Report of the K-12 Student Performance and Efficiency Commission to the 2015 Kansas Legislature

CHAIRPERSON: Sam Williams

VICE-CHAIRPERSON: Jim Hinson

OTHER MEMBERS: Dennis Depew, Janis Lee, Bev Mortimer, Mike O'Neal, Ken Thiessen, Dave Trabert, John Vratil

NON-VOTING MEMBERS (EX-OFFICIO): Scott Frank, Legislative Post Auditor; Raney Gilliland, Director of Legislative Research; Gordon Self, Revisor of Statutes; Brad Neuenswander, Interim Commissioner of Education; Shawn Sullivan, Director of the Budget

CHARGE

- Determine how school districts may be more cost effective in their operations;
- Review the differences in per pupil expenditures and administrative expenses among districts with similar enrollments, student demographics, and student assessment performance;
- Review recommendations by other efficiency task forces, such as the Governor's School Efficiency Task Force;
- Determine how district administrative functions may be shared among multiple school districts; and
- Review district expenditures not directly related to the goal of providing each student with the educational capabilities set forth in KSA 2013 Supp. 72-1127 (*Rose* standards).

K-12 Student Performance and Efficiency Commission

Report

Conclusions and Recommendations

The Commission makes the following recommendations or comments relating to its statutory charge:

- The Commission expects the Legislature to continue to fund the completion of high demand technical education programs as well as consider expansion of the program into other areas (This program was implemented *via* 2012 SB 155.);
- The Commission expects the Legislature to provide for a study of the obligation of the state to continue to fund bond and interest state aid, excluding from the study those school districts that do not receive any bond and interest state aid;
- The Commission expects school districts to develop long-range strategic plans for capital outlay expenditures;
- The Commission strongly endorses the state's current two-year budgeting cycle and recommends its continuation, recognizing the Legislature can amend budgets during a legislative session;
- The Commission, to promote trust for those school districts relying on state aid to carry out operations, expects the state to continue making state aid payments in a timely manner, paying particular attention to early July payments and special education payments;
- The Commission expects the Legislature to repeal the 65.0 percent instruction expenditure public policy goal currently in statute (KSA 2014 Supp. 72-64c01 and 72-6460 (c));
- The Commission recommends the Legislature require a cost and benefit analysis, examining the actual additional costs and actual expected benefits, be completed before any new state school district laws or regulations take effect;
- The Commission encourages continued support of the Coalition of Innovative Districts Act;
- The Commission applauds the State Board of Education for including finance, accounting, and budget management coursework in school district leadership licensing requirements. Furthermore, the Commission supports other entities in providing such continuing professional development;
- The Commission encourages inclusion of training in financial management for school district board members as an expectation to the newly developed school district accreditation requirements by the State Board of Education; and

- The Commission recommends the Legislature address the issue of good business practices supporting unencumbered ending balances in school districts, including establishing a reasonable amount of carry forward balances.

Proposed Legislation: The Commission recommends legislation be introduced to accomplish the following:

- Establish a task force to set guidelines for efficient operation of school districts, which would be used as benchmarks in annual performance audits conducted as part of the statutorily-required audits conducted by public accountants, repeal the law establishing a school district audit team within the Division of Post Audit requiring them to conduct three school district efficiency audits each fiscal year, and establish a School District Compliance Audit Fund in the State Treasury into which a demand transfer from the State General Fund will be made to pay school districts for expenses related to the audit; and

- Establish a study commission to study the standards for measuring educational outputs and whether the *Rose* standards are sufficient and measurable.

Background

The K-12 Student Performance and Efficiency Commission (Commission) was created by 2014 Senate Sub. for House Bill 2506, Section 29. The Commission is composed of the following members as required by the authorizing legislation:

- Six at-large members are appointed as follows: Two by the President of the Senate; one by the Minority Leader of the Senate; two by the Speaker of the House of Representatives; one by the Minority Leader of the House of Representatives;

- Three at-large members are appointed by the Governor; and

- The Commissioner of Education, the Director of the Budget, the Revisor of Statutes, the Legislative Post Auditor, and the Director of Legislative Research are nonvoting, *ex officio* members.

