Testimony to House Appropriations Committee
HB 2731 School Funding Equalization
March 15, 2016
Dave Trabert, President

Chairman Ryckman and members of the Committee,

We appreciate this opportunity to present neutral testimony on HB 2731. We're pleased to see the Legislature proactively responding to the Supreme Court ruling on equity, although our preference would be a response that doesn't increase state spending.

As noted in the attached article we published, the Court reaffirmed that constitutional infirmities "can be cured in a variety of ways—at the choice of the legislature" with the proviso that any adjusted funding must also meet a separate test of adequacy – i.e., whether districts are receiving 'enough.' We believe SB 71 introduced last year would be an appropriate response to the Court, whether as written – which would reduce LOB equity by $3.3 million – or some modification that would spend the same amount.

The Court noted that spending less than would be provided by fully funding the old equity formula could create an 'adequacy' issue, but we believe there is ample evidence HB 2731 or SB 71 would still provide more than adequate funding.

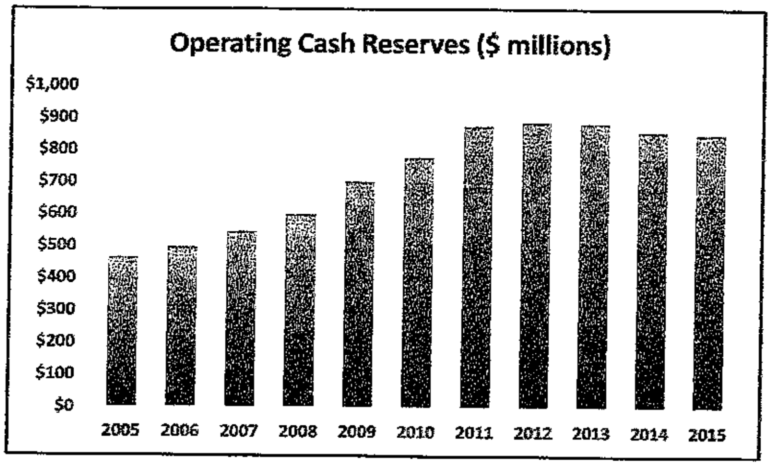
First of all, the Court upheld what we have constantly maintained – education is about outcomes rather than money. They specifically said *"...total spending is not the touchstone for determining adequacy."*[1]

Instead, the Court says adequacy *"...is met when the public education financing system provided by the legislature for grades K-12—through structure and implementation—is reasonably calculated to have all Kansas public education students meet or exceed the standards set out in Rose and presently codified in K.S.A. 2013 Supp. 72-1127. This test necessarily rejects a legislature's failure to consider actual costs as the litmus test for adjudging compliance with the mandates of Article 6. For example, even if a legislature had not considered actual costs, a constitutionally adequate education nevertheless could have been provided —albeit perhaps accidentally or for worthy non-cost-based reasons."*[2]

Since school districts admit that they can neither define nor measure the Rose capacities, they have no legal basis for claiming to lack adequate funding to achieve the Rose capacities. This fact alone could be sufficient grounds for dismissal of schools' claims, but there is more.

Schools and their taxpayer-funded lawyers base their adequacy claims on *Montoy*, which relied on the findings of an Augenblick & Myers cost study recommending specific funding levels. However, the *Gannon* Supreme Court rejected the lower court's reliance on that, saying "*.... actual costs from studies are more akin to estimates than the certainties the panel suggested.*"[3]

In distancing itself from the A&M cost study, the Court also said, "*.... the strength of these initial statements was later diluted by our primary focus on cost estimates—a focus that evolved in the Montoy litigation because of how the issues were presented to us by the district court and due to the remedial nature of some of our decisions.*"[4] The A&M cost study was presented as rock-solid evidence in *Montoy* but later, then-KPI scholar Caleb Stegall (now Supreme Court Justice Stegall) discovered that A&M had deviated from its own methodology so as to produce deliberately inflated numbers.[5]



We further know that the funding provided under Montoy, which is the basis for school claims of inadequate funding, is more than schools actually need because they haven't needed to spend it all. The $385 million increase in districts' operating cash reserves over the last ten years comes from state and local funding that wasn't spent – and that's in addition to the $468 million accumulated through 2005.

The equity issue must be resolved but we encourage the Legislature to do so without spending additional money, as the Court does not require more funding to satisfy equity and a large body of evidence shows that more money is not needed.

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[1] Gannon v. State of Kansas, page 77 at http://www.kscourts.org/Cases-and-Opinions/opinions/SupCt/2014/20140307/109335.pdf

[2] Ibid, page 76.

