IN THE SUPREME COURT OF THE STATE OF KANSAS

LUKE GANNON, *et al*,

Appellees

v.

THE STATE OF KANSAS,

Appellant.

Case No. 15-113267-S

CORRECTED MOTION FOR AN ORDER STAYING FURTHER PANEL PROCEEDINGS PENDING DISPOSITION OF THE PENDING APPEAL OR, IN THE ALTERNATIVE, AN ORDER REMANDING THE CASE FOR THE LIMITED PURPOSE OF HAVING THE PANEL RESOLVE THE STATE'S PENDING MOTION TO ALTER OR AMEND

On February 18, 2015, the State docketed its appeal from the December 30, 2014, Memorandum Opinion and Order on Remand ["Remand Order"] of the three-judge Panel appointed under K.S.A. 72-64b03 declaring unconstitutional the school finance system in Kansas. The State's Brief is due on March 30, 2015. Prior to filing its notice of appeal, the State had made a motion requesting the Panel to alter or amend its December 30, 2014, decision by making explicit factual findings. The Panel had not ruled on that motion when the appeal was docketed on February 18, 2015. Now, although the appeal from the Remand Order has been docketed in this Court, the Panel has scheduled a hearing for March 5, 2015, on the State's motion to alter or amend the Remand Order.

If jurisdiction is now lodged in this Court by virtue of the docketed appeal, as the State contends it is, then the Panel no longer has jurisdiction to consider the State's motion to alter and amend the Remand Order. The State thus requests that this Court stay any further proceedings

before the Panel regarding the State's motion on the grounds of lack of jurisdiction given the pending appeal or, alternatively, that this Court order a remand of this case to the Panel for the limited purpose of resolving the State's motion to alter or amend.[1]

Background to the Motion for Stay or, alternatively, for Remand

The Remand Order under appeal is entry of a declaratory judgment that the Kansas public education financing system for grades K-12—through structure and implementation—is not presently reasonably calculated to have all Kansas public education students meet or exceed the "*Rose* factors" and, therefore, is unconstitutional in violation of Article 6 of the Kansas Constitution. The Remand Order was filed on December 30, 2014. A copy is attached hereto as Exhibit A.

This Remand Order followed this Court's remand of the first appeal in this case, *Gannon v. State*, 298 Kan. 1107, 319 P.3d 1196 (2014) ["*Gannon*"]. In the part pertinent to the State's appeal, this Court's mandate to the Panel was to do the following:

> We also remand to the panel to determine whether the State met its duty to provide adequacy in public education as required under Article 6 of the Kansas Constitution. Although adequacy and equity are distinct components of Article 6, they do not exist in isolation from each other. So curing of the equity infirmities may influence the panel's assessment of the adequacy of the overall education funding system.
>
> The panel shall promptly make findings as appropriate, consider whatever evidence it deems relevant--whether presently in the record or after reopening--and apply the adequacy test articulated in this opinion. More specifically, the panel must assess whether 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 v. Council for Better Educ., Inc.*, 790 S.W.2d 186 (Ky. 1989), and as presently codified in K.S.A. 2013 Supp. 72-1127.

[1] On January 26, 2015, Plaintiffs filed a motion seeking a declaration that the State had fallen out of compliance with this Court's directions regarding the "equity" aspect of this case, and seeking injunctive relief against the State. That motion does not involve matters that are the subject of the currently pending appeal before this Court, and thus the State is not asking the Court to take any action regarding the Panel's consideration of that motion.

Id. at 1199-1200. The December 30, 2014, Remand Order is the Panel's effort to address constitutional adequacy of school funding under Article 6 and thereby satisfy this Court's mandate.

The Court's jurisdiction to decide the State's appeal from the Remand Order is under K.S.A. 60-2102(b)(1). Under this statute, the right to appeal applies to "preliminary and final decisions in which a statute of this state has been held unconstitutional as a violation of Article 6 of the constitution of the state of Kansas pursuant to K.S.A. 72-64b03, and amendments thereto." *Id.*

The State filed its notice of appeal on January 28, 2015. It had earlier, on January 23, 2015, filed with the Panel a motion to alter and amend the Remand Order (K.S.A. 60-259(f)) and for additional findings of fact (K.S.A. 60-252(b)). Although the State may not have been required to file a notice of appeal until after a decision was made on its post-judgment motion (if in fact the filing of the motion tolled the time for taking an appeal), the State chose to eliminate any possible uncertainty by filing its Notice of Appeal within 30 days of the Panel's December 30, 2014, Remand Order. The State thought it prudent to be sure there could be no question that it has taken a timely appeal. The appeal was docketed on February 18, 2015, so the Panel had approximately 26 days to consider the State's motion, but made no ruling during that time. At this time, the State's opening brief in this Court is due March 30, 2015, but it is impossible to properly brief issues arising from the Remand Order if it remains possible the Panel may, at some unspecified time after the scheduled March 5, 2015, hearing, alter the Remand Order upon which the State's appeal is based.