The 2014 Legislature charged the K-12 Student Performance and Efficiency Commission with studying and reviewing the following areas:

- Opportunities for school districts to be operated in a cost-effective manner;

- Variances in per pupil and administrative expenditures among school districts with comparable enrollment, demographics, and outcomes on statewide assessments;

- Opportunities for implementation of any recommendations made by any efficiency task forces established by the Governor prior to July 1, 2014;

- Administrative functions that may be shared between school districts; and

- Expenditures that are not directly or sufficiently related to the goal of providing each and every child with the capacities set forth in KSA 2014 Supp. 72-1127:

    - Development of sufficient oral and written communication skills to enable students to function in a complex and rapidly changing society;

    - Acquisition of sufficient knowledge of economic, social and political systems

to enable students to understand the issues that affect the community, state, and nation;

- Development of students' mental and physical wellness;

- Development of knowledge of the fine arts to enable students to appreciate the cultural and historical heritage of others;

- Training or preparation for advanced training in either academic or vocational fields to enable students to choose and pursue life work intelligently;

- Development of sufficient levels of academic or vocational skills to enable students to compete favorably in academics and the job market; and

- Needs of students requiring special education services.

Committee Activities

The Commission requested and was granted twelve meeting days by the Legislative Coordinating Council. The Commission met July 18; August 19 and 20; September 3, 4, 18, and 19; November 14; and December 15.

July 18

The Commission elected Sam Williams Chairperson and Jim Hinson Vice-chairperson. Additionally, the Commission heard the following presentations:

- Commission charge and statutory educational capacities, Jason Long, Office of Revisor of Statutes;

- School efficiency audit reports, Scott Frank, Legislative Post Auditor;

- Recommendations from the Governor's School Efficiency Task Force, Ken Willard, Task Force Chairperson; and

- Past years' school data, Brad Neuenswander, Interim Commissioner of Education.

August 19 and 20

The Commission received presentations regarding student performance and school efficiency from the Kansas Association of School Boards, the United School Administrators, the Kansas-National Education Association, and the American Federation of Teachers-Kansas. The Commission also received presentations from staff regarding the implementation of recommendations from Legislative Post Audit school district efficiency audits and the Governor's School Efficiency Task Force. The Commission received additional presentations on the Kansas Public Employees' Retirement System and information regarding school district expenditures.

September 3 and 4

The Commission received presentations regarding student performance and school efficiency from superintendents of the following school districts: USD 282-West Elk, USD 439-Sedgwick, USD 465-Winfield, USD 266-Maize, USD 458-Basehor-Linwood, USD 233-Olathe, USD 443-Dodge City, USD 273-Beloit, USD 490-El Dorado, USD 447-Cherryvale, and USD 259-Wichita.

The Commission also received a presentation from Dr. Randy Watson, Chairperson of the Coalition of Innovative School Districts' Board.

September 18 and 19

The Commission received a presentation regarding the Legislative Post Audits of at-risk funding from Scott Frank, Legislative Post Auditor. The Commission also received a presentation on the services provided and benefits offered by Jobs for America's Graduates by Matthew Fearing.

November 14

The Commission received a presentation on school district financial audits from Mark Dick of Allen, Gibbs & Houlik. The Commission received presentations regarding school district accounting systems from the Southeast Kansas Education Service Center and Harris School Solutions/Data Team Systems. Staff presented information on surveys conducted by the Commission of school district superintendents and an online survey open to the public. Finally, the Commission received presentations regarding the services offered by education service centers by representatives of Southwest Plains Regional Service Center, Southeast Kansas Education Service Center, and Smoky Hill Education Service Center.

December 15

The Commission reviewed all recommendations and bill drafts. The Commission adopted the recommendations presented in the draft report and and determined not to include the following legislative proposals in its report:

- Establish a study commission to study the use of unencumbered cash balances by school districts and determine an appropriate amount of carry over for school districts across fiscal years (a recommendation for legislative action was adopted instead);

- Establish a study commission to study the reorganization of school district administration; and

- Require school districts to examine interlocal agreement opportunities every five years and report on whether those opportunities were pursued.

January 6

The Commission reviewed revised bill drafts and determined not to introduce legislation that would amend the current Professional Negotiations Act.