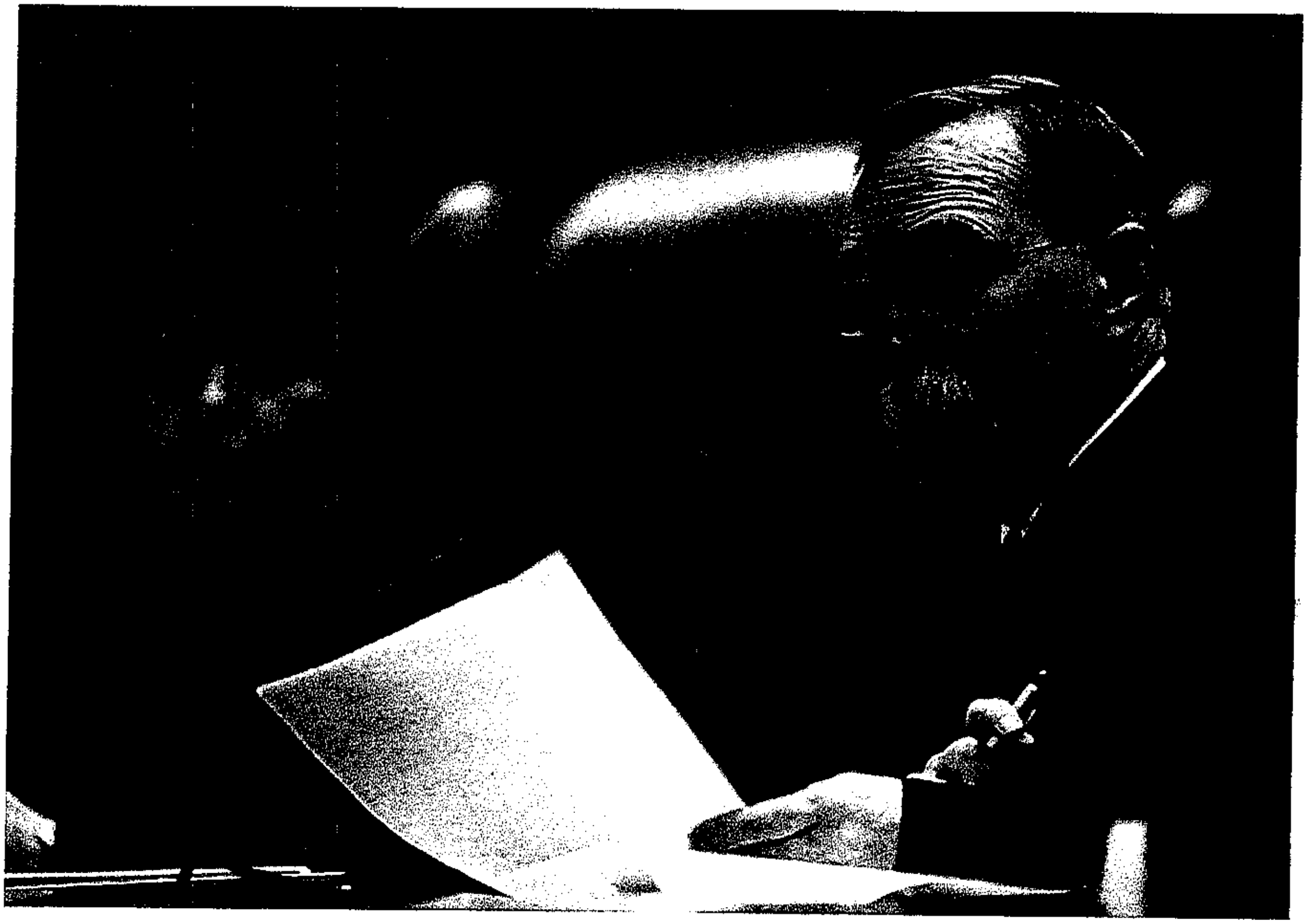
[3] Ibid

[4] Ibid, page 75.

[5] Caleb Stegall, "*Analysis of Montoy vs. State of Kansas*" https://kansaspolicy.org/volume-ii-analysis-of-montoy-vs-state-of-kansas/

Supreme Court ruling on equity creates challenges and opportunity

February 12, 2016



The February 11 Supreme Court decision ruling declaring that two pieces of state aid are not equitably distributed creates some opportunities and challenges for the Legislature. One big opportunity is the development of a new method to equitably distribute capital outlay and supplemental general state aid (Local Option Budget equity) without necessarily spending a lot more money for the current year. The Court reaffirmed that constitutional infirmities "can be cured in a variety of ways—at the choice of the legislature" with the proviso that any adjusted funding must also meet a separate test of adequacy – i.e., whether districts are receiving 'enough.'

The Legislature modified the equity formula to provide proportional funding to eligible districts but the Court said that amounts to under-funding the equity formula. The Court also ruled that equity funding cannot be 'frozen' as has been done under the block grant but must be adjusted annually according to the formula.

