



Oral, Opposition Testimony before the
House Committee on K-12 Education Budget

on

HB 2395 – Amending the Kansas school equity and enhancement act and other statutes related to the education of elementary and secondary students, and making appropriations to the department of education

by

Mark Tallman, Associate Executive Director for Advocacy

March 14, 2019

Madam Chair and Members of the Committee:

Thank you for the opportunity to testify on **HB 2395**. We appreciate the committee taking up the issue of school funding to address the Kansas Supreme Court’s ruling and we have listed the major features of the bill and position on each.

School Finance – Response to Gannon

The Kansas Legislature has been directed by the Kansas Supreme Court to add an “inflation adjustment” to the five-year phase-in of additional school funding approved by the 2018 Legislature. The goal of that plan was to restore state foundation aid to 2009 levels when adjusted for inflation. The State Board of Education proposed an adjustment that would add approximately \$90 million each year to the base funding increases approved last session in the Legislature’s response to the Gannon school finance case.

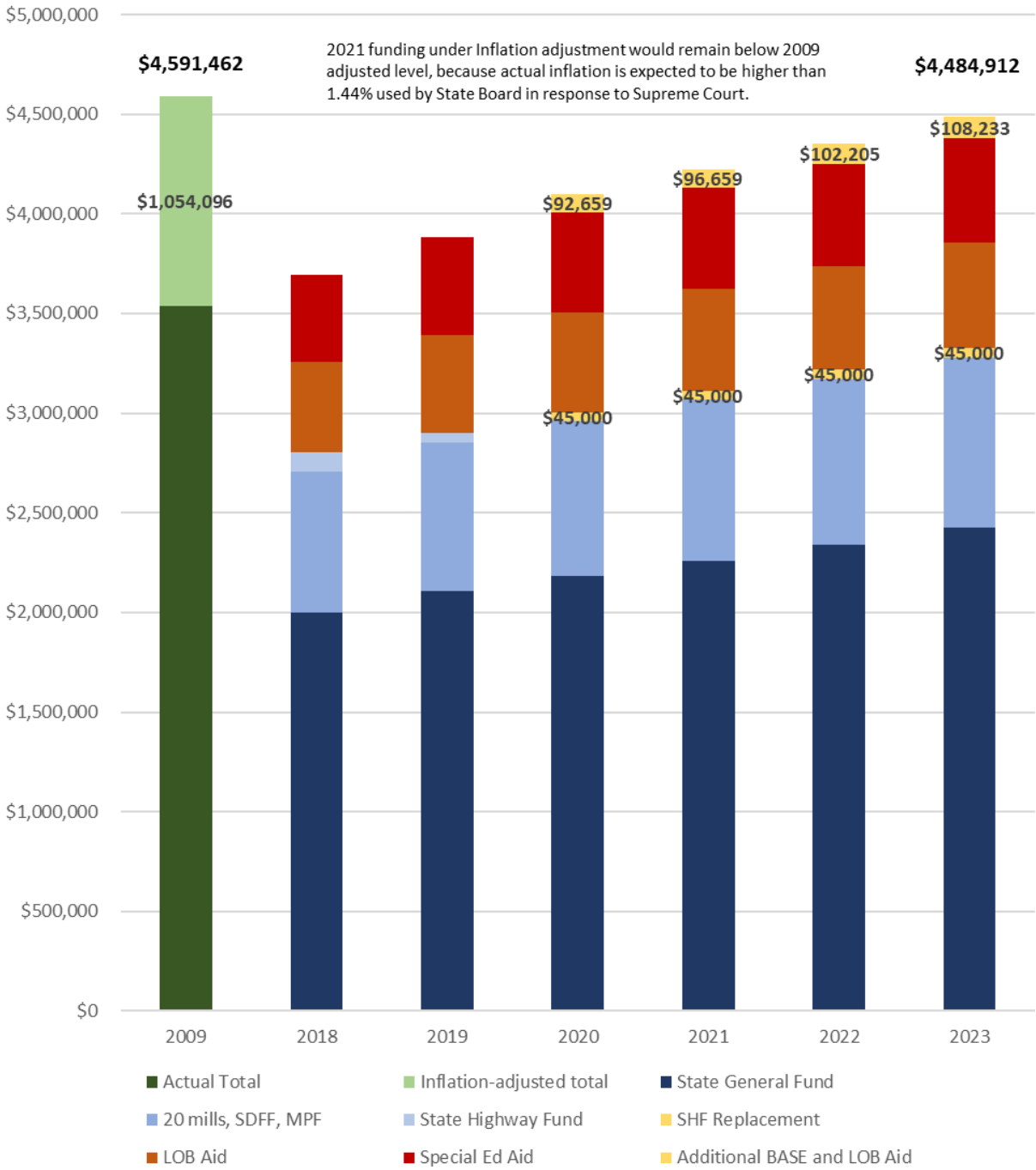
HB 2395 provides about the same amount state foundation aid than recommended by the State Board and Gov. Laura Kelly in Fiscal Years 2020 and 2021, but with a lower base aid per pupil. This appears to be because the bill creates a new Behavioral Health Intervention weighting and increases the at-risk weighting.