AN ACT concerning education; creating the efficient operation of schools task force; relating to annual audits of school districts; relating to audits of the state department of education; amending K.S.A. 2014 Supp. 46-1226 and repealing the existing section; also repealing K.S.A. 2014 Supp. 46-1130, 46-1132 and 46-1133.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) There is hereby established the efficient operation of schools task force. The task force shall be composed of five members, as follows:

(1) The chairperson of the house committee on education;

(2) the chairperson of the senate committee on education;

(3) the chairperson of the house committee on appropriations;

(4) the chairperson of the senate committee on ways and means; and

(5) the commissioner of education.

(b) The efficient operation of schools task force shall establish best practice guidelines for efficient operation of school districts to be used in compliance audits conducted pursuant to section 2, and amendments thereto. The task force shall consult with superintendents, auditors and such other experts and knowledgeable individuals as the task force deems necessary to establish such best practice guidelines. The task force shall submit a report of such best practice guidelines to the state department of education, the governor and the legislature on or before December 31, 2015.

(c) The first meeting of the task force shall be called by the commissioner of education on or before August 1, 2015.

(d) (1) If approved by the legislative coordinating council, members of the task force attending meetings authorized by the task force shall be paid amounts for expenses, mileage and subsistence as provided in K.S.A. 75-3223(e), and amendments thereto.

(2) The members of the task force shall select a chairperson and vice-chairperson from the membership of the task force.

(3) The task force may meet at any time and at any place within the state on the call of the chairperson. A quorum of the task force shall be three members. All actions of the task force shall be by motion adopted by a majority of those members present when there is a quorum.

(4) The staff of the office of revisor of statutes, the legislative research department and other central legislative staff service agencies shall provide such assistance as may be requested by the task force.

(e) Beginning August 1, 2018, and every three years thereafter, the task force shall reconvene to review and update the best practice guidelines. The task force shall submit a report with the updated best practice guidelines to the state department of education, the governor and the legislature on or before December 31 of each year in which the task force reconvenes to update the best practice guidelines. Any updated best practice guidelines shall be used as benchmarks in all subsequent compliance audits conducted pursuant to section 2, and amendments thereto.

New Sec. 2. (a) Beginning January 1, 2016, every unified school district shall have a compliance audit conducted at least once each year. School district compliance audits shall be conducted as part of and supplemental to the audits conducted pursuant to K.S.A. 75-1122, and amendments thereto. The best practice guidelines established pursuant to section 1, and amendments thereto, shall be used as benchmarks in such compliance audits.

(b) Upon completion of a compliance audit, a school district shall publish a summary of its audit report with recommendations, if any, on the district's website. Such summary shall contain a notice that the complete audit report may be obtained or viewed free of charge at the unified school district office.

New Sec. 3. (a) There is hereby established in the state treasury the school district compliance audit fund which shall be administered by the state department of education. All expenditures from the school district compliance audit fund shall be used for the expenses incurred by school districts to conduct the annual compliance audits required by section 2, and amendments thereto. All expenditures from the school district compliance audit fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state board of education or the designee of the state board of education.

(b) Annually, on or before July 1, beginning on July 1, 2016, the state board of education shall certify to the director of accounts and reports the amount required for school districts to conduct the annual compliance audits required by section 2, and amendments thereto, and an amount equal thereto shall be transferred by the director from the state general fund to the school district compliance audit fund for distribution to school districts as provided in subsection (a). All transfers made in accordance with the provisions of this subsection shall be considered to be demand transfers from the state general fund.

New Sec. 4. The legislative division of post audit shall conduct an audit of the state department of education on or before June 30, 2016. The scope of such audit shall include: (a) The financial operations of the state department of education; and (b) regulatory requirements placed on local school districts and whether increasing district flexibility would lead to efficiencies. A copy of the audit report shall be made available to each member of the legislature in accordance with K.S.A. 46-1212c, and amendments thereto.

Sec. 5. K.S.A. 2014 Supp. 46-1226 is hereby amended to read as follows: 46-1226. (a) Any cost study analysis, audit or other study commissioned or funded by the legislature and any conclusions or recommendations thereof shall not be binding upon the legislature. The legislature

may reject, at any time, any such analysis, audit or study and any conclusions and recommendations thereof.

