9 or certain things that affect school districts.  
10 Take a look at how that is affecting the education  
11 system statewide and make an adjustment based upon  
12 those factors and then make a block grant to the  
13 Department of Education who is -- because I think  
14 they were very modest today, particularly Randy  
15 Watson. I'm thrilled that he's the Commissioner  
16 of Education right now. He's got a great vision  
17 and I think -- I couldn't imagine anybody any  
18 better to oversee the development of a formula, if  
19 you will, for allocating resources, which he  
20 indicated was his job. I can't think of a better  
21 person to, to have that discussion.

22 I also agree with I think it was  
23 Superintendent Hinson who said the time has come  
24 we've got to get people in the room and get this  
25 hashed out. And with all due respect, the people



1 in this room who get together and hash it out are  
2 going to be affected by political pressures, and  
3 ultimately the decision will be a political  
4 decision. Every time you do -- you vote for hold  
5 harmless, according to Dale Dennis, it's done  
6 because you've got to get votes. You're literally  
7 buying votes. You're promising a district that's  
8 going to lose money that they are going to get  
9 more money in exchange for that elected  
10 representative to say, yes, I will vote for it.  
11 And to the extent that you do that, you then  
12 create almost automatically a disequalization  
13 situation that you then have to chase. You get  
14 the number right one day and literally almost the  
15 next day you're disequalized because of the  
16 decision that was made, either a hold harmless or  
17 a, or an LOB passes over here and all of a sudden  
18 you're chasing your tail again. And with all due  
19 respect, I think the legislature needs to get out  
20 of that business, as long as there is a litigation  
21 environment and you've got a separate legislative  
22 entity, the State Board of Education, who is very  
23 capable of handling these, these equity decisions.

24 That, that piece of advice doesn't come  
25 easily because I have been one who has been all



800 E. 1<sup>st</sup> Street, Suite 305  
Wichita, KS 67202  
316-291-1612

5111 SW 21<sup>st</sup> Street  
Topeka, KS 66604  
785-273-3063  
www.appinobiggs.com

6420 W. 95<sup>th</sup> Street, Suite 101  
Overland Park, KS 66212  
913-383-1131

1 too willing to really get involved and get into  
2 the weeds on education funding, education policy  
3 and whatever, but to what end? We keep finding  
4 ourselves in a litigation environment that is  
5 unnecessary.

6 And if you look at the Court's -- if you look  
7 at what the Court has said, the test of the  
8 funding scheme becomes a consideration whether it  
9 sufficiently reduces the unreasonable wealth-based  
10 disparity so the disparity then becomes  
11 Constitutionally acceptable, not whether the cure  
12 necessarily restores the funding to prior levels.  
13 The Court is not telling you that you have to add  
14 more money, the Court is not telling you that you  
15 have to -- every district has to be equal. You  
16 can do this within the confines of the block  
17 grant.

18 It's not needs-based. The Court has  
19 indicated it's not needs-based. It -- literally,  
20 equity is not a needs-based determination.  
21 Rather, equity is triggered when the legislature  
22 bestows revenue-raising authority on school  
23 districts to restore so values vary widely from  
24 district to district such as the local option,  
25 mill levy on property.



1 Q. And would you agree that the two  
2 equalization strategies set forth in the bills  
3 that are currently before this legislature satisfy  
4 that command?

5 A. Absolutely, they do. Not that that  
6 necessarily would be my preference, but without  
7 question the Court made it very clear that doing  
8 it under this old formulaic process, even though  
9 the legislature actually spent more time on coming  
10 up with the equalization percentiles in the most  
11 recent block grants than they did under the 81.2,  
12 the Court seems to like the 81.2 and so it would  
13 be foolish not to at least try to address what the  
14 Court has articulated in its opinion.

15 My point is, is that, is that the extent that  
16 you have a legal issue right now that's self-  
17 inflicted. As soon as you have -- as soon as you  
18 have a formula and as soon as it's perceived that  
19 you have not funded a particular formula or that a  
20 formula suggests a different amount, you're also  
21 going to be behind the eight ball. When a formula  
22 is not necessary. Equity does not require. It is  
23 not a math calculation. Equity is equity.

24 I'm disturbed that we are dealing with equity  
25 before adequacy because you actually have to look



1 at adequacy first before you get to equity.  
2 Equity has nothing to do with the amount, it has  
3 to do with what you do with the amount. And so  
4 you start out with an amount that's adequate and  
5 then the obligation is to equalize, to make sure  
6 that that equal opportunity is there with the  
7 amount that has been allocated. So some of the  
8 things that I have come up with, some of them  
9 would not be popular, but the LOB seems to be the  
10 prime problem. It's less bond and interest, it's  
11 less capital outlay. That bond and interest  
12 really doesn't play a role here. Capital outlay  
13 is not a big issue, but it's the fact that we have  
14 been very, very generous with allowing local  
15 districts to pass LOBs, but those LOBs have caused  
16 the need for equalization.

17 You could have a provision that says if you  
18 are going to raise your LOB, and you can, and you  
19 can even make that amount higher, but within that  
20 LOB you have to capture an amount that would be  
21 necessary to equalize as a consequence of your  
22 raising the LOB. Because you know when you raise  
23 the LOB, you're getting the money you want  
24 locally, but as a consequence you're creating an  
25 unexpected entitlement someplace else through



1 equalization. You could actually force the LOB to  
2 capture an amount that could be set aside for  
3 equalization. Not very popular. I think you had  
4 a couple witnesses -- you floated that out with a  
5 couple of witnesses and you got the expected  
6 result.