However, the bill does not continue the additional base increases recommended by the State Board and governor in FY 2022 and 2023 and repeals the scheduled base increases approved last session for those years. As the result, the bill would fall short of the 2009 goal proposed last session.

The bill also repeals an automatic base state aid adjustment indexed to the Midwest consumer price index that was to take effect beginning in 2024 and repeals a CPI adjustment to the artificial base used to calculate the local option budget for districts.

Major School Finance Programs

Current Law and Governor's Proposed Inflation Adjustment
 (2009 total adjusted by actual consumer price index 2009 to 2018, Consensus Revenue Estimate for 2019 to 2021 and 2.0% for 2022 and 2023)
 (Dollars in Thousands)



KASB POSITION: We supported the school finance plan adopted last session to address the Gannon adequacy case, and the inflation adjustment proposed by the State Board of Education to respond to the Court's decision. We believe that is the minimum level of what will be accepted by the Supreme Court to meet the "Montoy safe harbor" approach proposed by the Legislature last session, and accepted subject to inflation adjustment by the Court.

KASB believes this level of funding should be adopted for five reasons. (For details, we have attached our testimony on SB 142, the State Board/Governor's proposal, in the Senate Committee, on pages 7-11.)

- *It will restore funding to approximate levels of foundational funding in 2009, adjusted for inflation, which we hope will resolve the Gannon case.*
- *It will help Kansas make up after falling behind other states in per pupil funding, especially states with the highest student success.*
- *Kansas K-12 education funding will increase as a share of total personal income of Kansas residents, but remain lower than past levels.*
- *It will improve student achievement based on previous Kansas history as state educational attainment improved as real funding increased; based on evidence from other states; based on education cost studies in Kansas and other states; and based on specific examples of successful programs that provide additional resources (JAG, Reading Roadmap, early childhood, etc.)*
- *Additional funding improves education because schools target those resources at students who have not been successful, and to meet additional social goals and expectations.*

Weightings and Special Education Aid

HB 2395 creates a new weighting of 0.5 based on the number of students attending schools served by a behavioral mental health liaison under a program piloted last year in several school districts.

It increases the at-risk weighting factor from 0.484 to 0.51 and adds new provisions on how at-risk funds are to be spent on evidence-based programs. It limits participation of students qualifying for bilingual aid to four years. It also removes the statutory target of funding special education state aid at 95 percent of the excess cost formula.

KASB POSITION: We supported the mental health pilot programs established this year and supports expanded services for student for student health. However, we would note that this proposed weighting would direct resources only to specific schools with a program that is conditional on state funding. It results in lower base state aid, which means schools and districts that do not have programs not receive additional resources for other programs.

For example, this could result in rural areas of the state receiving no benefits because they cannot support a BMHI program while receiving a lower base aid per pupil.

Kansas school boards and leaders have repeatedly expressed same priorities as the Legislature: higher teachers and instructional salaries; programs to address gaps between student groups; student health and safety; and improve college and career readiness. We believe the state is best served by allowing local districts to determine the best allocation of dollars for those priorities, based on their community needs.

KASB strongly opposes the removal of the 95 percent target for funding of special education, especially at time when the Legislature continues to seek better services for students with special needs, such as dyslexia.

Accountability and Reporting

The State Department of Education is directed to prepare a performance accountability report and a longitudinal achievement report for all students enrolled in public school in the state, each school district and each school operated by a school district to the governor and the Legislature, based on information required in federal reports and the State Board's college and career readiness measures.

The bill removes reference the State Board's Kansans Can outcomes but does not appear to limit the Board's ability to use them. It also adds new performance and financial information that must be provided on the websites of the State Department of Education and local school districts.

KASB POSITION: *Our members have voted to specifically endorse the Kansans Can program and outcomes. It seems counterproductive to remove this reference from statute when four years of efforts gone into building recognition and support for this effort.*

Cash Balance Limits

School districts would be required to spend the amount of cash reserves that exceed 15 percent of operating expenditures, based on the monthly average of the prior year. Bond and capital outlay funds are excluded.