(b) A cost study analysis, audit or study shall include, but not be limited to, any cost study analysis, audit or study conducted pursuant to K.S.A. 46-1225, prior to its repeal, K.S.A. 2007 Supp. 46-1131, prior to its repeal, and K.S.A. 2014 Supp. 46-1132, ~~and amendments thereto~~ prior to its repeal.

Sec. 6. K.S.A. 2014 Supp. 46-1226, 46-1130, 46-1132 and 46-1133 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

PROPOSED BILL NO. ____

AN ACT concerning education; creating the Kansas education standards study commission.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) There is hereby established the Kansas education standards study commission. The commission shall study and make recommendations to the legislature for the adoption of measurable standards to achieve the educational goal established in K.S.A. 72-1127(c), and amendments thereto.

(b) (1) The Kansas education standards study commission shall consist of nine voting members who shall be representative of business and industry, school districts and postsecondary educational institutions, and who shall be appointed as follows:

(A) Two shall be appointed by the president of senate;

(B) two shall be appointed by the speaker of the house of representatives;

(C) one shall be appointed by the minority leader of the senate;

(D) one shall be appointed by the minority leader of the house of representatives; and

(E) three shall be appointed by the governor.

(2) The commissioner of education, the president of the state board of regents and the director of the budget shall be nonvoting, ex-officio members of the commission.

(c) The speaker of the house of representatives shall designate the member to convene and organize the first meeting of the commission at which time the commission shall elect from among its members a chairperson. Any vacancy in the membership of the commission shall be filled by appointment in the manner prescribed by this section for the original appointment.

(d) A majority of all members shall constitute a quorum. All actions of the commission

shall be taken by a majority of all members of the commission.

(e) Members of the commission shall receive expenses, mileage and subsistence as provided in K.S.A. 75-3223(e), and amendments thereto.

(f) The staff of the office of revisor of statutes, the Kansas legislative research department and other central legislative staff service agencies shall provide such assistance as may be requested by the commission.

(g) The commission shall study and review:

(1) The desired end product of the state elementary and secondary public school system in terms of preparing students for success after completion of high school;

(2) whether the capacities set forth in K.S.A. 72-1127(c), and amendments thereto, are sufficient standards with which to hold school districts and public schools accountable for producing the desired end product; and

(3) if such capacities are sufficient standards, what are appropriate methods for measuring such standards to determine if school districts and schools are achieving the educational goal established in K.S.A. 72-1127(c), and amendments thereto.

(h) The commission shall prepare and submit a report to the legislature on or before January 8, 2016, with findings and recommendations which the commission deems necessary, including the recommendation of any legislation.

(i) The provisions of this section shall expire on January 12, 2016.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Minority Report of the K-12 Student Achievement and Efficiency Commission

Submitted by: Dennis Depew, Mike O'Neal, Dave Trabert and Sam Williams

Date: January 9, 2015

The purpose of this minority report is to offer findings and recommendations we believe to be vital for the improvement of the K-12 system but that did not have the support of a majority of Commission members.

Inaccurate understanding of "efficient"

It was made clear by Chairman Williams (and echoed by other commission members) that "efficiency" is not simply about spending less money, but providing the same or better quality of service / function at a better price. Some efficiency actions have been implemented by school districts but many districts seem to believe that "efficient" simply means spending less money without regard to service impact.

Some districts also do not believe that efficiency can be mandated by the Legislature. We disagree. Indeed, we believe the Legislature has a general fiduciary responsibility to the citizens of Kansas to ensure that taxpayer money is efficiently spent and to specifically ensure that discretionary education dollars are maximized in the classroom. Decisions to spend more than necessary for a service or product, whether for the purpose of patronizing local merchants or acquiescing to district employees, undermine district claims of inadequate funding for instruction services and teacher salaries; such decisions also prioritize other interests above student needs.

School districts admit that they operate inefficiently

The Commission heard multiple reports of positive steps districts have taken to reduce costs and those efforts are greatly appreciated. However, we heard testimony from Legislative Post Audit confirming that each of their school efficiency audits found multiple opportunities to operate more efficiently; LPA also stated that their recommendations are often not acted upon. We also heard considerable testimony acknowledging that districts are still choosing to operate inefficiently in many ways.