7 Another way of doing it would be to create an  
8 equalization fund within your 20 mills, so you've  
9 got -- it's still property tax related, but you  
10 capture an amount within your 20 mills to take  
11 care of equalization.

12 Another way would be to go back to the old 35  
13 mills. I think you floated out that the idea of  
14 let's do away with the LOBs, go back to the old  
15 law where you have 35 mills statewide and you take  
16 care of equalization within that. I don't know  
17 how popular that would be, but if you're looking  
18 for ways and the Court said any number of ways  
19 would satisfy them.

20 We did, I will mention one other thing, and  
21 that is if you would increase the amount that's  
22 coming from the locals, and as Mr. Tallman  
23 correctly pointed out, Kansas is high on the  
24 percentage of SGF that is used compared with other  
25 states, and --



1 Q. I'm going to interrupt you. SGF?

2 A. State general fund, I'm sorry. So you  
3 could -- you could go to a situation where you  
4 have a little bit more capacity on the local side,  
5 local option or -- or the property tax mill levy.

6 We flirted a number of years on what we call  
7 LABs, instead of a local option budget; that we've  
8 learned over time have caused districts to,  
9 instead of using it on tax rates, it just builds  
10 right into their operating budgets. You create a  
11 local activities budget, which is outside the  
12 equalization requirements. It's for if you want a  
13 facility that's better than the neighbor down the  
14 road, if you want astro turf, if you want certain  
15 bells and whistles that are extra, give them a  
16 limited authority to pass a local activities  
17 budget that is uniquely within the control of the  
18 locals who want it, but does not trigger  
19 equalization someplace else. That's another way  
20 of doing it. But then I sort of started with my  
21 last one, and that is it has to be something that  
22 the Kansas State Department of Education figures  
23 out, and you're in the business of making a block  
24 grant in exchange for promises to allocate it in a  
25 Constitutional manner.



1 MR. CROUSE: Thank you, Mr. Speaker. Mr.  
2 Chairman, I have no further questions.

3 CHAIRMAN RYCKMAN: Any questions for Mr.  
4 O'Neal? Not seeing any, thank you so much for  
5 being here.

6 MR. O'NEAL: Thank you.

7 MR. CROUSE: If I may, just Mr. Chairman,  
8 and respected members of the legislature, thank  
9 you again for the opportunity to serve by making a  
10 record of this proceeding. I deeply appreciate  
11 it.

12 CHAIRMAN RYCKMAN: Thank you today for  
13 your patience and your attendance. I do thank all  
14 the folks who came in and gave testimony to assist  
15 us today. The Supreme Court held that school  
16 districts must have reasonable equal access to  
17 substantially similar educational opportunity  
18 through similar tax effort. This standard, the  
19 Court, recognized can be met in a variety of ways.  
20 One of those, of course, is to revive the relevant  
21 portions of the previous school funding system and  
22 totally fund them within the current block grant  
23 system.

24 HB 2731 did just that. But as you have  
25 heard, there does not appear to be public or



1 political support for this plan. Fortunately, the  
2 Court allowed this body the discretion to choose  
3 other options to satisfy the Constitutional  
4 standard of equity, but it warned that any other  
5 funding system this body enacts must be  
6 demonstrated to be capable of meeting the equity  
7 requirements of Article 6, while not running afoul  
8 of the adequacy requirement. If other options are  
9 considered and ultimately adopted, the Court  
10 respectfully requests some evidence of why this  
11 body chose a particular option and the basis for  
12 its belief that the options chosen satisfies the  
13 Constitutional standard. The state would help its  
14 case by showing its work and how it determined  
15 that any other proposed solution complies with  
16 Gannon I.

17 The testimony that you heard today is the  
18 first step in helping establish this body's  
19 rational basis for whatever legislation solution  
20 may follow. In particular, you undoubtedly  
21 noticed that a transcriptionist has been recording  
22 the events of today's committee hearing. That is  
23 unusual for this body, but a necessary step to  
24 adequately respond to the Supreme Court's order,  
25 and it's anticipated that the transcriptionist



1 will memorialize all subsequent hearings that this  
2 body has concerning our efforts to comply with the  
3 Supreme Court's remedial order and will reflect  
4 the competing interests, conflicting positions and  
5 the difficult policy choices that this body must  
6 resolve as it discharges its Constitutional duty.

7 The specific steps we have taken demonstrate  
8 our commitment to a single goal: Satisfy the  
9 Supreme Court directive so that public education  
10 is not disrupted by litigation.

11 Committee, we are adjourned.

12 (THEREUPON, the hearing concluded at 3:10  
13 p.m.)

14 .  
15 .  
16 .  
17 .  
18 .  
19 .  
20 .  
21 .  
22 .  
23 .  
24 .  
25 .



800 E. 1<sup>st</sup> Street, Suite 305  
Wichita, KS 67202  
316-291-1612

5111 SW 21<sup>st</sup> Street  
Topeka, KS 66604  
785-273-3063  
www.appinobiggs.com

6420 W. 95<sup>th</sup> Street, Suite 101  
Overland Park, KS 66212  
913-383-1131

## 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