KASB POSITION: *We believe this is an unnecessary provision that ignores variations in local district needs. First, we calculated that July 1 cash balances in all funds except bond and interest, capital outlay and special reserve insurance funds have average 15.5 percent of operating expenditures. If we remove other funds identified by KLRD that primarily or most funded by local property tax, students' fees or federal funds, the percent drops to 10.9 percent. (See page 12)*

Second, if this approach is retained, we believe other funds should also be excluded, not only special reserves because they are based on actuarial insurance needs, but also textbooks and materials, where districts may build up balances for major purchases; gifts and grants, federal funds and food service.

Third, current statewide balances in operating funds are in line with Governmental Finance Officers Association recommendation that balance should equal two months expenditures, or about 16.7 percent.

Fourth, we would note that the effective comparable ending balance in the State General Fund, when combined with borrowing from other funds, has averaged 15 percent.

ACT tests; State Education Studies and Task Forces

The State Board is required to provide at no charge to all students one administration of the ACT test and ACT workkeys tests, which began this year.

The State Board is also directed to study high school graduation requirements, including possible addition of computer science and financial literacy courses as requirements or to satisfy math requirements. It also is required to create an IT education standards advisory commission to make recommendations to the State Board and State Board of Regents. These provisions were the subject of bills introduced earlier this session. In addition, the bill extends the state dyslexia task force until 2022. The task force, created last session, recommended that it be continued to oversee implementation of a series of recommendations.

KASB POSITION. *We support the state-funded ACT and workkeys tests. We have previously testified that curriculum decisions are best made by the State Board of Education.*

Bullying Task Force and Policies

A 17-member task force is created to study and make recommendations to prevent bullying. The same day the bill was introduced, the Commissioner of Education announced the appointment of a State Board of Education task force on bullying, creating the possibility of two bullying task forces working on the issue this year.

The bill also amends current law to require the following be added to school district anti-bullying plans: consequences and appropriate remedial action for a person who commits an act of bullying, harassment or cyberbullying; a procedure for reporting an act of bullying, harassment or cyberbullying; a procedure for prompt investigation of reports of bullying, harassment and cyberbullying; and a list of appropriate responses to an incident of bullying, harassment or cyberbullying.

KASB POSITION: *KASB supports the concept of a task force to study the on-going challenges of preventing bullying. However, we note the State Board has already announced a task force in this area. We would simply urge the Legislature to avoid duplication of efforts.*

Bullying Scholarships to Private schools; Required Public School Transfers

The bill also creates new program that would allow students who are determined to be victims of bullying after investigation to receive a scholarship to attend a private school. The scholarship amount would be a percentage of the base state aid per pupil: 88 percent for elementary students; 92 percent for middle school and 96 percent for high school.

The bill would not require private schools to accept victims of bullying, but public-school districts would be required to accept transfer of students who are victims of bullying from other districts.

KASB POSITION: *KASB opposes this program for the following reasons:*

First, we oppose state funding of non-public schools that do not have to accept all students and serve them on the same basis as public schools. In earlier testimony on this concept, proponents said one reasons for private school scholarship is that public schools were not required to accept students who want to transfer because of bullying. This bill removes that issue by requiring public schools to accept such students yet does not require private schools to do the same.

Second, program appears to be clearly unconstitutional for most Kansas private schools under Article 6, Section 6, c, of the Kansas constitution, which says "No religious sect or sects shall control any part of the public educational funds." Most, if not, all accredited private schools in Kansas are religious, and scholarships funded by a specific percentage of base state aid per pupil, transferred to scholarship accounts, are clearly public education funds.

Third, there may be unintended consequences of this provision. For example, in many cases bullying incidents may involve bullying behaviors by both "sides."

Tax Credits for Private School Scholarships

HB 2395 amends the tax credit for low income students scholarship program act by changing the definition of public schools whose students are eligible for scholarships to elementary schools only, identified by the state board as one of the lowest 100 performing elementary schools with respect to student achievement among all elementary schools operated by school districts for the current school year. It appears this would limit participation to elementary students.

KASB POSITION: *This change would remove high schools, and presumably high school students, from eligibility for private school scholarships supported by tax credits. It is important to note that program is not limited to students who are low performing, only that they attend schools with a higher number of other low performing students. This bill would further remove high schools, where there is a higher number of low performing students.*

This change makes it clear this program is not about helping low achieving students. It simply about providing state support for students who may be successful in public schools to attend private schools.