For example, the Kansas Association of School Boards (KASB) said it may be more efficient to buy products or services through the state or some type of purchasing cooperative, but doing so erodes

local control. Regardless of the rationale, these are conscious decisions to divert discretionary spending from classroom instruction and place a lower priority on student outcomes.

Districts acknowledged that it would save money to purchase fuel, vehicles, insurance, communications, curriculum, technology, internet service, software, supplies and other commonly utilized products from a statewide bid; some even requested many more opportunities to purchase from statewide bids.

Districts seem generally opposed, however, to being required to participate in such efficiency opportunities. That position would make sense if districts were 100% funded by local patrons, but that is not the case. District administrators and local school board members are effectively forcing all Kansans to underwrite choices to operate inefficiently, and that is not appropriate.

Cherryvale-Thayer Superintendent Randy Wagoner said his district has considered outsourcing payroll but the proposal is "...getting little traction."

El Dorado Superintendent Sue Givens said the district followed a Legislative Post Audit recommendation to outsource their food service and experienced cost savings and also saw "sizeable increases" in the number of meals served. Many districts, however, still have district-run food services.

Ms. Givens also testified that the construction of a new elementary school replacing two small buildings with less than 200 students each remedied inefficiencies in scheduling and time travel for staff. Other districts, however, said they choose to operate small facilities even though it is more expensive to do so. Winfield Superintendent J.K. Campbell testified that district administration and board members rejected a Legislative Post Audit recommendation to reduce space in its central office and consolidate enrollment by closing two schools with low enrollment, saying that the recommendation "...would not be supported locally or through our negotiated agreement." Negotiating inefficiency into a union agreement is particularly noteworthy.

There are many opportunities for districts to operate more efficiently, including these two promising options.

1. Outsource maintenance, custodial, food service, payroll and other non-instructional functions. Some districts claim it is more cost effective to have these functions performed by staff but no documentation was offered to substantiate such claims. To the contrary, there is evidence that districts pay far more than market wages for some positions and costs for KPERS, payroll taxes, and benefits further increase costs, as well as associated costs for supplies and materials.

2. Consolidate non-instruction functions into regional service centers or statewide as appropriate. Several regional service centers provided testimony indicating that significant savings are available, including some instructional functions (notably on virtual education) and even professional development.

Districts do not understand how to measure and define the Rose standards

Individual school districts, United School Administrators (USA) and the Kansas Association of School Boards (KASB) presented testimony to the K-12 Student Achievement and Efficiency Commission that acknowledged their inability to measure and define the *Rose* standards and asked for assistance in doing so. The following quotes are taken from their written testimony.

On August 19, KASB asked the K-12 Commission to "Encourage the development of a system to define and measure the Rose student capacities...." KASB representative Mark Tallman emphasized that this is the position of their member districts and not just a position taken by the organization.

Dr. Cynthia Lane, superintendent of the Kansas City district testified on August 19 on behalf of USA, saying. "Once we define what it means to be a well-educated student in Kansas, we must determine how best to measure toward that goal." She said being a well-educated student is the end target and that the Rose standards "provide some guidance" but acknowledged that there is uncertainty on how to measure success.

On September 3, Olathe Superintendent Marlin Berry said "...the Rose standards need to be well-defined so that school districts know what they mean." He went on to say, "We need to better define the Rose standard capacities."

Dodge City superintendent Alan Cunningham also testified on September 3, objecting to state intervention on "efficiencies" and said that the local school board and community should set public school priorities "...until such time as there is agreement on indicators for assessing a school's, district's or state's performance relative to the Rose standards."

Other districts expressed similar concerns and we learned that the Department of Education is conducting a series of discussions over the next six months to gather input on what the *Rose* standards mean and how they should be measured. We encourage the Legislature to take an active role in determining how the *Rose* standards should be interpreted and measured.