Equity system favors big districts

Equity is a constitutional construct that must be met, but putting more money into the

USD#	District	County	Amount Generated by 1 mill	2015 LOB Equity Aid Paid
502	Lewis	Edwards	$ 17,299	$0
292	Wheatland	Gove	$ 16,614	$0
314	Brewster	Thomas	$ 14,644	$0
468	Healy	Lane	$ 15,760	$0
259	Wichita	Sedgwick	$ 2,596,344	$ 54,440,762
233	Olathe	Johnson	$ 1,804,506	$ 28,041,350
500	Kansas City	Wyandotte	$ 683,521	$ 34,624,824
501	Topeka	Shawnee	$ 605,767	$ 18,043,374
		Source: KSDE		

existing equity system would be a perversion of the concept, as much of the increase would go to districts with high property values. Equity is distributed based on per-pupil valuation, so tiny districts where 1 mill of property tax generates less than $25,000 are considered 'wealthy' and ineligible for extra aid but districts in wealthy Johnson County are all considered 'poor' and in need of extra aid

Citizens and media might think equalization money goes to small counties with low property values, but the per-pupil valuation method favors the big counties. In fact, 49 percent of Local Option Budget equalization money went to the five counties with highest total assessed valuation last year. Distributing equity funding based on total valuation rather than per-pupil valuation would be a good option to consider. Another option was explored in the 2015 Legislative session; SB 71 would have equalized against the per-pupil valuation of Shawnee Mission (Johnson County), which has the highest total valuation. Districts with per-pupil valuation below Shawnee Mission would be eligible for equity aid based on their relative variance to the Shawnee Mission valuation per-pupil.

County	2015 LOB Equity Aid Paid
Sedgwick	$ 89,507,132
Johnson	$ 49,245,890
Wyandotte	$ 44,135,548
Shawnee	$ 28,774,137
Douglas	$ 7,746,934
5-county total	$ 219,409,641
state total	$ 448,422,920
Source: KSDE	

The current cut line for equity eligibility is the 81.2 percentile of per-pupil valuation, which was arbitrarily established years ago. Legislators had a specific amount of money to spend and simply drew the eligibility line where that specific amount would be spent. The SB 71 method draws the line on a rational basis and also brings total valu ation into play.

This spreadsheet shows Local Option Budget equity allocations by district under several scenarios: actual equity paid in 2013-14, block grant equity in 2014-15, full equalization under the current formula and 2014-15 calculation from SB 71.

Supplemental General State Aid / Equalization Comparison

Prepared by Kansas Policy Institute 2.12.15

Districts highlighted in yellow scheduled to receive no equalization funds from HB 2506 even though 1 mill raises less than [illegible]

(1) USD#	(2) USD Name	(3) County	(4) 2014-15 FTE Enrollment (incl MLT & VIRT)	(5) 2014-15 Total Valuation	(6) 2014-15 $ raised by 1 mill	(7) 2013-14 Actual SSGA	(8) 2014-15 SSGA Block Grant Provision	(9) 2014-15 SSGA per KSDE with higher budget authority	(10) 2014-15 Block Grant Change from full equalization	(11) 2014-15 SSGA per SB 71	(12) SB 71 Change from 2014-15 Block Grant
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

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Zoom 100%

Political challenges

Developing a new equity distribution formula presents a number of political challenges. SB 71 would provide more money to 115 districts but 177 districts would receive less.

District FTE Enrollment	SB 71 Gains	SB 71 Losses	Net Gain (Loss)
Less than 500	$ 487,854	$ (456,417)	$ 31,437
500 to 999	$ 676,845	$ (459,933)	$ 216,912
1,000 to 1,999	$ 1,003,313	$ (250,635)	$ 752,678
2,000 to 4,999	$ 296,585	$ (615,186)	$ (318,601)
5,000 to 9,999	$ 398,851	$ (324,308)	$ 74,543
Over 10,000	$ 1,488,041	$ (5,535,617)	$ (4,047,576)
	$ 4,351,489	$ (7,642,096)	$ (3,290,607)

Smaller districts that are arguably more in need of equalization would see net gains while net losses would be concentrated in large districts. Unlike the current arbitrary 81.2 percentile methodology, an SB 71-like formula would be rationally derived. But how many legislators would vote for such system if their district loses even a tiny amount of funding in the base year? Would Johnson County legislators object to Blue Valley and Shawnee Mission being declared 'wealthy' instead of 'poor'?

The large urban districts have a decided political advantage over small rural districts. Some use taxpayer money to employ full time lobbyists and since the big districts pay higher dues (more taxpayer money) to the Kansas Association of School Boards, the big guys tend to have more sway there as well. Union political power also favors the big districts because, as bank robber Willie Sutton said, that's where their money is found.

Some legislators would likely object to anything that doesn't spend millions more, but if history is any guide, most wouldn't say which tax they would increase or which budget they propose to cut to balance the budget.

Creating a new equity allocation method is a good opportunity, but angst over the court's threat to close schools may produce an even greater opportunity – convincing enough legislators to move forward with an entire new student-focused school funding system that holds districts accountable for outcomes and efficient use of taxpayer money. Doing so would finally putting the old system, block grants and related court battles in the rear view mirror.

And then perhaps the focus can shift to the real education crisis. For all the hue and cry over money, Kansas doesn't have a money crisis; funding continues to set records, districts continue to operate very inefficiently and some aren't even spending all of the money they receive. The real crisis is in student achievement, but districts don't want to talk about it.