Roofing Bids

Based on legislation introduced earlier this session in both the House and Senate, the bill would limit the ability of school boards to require in roofing bids a proprietary product, material or installation method or approval by an architect or engineering consultant, school district employee or the board that a proposed product, material or installation method constitutes the equivalent of a proprietary product, material or installation method.

The bill also requires that any school district in a metropolitan area of at least 50,000 must receive at least three bids if a particular roofing product, material or installation method is specified in a request for proposal.

In addition, the state bid law is amended to allow the school board to award the bid for a roofing project to a bidder other than the low bidder if the board determines that the quality, suitability and usability of the product, material or installation method is superior to the product, material or installation method proposed by any bidder submitting a lower bid.

KASB POSITION: *We believe this an unnecessary intrusion into local decision-making by school boards, who are assigned under the Kansas Constitution to “maintain, develop and operate” local public schools.*

Limiting specificity of products will make it more difficult for boards to equally compare value versus costs. For instance, specifying a brand with a 30 warrantee makes all bids equal. Not specifying a warrantee period would create a different level of bid cost versus value. Those differences of interpretation could open USD’s up to expensive legal battles if there are disagreements.

It seems a poor precedent for the Legislature attempt to regulate the use of specific construction methods and materials. What will be next?

State Bond Cap and Bond and Interest Aid

The state construction bond cap is amended to exclude the maintenance or repair of any facility, including, but not limited to, roofs, heating and air conditioning systems, school safety equipment and measures, technology updates or to comply with the Americans with disabilities act, 42 U.S.C. § 12101 et seq., or an order issued by the state fire marshal.

KASB POSITION: *KASB supports repeal or modification of the state bond cap. This change will help give school districts relief from the cap, which can potentially limit the ability to communities to adopt needed building expansion, improvement and efficiency.*

Transportation of students under 2.5 miles

School districts are required to provide transportation to students who live closer than 2.5 miles from school if there is no safe pedestrian route, as defined in the bill, from the residence of the student to the school building attended by such student; and providing such transportation does not increase the district's transportation costs. (Districts do not receive transportation aid for students living within 2.5 miles of their school even if they provide transportation.)

KASB POSITION: *We opposes specific requirements for transportation without state funding. It seems inconsistent to say the state will require transporting students due to safety reasons ONLY if there is no additional cost, yet fails to provide funding for students if there IS additional cost.*

Non-Kansas Students

The bill repeals a provision in current law that with certain exceptions, a student enrolled in a school district who is not a resident of Kansas shall be counted as follows: (a) For school year 2018-2019, one student; (b) for school years 2019-2020 and 2020-2021, 3 /4 of a student; and (c) for school year 2021-2022 and each school year thereafter, 1 /2 of a student.

KASB POSITION: *We support this change. KASB members voted that non-residents of Kansas should be funded on the same basis as Kansas residents.*

Final points:

School districts are often criticized for not spending enough “in the classroom or for instruction,” which are often presented as identical, even though the construction of the phrase in statute – using the word “or” – indicates they are different. Consider what this bill addresses that is “non-instructional.”

- Mental health intervention teams – student support
- School safety grants – capital improvements, operations and maintenance
- ACT and workkeys assessments – instructional support
- Dyslexia professional development – instructional support
- Bullying investigations, intervention, policies and reporting – school and district administration
- More website information – district administration, central services, instructional support

Should we believe that when local elected school leaders spend money on non-instructional items, they don't know how to make the correct decisions about the schools their own children attend, but when the Legislature does the same thing it is because the state knows best? If distance confers wisdom, should we welcome federal control of our schools?

We know each of you and your colleagues want our students to be successful. School board members and the schools they lead want the same— no more, no less. We shared a report on achievement in Kansas and other states. The amount of funding matters: the top achieving states provide more total resources. How that money is spent also matters: Kansas gets better results for its funding than most states.

We urge you pass a bill that finishes the job of restoring suitable funding, supports the student success goals and accountability of the State Board, and allow our local districts to use those funds in the best manner to reach those goals in each Kansas community, and for each Kansas student.