Further, we do not see how any court can measure whether or not the *Rose* standards are being met when all interested parties agree there is no established measurement criteria. We also note the districts' inability to define and measure the Rose standards calls into question claims that schools are not adequately funded. The Supreme Court ruling on Gannon says the primary determination of adequate funding is whether students are meeting or exceeding the Rose standards. If districts cannot define or measure those standards, it seems that they have no basis for claiming to not have adequate funding to meet them.

Collective bargaining reform

In 2012, the Governor's School Efficiency Task Force recommended that that the Legislature "Revise/narrow the Professional Negotiations Act to prevent it from hindering operational flexibility/resource assignment." The Kansas Association of School Boards (KASB) encouraged this

K-12 Commission to "...recommend policies that empower local school leaders to make the best decisions for their community - but with accountability for results." Recommendations under that heading included this statement: "...the number of items required for bargaining should be reduced."

KASB did indicate a preference for reaching mutual agreement with unions over revisions to the Professional Negotiation Act, but no such agreement has been reached.

We concur with the findings of the Governor's School Efficiency Task Force and agree with KASB that there should be fewer mandatory subjects of bargaining. Accordingly, we encourage the Legislature to enact the attached proposed legislation 15rs0074 which would amend the Professional Negotiations Act for local school districts by limiting the mandatory subjects of bargaining to "salaries and wages, including pay for duties under supplemental contracts, and hours and amounts of work."

All other mandatory subjects of bargaining currently in statute would become 'permissive' subjects of bargaining subject to mutual agreement of the negotiating parties. Those subjects are, vacation allowance, holiday, sick, extended, sabbatical, and other leave, number of holidays, retirement, insurance benefits, wearing apparel, pay for overtime, jury duty, grievance procedure, including binding arbitration of grievances, disciplinary procedure, resignations, termination and nonrenewal of contracts, reemployment of professional employees, terms and form of the individual professional employee contract, probationary period, professional employee appraisal procedures, employment incentive or retention bonuses authorized under K.S.A. 72-8246 and amendments thereto; and (b) matters which relate to privileges to be granted the recognized professional employees' organization including, but not limited to, voluntary payroll deductions, dissemination of information regarding the professional negotiation process and related matters to members of the bargaining unit on school or college premises through direct contact with members of the bargaining unit and reasonable leaves of absence for members of the bargaining unit for organizational purposes such as engaging in professional negotiation and partaking of instructional programs properly related to the representation of the bargaining unit.

Retain legislative policy on 65% of total spending going to Instruction

We disagree with the Commission's recommendation to repeal the 65 percent instruction expenditure public policy goal currently in statute. (KSA 2014 Supp. 72-64c01 and 72-6460 (c)). The purpose of the 2006 statute was to signal legislative intent that Instruction spending post-*Montoy* should be much more heavily emphasized but districts have barely changed spending patterns. As noted earlier, there is even evidence that they are consciously diverting money away from Instruction by choosing to operate inefficiently in non-Instruction areas.

This table shows that districts allocated 54.2% of total spending to Instruction in 2005; nine years and nearly $1.7 billion later, Instruction accounts for just 55.1% of total spending. To put that in perspective, more than $5 billion dollars could have gone to Instruction if districts had followed the Legislature's intent.

School Year	Total Instruction	Total Spending	Instruction % of Total	Instruction @ 65%	Instruction Shortfall from 65% Goal
2005	$2,323,989,206	$4,289,414,543	54.2%		
2006	$2,538,402,259	$4,689,294,566	54.1%	$3,048,041,468	$509,639,209
2007	$2,838,086,664	$5,142,076,915	55.2%	$3,342,349,995	$504,263,331
2008	$3,012,202,049	$5,446,364,682	55.3%	$3,540,137,043	$527,934,994
2009	$3,125,874,385	$5,666,731,992	55.2%	$3,683,375,795	$557,501,410
2010	$3,072,418,005	$5,589,549,135	55.0%	$3,633,206,938	$560,788,933
2011	$3,058,346,377	$5,587,044,330	54.7%	$3,631,578,815	$573,232,438
2012	$3,154,232,674	$5,771,010,808	54.7%	$3,751,157,025	$596,924,351
2013	$3,212,377,130	$5,852,470,791	54.9%	$3,804,106,014	$591,728,884
2014	$3,293,217,088	$5,975,517,681	55.1%	$3,884,086,493	$590,869,405
					$5,012,882,954

Source: Kansas Department of Education

The point of retaining the policy goal in statute is not that 65% is a 'magic' number, but to remind school districts and citizens that the Legislature believes students are better served by moving more discretionary spending to Instruction.

Note: Commissioner Depew voted to remove the 65% policy goal but would support retaining it if the definition of instructional expenses was reexamined.

Spending not directly or sufficiently related to improving academic outcomes

The Commission did not have time to investigate whether districts are spending money that is not directly or sufficiently related to improving outcomes, but we encourage the Legislature to take up that investigation.

2015

15rs0074

PROPOSED BILL NO. ____

AN ACT concerning schools; relating to negotiable terms and conditions in the professional negotiations act; amending K.S.A. 2014 Supp. 72-5413 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2014 Supp. 72-5413 is hereby amended to read as follows: 72-5413. As used in this act and ~~in acts amendatory thereof or supplemental~~ amendments thereto:

(a) The term "persons" includes one or more individuals, organizations, associations, corporations, boards, committees, commissions, agencies, or their representatives.

(b) "Board of education" means the state board of education pursuant to its authority under K.S.A. 76-1001a and 76-1101a, and amendments thereto, the board of education of any school district, the board of control of any area vocational-technical school and the board of trustees of any community college.

(c) "Professional employee" means any person employed by a board of education in a position which requires a certificate issued by the state board of education or employed by a board of education in a professional, educational or instructional capacity, but shall not mean any such person who is an administrative employee and, commencing in the 2006-2007 school year, shall not mean any person who is a retirant from school employment of the Kansas public employees retirement system, regardless of whether an agreement between a board of education and an exclusive representative of professional employees that covers terms and conditions of professional service provides to the contrary.

(d) "Administrative employee" means, in the case of a school district, any person who is employed by a board of education in an administrative capacity and who is fulfilling duties for

which an administrator's certificate is required under K.S.A. 72-7513, and amendments thereto; and, in the case of an area vocational-technical school or community college, any person who is employed by the board of control or the board of trustees in an administrative capacity and who is acting in that capacity and who has authority, in the interest of the board of control or the board of trustees, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them or to adjust their grievances, or effectively to recommend a preponderance of such actions, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(e) "Professional employees' organizations" means any one or more organizations, agencies, committees, councils or groups of any kind in which professional employees participate, and which exist for the purpose, in whole or part, of engaging in professional negotiation with boards of education with respect to the terms and conditions of professional service or for the purpose of professional development or liability protection.

(f) "Representative" means any professional employees' organization or any person it authorizes or designates to act in its behalf or any person a board of education authorizes or designates to act in its behalf.

(g) "Professional negotiation" means meeting, conferring, consulting and discussing in a good faith effort by both parties to reach agreement with respect to the terms and conditions of professional service.

(h) "Mediation" means the effort through interpretation and advice by an impartial third party to assist in reconciling a dispute concerning terms and conditions of professional service

which arose in the course of professional negotiation between a board of education or its representatives and representatives of the recognized professional employees' organization.

(i) "Fact-finding" means the investigation by an individual or board of a dispute concerning terms and conditions of professional service which arose in the course of professional negotiation, and the submission of a report by such individual or board to the parties to such dispute which includes a determination of the issues involved, findings of fact regarding such issues, and the recommendation of the fact-finding individual or board for resolution of the dispute.

(j) "Strike" means an action taken for the purpose of coercing a change in the terms and conditions of professional service or the rights, privileges or obligations thereof, through any failure by concerted action with others to report for duty including, but not limited to, any work stoppage, slowdown, or refusal to work.

(k) "Lockout" means action taken by a board of education to provoke interruptions of or prevent the continuity of work normally and usually performed by the professional employees for the purpose of coercing professional employees into relinquishing rights guaranteed by this act and the act of which this section is amendatory.