Oral Testimony as Proponent before the
Senate Select Committee on Education Finance

on

SB 142 – Appropriations for the department of education for FY 2020 and FY 2021 in response to litigation; increasing BASE aid for certain school years

by

Mark Tallman, Associate Director for Advocacy

Kansas Association of School Boards

March 6, 2019

Madam Chairwoman, Members of the Committee:

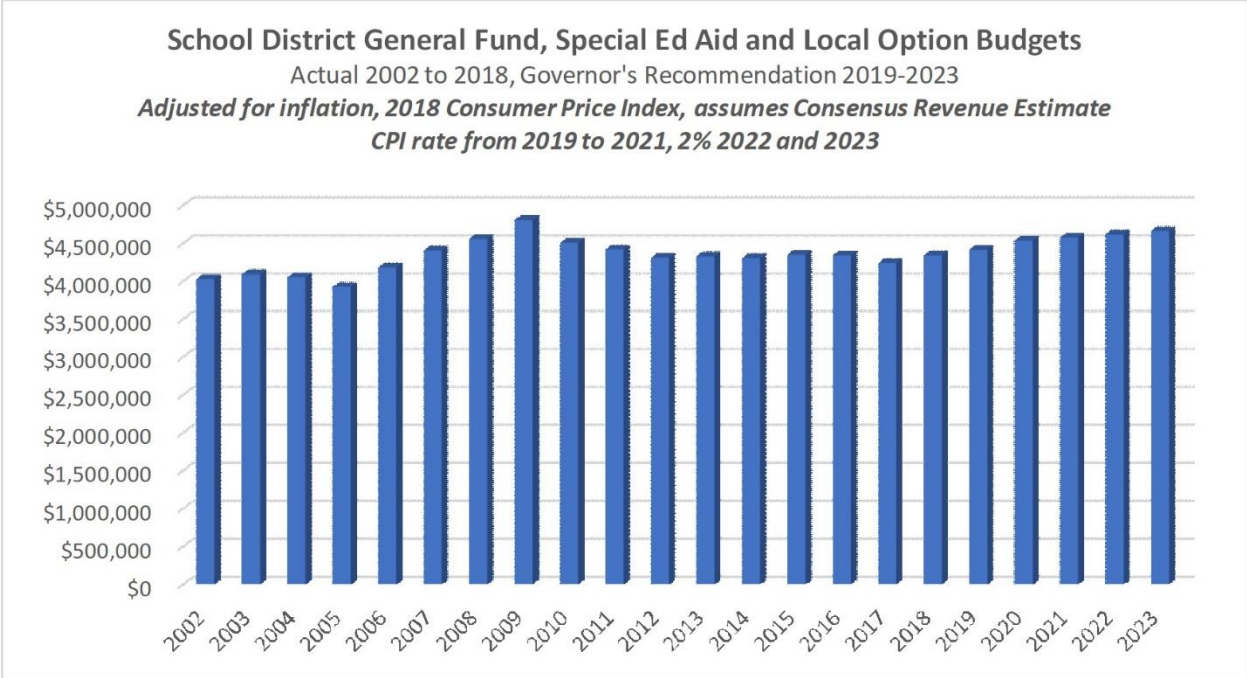
The Kansas Association of School Boards supports **SB 142** for the same reasons we supported SB 44 before this committee: because we believe it offers a real chance to finally resolve the current school finance litigation and to restore Kansas school funding to levels necessary for more students to be successful in K-12, in postsecondary education and the workforce, and help Kansas compete with other states. We believe addressing this final step should be the top priority of the 2019 Legislature.

1. Helps settle the *Gannon* school finance case by restoring funding to constitutional levels.

As we understand it, the primary difference from **SB 44** is that **SB 142** only contains the BASE increases from 2020 to 2023 proposed by the State Board of Education and recommended by the Governor to provide the inflation adjustment required by the Kansas Supreme Court, and appropriations to fund that base amount and associated KPERS increases for Fiscal Years 2020 and 2021 only. It does not appear to include the additional \$7.5 million per year special education increases contained in the state's five year and recommended by the Governor for 2020 and 2021.

It is important to stress that the Legislature's response to the Court has been to restore funding to approximately the level of 2009, the last point at which there is agreement that funding was constitutionally adequate. In other words, increased state funding over approximately \$1 billion dollars is simply the amount required to reach the same level as 10 years ago, after adjusting for inflation. (The Consumer Price Index is expected to increase nearly 30 percent between 2009 and 2023, which means \$3.5 billion in 2009 equals about \$4.5 billion in 2023.) Funding recommended by the State Board and Governor gets close to that amount, depending on actual inflation.

The chart below shows total funding for base state aid, special education state aid and local option budgets, estimated for 2019 through 2023, adjusted for inflation.



Note these are total dollars. They do not take into account increased enrollment and the growing number of high-needs, more expensive students, such as low income and students with disabilities.

That is why we believe the State Board proposal is an appropriate, but modest and minimal, plan to restore funding to 2009 levels, which the state, the plaintiffs and the court have agreed to be a constitutional benchmark.

2. Helps restore Kansas school funding compared to other states.

Not only did Kansas base aid, special education aid and local option budgets fall behind inflation since 2009, Kansas has fallen significantly behind other states in *total funding per pupil*. Since 2008, the beginning of the Great Recession, Kansas has slipped from 24th in total per pupil funding from all sources to 30th in 2016.

Moreover, Kansas fell significantly behind the highest-performing states on 15 measures of student achievement, as well as those neighboring and Plains region states that do best on those same outcomes (Nebraska, Iowa, Missouri, North Dakota and Minnesota).

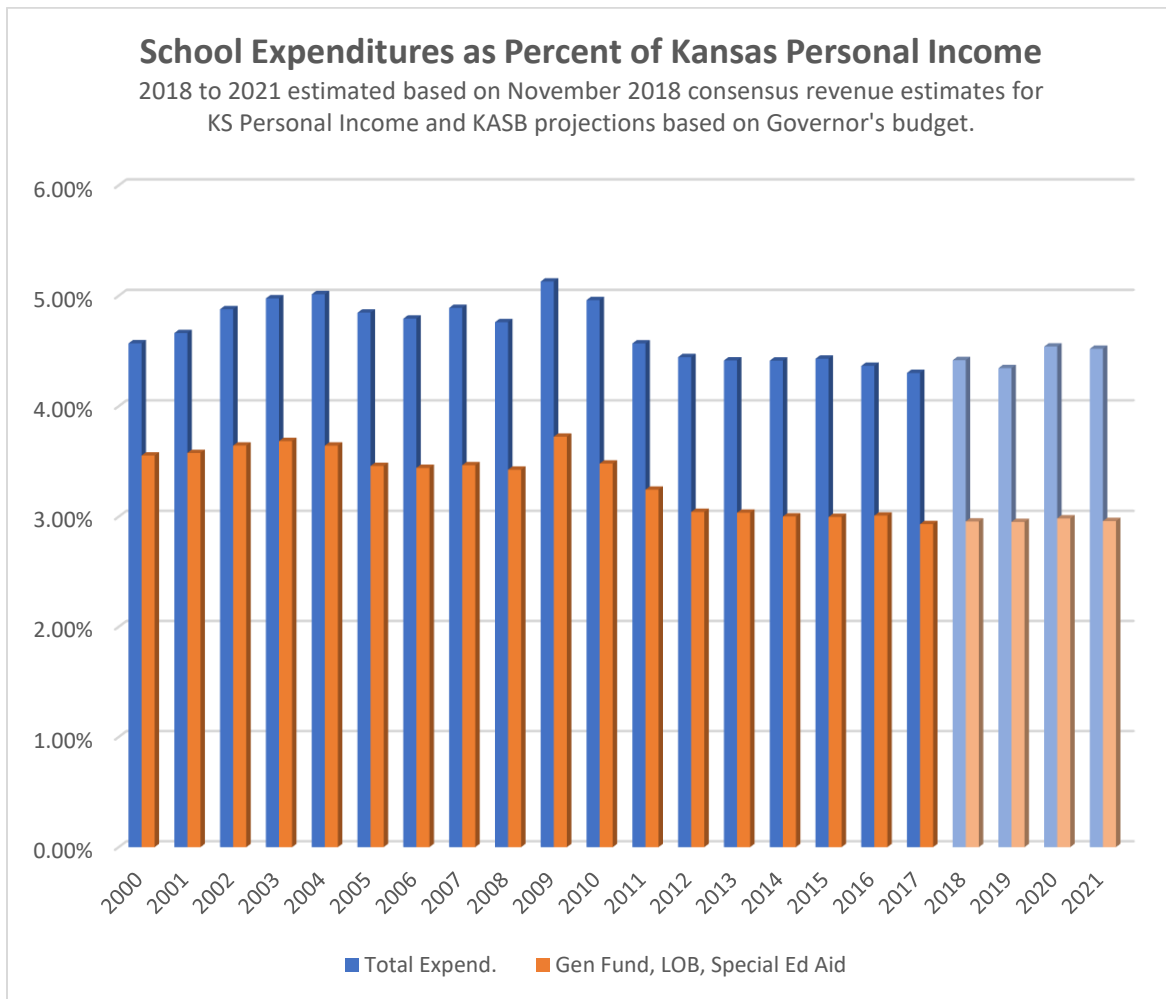
Assuming all states will increase funding by 2.5 percent from 2016 to 2021 (slightly more than projected inflation) and using KASB estimates of *total* school funding in Kansas under the Governor’s plan – including KPERS, bond and interest and capital outlay costs, and federal and other local aid – Kansas would move back about to the 2009 average for all states and high-performing regional states, but still be slightly lower.