(l) (1) "Terms and conditions of professional service" means: (A) With respect to the board of control of any area vocational-technical school and the board of trustees of any community college: ~~(A)~~(i) Salaries and wages, including pay for duties under supplemental contracts; hours and amounts of work; vacation allowance, holiday, sick, extended, sabbatical, and other leave, and number of holidays; retirement; insurance benefits; wearing apparel; pay for overtime; jury duty; grievance procedure; including binding arbitration of grievances;

disciplinary procedure; resignations; termination and nonrenewal of contracts; reemployment of professional employees; terms and form of the individual professional employee contract; probationary period; professional employee appraisal procedures; each of the foregoing being a term and condition of professional service, regardless of its impact on the employee or on the operation of the educational system; ~~(B)~~(ii) matters which relate to privileges to be granted the recognized professional employees' organization including, but not limited to, voluntary payroll deductions; dissemination of information regarding the professional negotiation process and related matters to members of the bargaining unit on school or college premises through direct contact with members of the bargaining unit; reasonable leaves of absence for members of the bargaining unit for organizational purposes such as engaging in professional negotiation and partaking of instructional programs properly related to the representation of the bargaining unit; any of the foregoing privileges which are granted the recognized professional employees' organization through the professional negotiation process shall not be granted to any other professional employees' organization; and ~~(C)~~(iii) such other matters as the parties mutually agree upon as properly related to professional service including, but not limited to, employment incentive or retention bonuses authorized under K.S.A. 72-8246, and amendments thereto.

~~(2)~~(B) With respect to the state board of education pursuant to its authority under K.S.A. 76-1001a and 76-1101a, and amendments thereto, and the board of education of any school district: (i) Salaries and wages, including pay for duties under supplemental contracts, and hours and amounts of work; and (ii) such other matters as the parties mutually agree upon as properly related to professional service including, but not limited to: (a) Vacation allowance, holiday, sick, extended, sabbatical and other leave, number of holidays, retirement, insurance

benefits, wearing apparel, pay for overtime, jury duty, grievance procedure, including binding arbitration of grievances, disciplinary procedure, resignations, termination and nonrenewal of contracts, reemployment of professional employees, terms and form of the individual professional employee contract, probationary period, professional employee appraisal procedures, employment incentive or retention bonuses authorized under K.S.A. 72-8246, and amendments thereto; and (b) matters which relate to privileges to be granted the recognized professional employees' organization including, but not limited to, voluntary payroll deductions, dissemination of information regarding the professional negotiation process and related matters to members of the bargaining unit on school or college premises through direct contact with members of the bargaining unit and reasonable leaves of absence for members of the bargaining unit for organizational purposes such as engaging in professional negotiation and partaking of instructional programs properly related to the representation of the bargaining unit. Any of the foregoing privileges which are granted the recognized professional employees' organization through the professional negotiation process shall not be granted to any other professional employees' organization.

(2) Nothing in this act, and amendments thereto, shall authorize any professional employees' organization to be granted the exclusive privilege of access to the use of school or college facilities for meetings, the use of bulletin boards on or about the facility or the use of school or college mail systems.

(3) Nothing in this act, and amendments thereto, shall authorize the diminution of any right, duty or obligation of either the professional employee or the board of education which have been fixed by statute or by the constitution of this state. Except as otherwise expressly

provided in this subsection (l), the fact that any matter may be the subject of a statute or the constitution of this state does not preclude negotiation thereon so long as the negotiation proposal would not prevent the fulfillment of the statutory or constitutional objective.

(4) Matters which relate to the duration of the school term, and specifically to consideration and determination by a board of education of the question of the development and adoption of a policy to provide for a school term consisting of school hours, are not included within the meaning of terms and conditions of professional service and are not subject to professional negotiation.

(m) "Secretary" means the secretary of labor or a designee thereof.

(n) "Statutory declaration of impasse date" means June 1 in the current school year.

(o) "Supplemental contracts" means contracts for employment duties other than those services covered in the principal or primary contract of employment of the professional employee and shall include, but not be limited to, such services as coaching, supervising, directing and assisting extracurricular activities, chaperoning, ticket-taking, lunchroom supervision, and other similar and related activities.

New Sec. 2. Except as otherwise expressly provided, this act shall not operate so as to annul or modify any existing agreement between a board of education and a professional employees' organization or professional employee.

Sec. 3. K.S.A. 2014 Supp. 72-5413 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.