Comparing Kansas to other states is important because Kansas competes in terms of teacher salaries and programs offered to help students be successful. The seventh “Rose Capacity” adopted by the Kansas Supreme Court as a test of suitable funding and the Legislature as an education goal concerns preparing Kansas students to compete with other states academically and in the job market.

3. School funding would remain low compared to total state personal income.

As the chart below shows, using the Consensus Revenue Estimate projections for Kansas personal income growth from 2019 to 2021, both total school district expenditures and school district general fund, special education state aid and local option budgets will still be a lower share of Kansas personal income than any year from 2002 to 2011.

This means Kansans are investing a lower share of their income on K-12 funding as educational needs continue to rise.



4. School districts will use additional funding to increase student success.

As we saw last year when school districts received the first significant increase in state aid in almost a decade, funding the current school finance plan and inflation will allow the following:

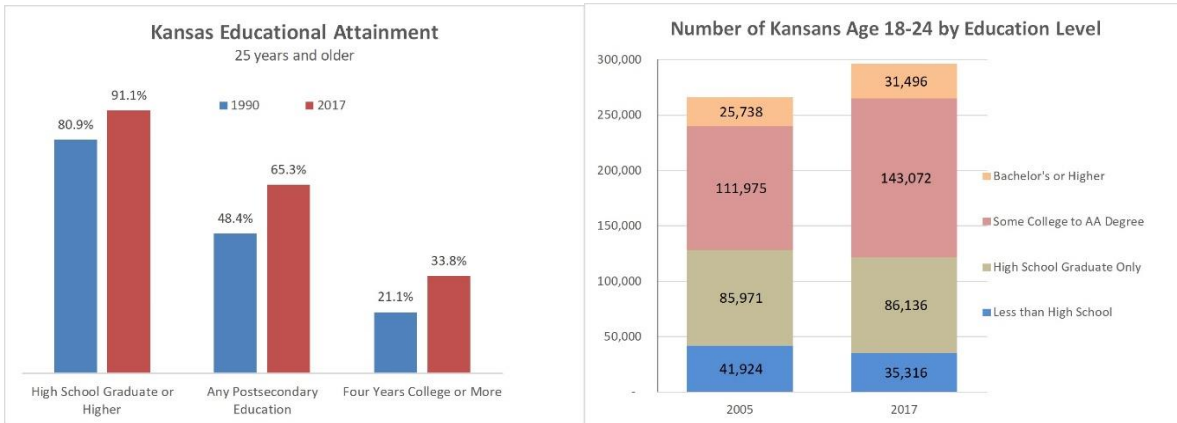
- Improving salaries to be more competitive, after falling behind other state and other employers.
- Improving programs for students with special challenges due to poverty, disability and other factors, such as early childhood, special education and at-risk programs.
- Strengthening student health and safety.
- Increase student readiness for postsecondary education and the workplace.

In a follow-up on our testimony on **SB 44** previously shared with the committee, KASB shared extensive data on how districts used additional funding, including a survey with responses from over 100 school districts, with a focus on how additional funding was used to address lower achieving student groups and promote more successful students.

5. We know increased funding improves education, and we know why.

We know increased funding improves student outcomes from five sources.

- State and U.S. history: most years schools received “real” increases (more than inflation) and education levels have risen to an all-time high.



- Much additional funding has been targeted at higher achievement: special education, early childhood, at-risk, alternative schools; or social concerns like safety, nutrition and technology.
- Three Kansas Legislative cost studies based on higher outcomes, as well as national studies.
- Comparison with other states.
- Cost of proven programs that could be expanded, such as early childhood programs, Jobs for America’s Graduates-Kansas (JAG-K) and the Reading Roadmap.

We also know why increased funding matters.

- Society expects more: higher graduation rates, more students successful in college and the workforce, more services, solving social issues.
- Achievement isn’t random: students with issues OUTSIDE the school’s control (such as poverty, disability and mental illness) have lower achievement.
- Overcoming those challenges usually takes more resources to make up for resources those students lack, or at minimum re-training staff.
- The biggest part of school budgets, employment costs (75 percent of spending) and construction costs (about 13 percent of spending), usually rise faster than inflation.

SB 142 could be the final step in resolving the current school finance lawsuit by restoring constitutionally suitable funding and help students achieve the Rose capacities.

Cash Reserves

Operating balances as percent of operating expenditures							
	Total Operating Expenditures	Total July 1 Balances Less CO and B&I	July 1 Special Reserve Balances	July 1 Balances Less CO, B&I, Spec. Reserve.	Percent of Total Operating Expenditures	Also Less Local Tax Funded, Private Funds, Federal	Percent of Total Operating Expenditures
2009	\$4,685,449	\$712,597	\$85,496	\$627,101	13.4%	\$457,112	9.8%
2010	\$4,587,084	\$791,024	\$103,727	\$687,297	15.0%	\$502,829	11.0%
2011	\$4,598,450	\$884,101	\$108,914	\$775,187	16.9%	\$569,355	12.4%
2012	\$4,740,412	\$887,373	\$108,453	\$778,920	16.4%	\$558,497	11.8%
2013	\$4,810,506	\$852,536	\$124,057	\$728,479	15.1%	\$537,833	11.2%
2014	\$4,941,695	\$846,407	\$118,441	\$727,966	14.7%	\$518,326	10.5%
2015	\$4,995,525	\$855,080	\$116,014	\$739,066	14.8%	\$515,165	10.3%
2016	\$4,942,111	\$937,022	\$117,753	\$819,269	16.6%	\$548,168	11.1%
2017	\$5,192,287	\$971,736	\$122,086	\$849,650	16.4%	\$550,876	10.6%
2018	\$5,534,853	\$999,898	\$128,682	\$871,216	15.7%	\$556,410	10.1%
Average					15.5%		10.9%

Bond and Interest and Capital Outlay balances as percent of bond and capital expenditures							
	Bond and Interest #1 Expenditures	Bond and Interest #2 Expenditures	Total Bond and Interest Expenditures	Jul 1 B&I #1 Balances	July 1 B&I #2 Balances	July 1 Total B&I Balances	Total B & I Balances Percent of Total Expend.
2009	\$351,481,033	\$13,551,145	\$365,032,178	\$331,210,260	\$12,631,935	\$343,842,195	94.2%
2010	\$400,323,853	\$10,102,688	\$410,426,541	\$349,486,618	\$12,355,705	\$361,842,323	88.2%
2011	\$429,399,794	\$10,693,236	\$440,093,030	\$352,745,579	\$13,415,458	\$366,161,037	83.2%
2012	\$440,695,965	\$9,908,937	\$450,604,902	\$365,897,037	\$11,642,696	\$377,539,733	83.8%
2013	\$459,298,955	\$10,339,824	\$469,638,779	\$391,257,800	\$12,338,450	\$403,596,250	85.9%
2014	\$456,335,359	\$11,366,299	\$467,701,658	\$421,301,351	\$13,515,632	\$434,816,983	93.0%
2015	\$480,661,183	\$11,773,714	\$492,434,897	\$459,502,615	\$16,137,952	\$475,640,567	96.6%
2016	\$553,493,822	\$13,293,684	\$566,787,506	\$486,949,044	\$17,640,796	\$504,589,840	89.0%
2017	\$545,812,701	\$15,195,451	\$561,008,152	\$535,624,953	\$18,960,903	\$554,585,856	98.9%
2018	\$553,825,410	\$14,533,443	\$568,358,853	\$560,805,700	\$19,815,755	\$580,621,455	102.2%
Average							91.5%

	Capital Outlay Expenditures	July 1 Cap Outlay Balances	Percent of Capital Outlay Expenditures	Total B&I Plus Capital Outlay Expenditures	Total B&I Plus Capital Outlay Balances	Percent of Total B&I Plus CO Expenditures
2009	\$313,661,822	\$451,672,840	144.0%	\$678,694,000	\$795,515,035	117.2%
2010	\$294,356,555	\$429,794,605	146.0%	\$704,783,096	\$791,636,928	112.3%
2011	\$259,552,913	\$470,822,923	181.4%	\$699,645,943	\$836,983,960	119.6%
2012	\$297,386,084	\$453,159,920	152.4%	\$747,990,986	\$830,699,653	111.1%
2013	\$289,404,987	\$446,089,843	154.1%	\$759,043,766	\$849,686,093	111.9%
2014	\$292,298,660	\$432,142,687	147.8%	\$760,000,318	\$866,959,670	114.1%
2015	\$377,591,943	\$411,553,818	109.0%	\$870,026,840	\$887,194,385	102.0%
2016	\$354,334,630	\$431,320,086	121.7%	\$921,122,136	\$935,909,926	101.6%
2017	\$360,377,383	\$492,088,292	136.5%	\$921,385,535	\$1,046,674,148	113.6%
2018	\$410,556,306	\$528,128,608	128.6%	\$978,915,159	\$1,108,750,063	113.3%
Average			142.2%			111.7%