Under longstanding Kansas law, the docketing of an appeal divests the trial court of jurisdiction over the matters that are the subject of the appeal. *State v. Fritz,* 299 Kan. 153, 155, 321 P.3d 763 (2014) (district court loses jurisdiction over case after direct appeal docketed);

Northern Natural Gas Co. v. ONEOK Field Servs. Co., LLC, 296 Kan. 906, 937, 296 P.3d 1106 (2013) (court lacks jurisdiction to modify a judgment after it has been appealed and the appeal is docketed at the appellate level); *Honeycutt v. City of Wichita,* 251 Kan. 451, 461, 836 P.2d 1128 (1992) (trial court keeps jurisdiction until the appeal is docketed in the appellate court).

Applying that rule here, the Panel cannot now alter or amend its December 30, 2014, Remand Order, and there is no legal basis for conducting oral arguments or further proceedings before the Panel on March 5, 2015 regarding the State's post-judgment motion.

Request for Relief

Thus, the State requests that this Court issue an order staying the Panel from considering or acting on the State's post-judgment motion during the March 5, 2015, hearing for lack of jurisdiction given the pending appeal or, alternatively, remanding the case to the Panel for the limited purpose of ruling on the State's pending post-trial motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 27th day of February, 2015, a true and correct copy of the above and foregoing was mailed, postage prepaid, and delivered by electronic mail to:

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M.J. Willoughby

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS,
IN THE MATTER OF PROCEEDINGS BEFORE THE
THREE-JUDGE PANEL APPOINTED PURSUANT TO
K.S.A. 72-64b03 *IN RE* SCHOOL FINANCE
LITIGATION, to-wit:

LUKE GANNON, By his next friends and guardians, *et al*,	)	
Plaintiffs,	)	Case No. 2010CV1569
vs.	)	
STATE OF KANSAS,	)	
Defendant.	)	

MEMORANDUM OPINION AND ORDER ON REMAND

By an *Opinion* issued March 7, 2014, with a mandate returned to this judicial panel filed March 31, 2014, the Kansas Supreme Court has tasked this panel with an additional review, expressing its views as to the necessity therefore, as follows:

> "With our adoption of *Rose*, we now clarify what Article 6 of our constitution requires. We hold its adequacy component 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. And actual costs from studies are more akin to estimates than the certainties the panel suggested. Nevertheless, actual costs remain a valid factor to be considered during application of our test for determining constitutional adequacy under Article 6.

The *Gannon* panel acknowledged it used the *Montoy* case as 'the template' for determining legislative compliance with the constitutional mandate expressed in Article 6, Section 6(b). But the panel essentially used only *Montoy's* statements about basing the financing formula or funding decisions upon 'actual costs' as its exclusive test for constitutional compliance. The panel found the legislature did not consider the actual costs, *i.e.*, the studies by Augenblick & Myers or legislative post audit, of providing a 'constitutionally suitable education' in making its appropriations in its annual sessions from 2009 through 2012. The panel concluded, perhaps from this finding alone, 'that plaintiffs have established beyond any question the state's K-12 educational system now stands as unconstitutionally *underfunded.*" (Emphasis added.)

Because the panel understandably did not apply our *Rose*-based test when it extended *Montoy* to exclusively focus on cost estimates, the panel made no findings arising from that test that we may review. So we must remand for the panel to make an adequacy determination, complete with findings, after applying the test to the facts. We express no opinion whether the panel needs to reopen the record to make its adequacy determination. That decision is best left to the panel as the factfinder.

In the panel's assessment, funds from all available resources, including grants and federal assistance, should be considered. The legislative history of Article 6 reveals the intent to provide a system of educational finance that is sufficiently flexible to be able to utilize such sources. See Kansas Legislative Council, *The Education Amendment to the Kansas Constitution,* pp. 31-32 (Publication No. 256, December 1965) (noting '[t]he advisory committee emphasized that the legislature should have specific broader powers ... in matching federal funds' and expressing intent that Article 6 provide 'greater flexibility ... in ... matching new federal and private grants'). We appreciate the panel's concern about overreliance on unpredictable federal funding. But there was an obvious increase in federal monies during the years at issue in this litigation, and the legislature was constitutionally empowered to respond with adjustments in state spending. Moreover, state monies invested in the Kansas Public Employees

Retirement System (KPERS) may also be a valid consideration because a stable retirement system is a factor in attracting and retaining quality educators—a key to providing an adequate education.

The panel may consider the restrictions on the use of these federal, pension, and other funds and determine that even with the influx of these additional monies the school districts are unable to use them in the manner necessary to provide adequacy under Article 6. But regardless of the source or amount of funding, total spending is not the touchstone for adequacy.

In short, the panel should apply the *Rose*-based test articulated in this opinion for adequacy in school finance to the evidence it deems relevant to its analysis, recognizing the test does not require the legislature to provide the optimal system. See *U.S.D. No. 229*, 256 Kan. at 254 (issue is whether SDFQPA satisfies the constitution by providing suitable financing, not whether level of finance is optimal or the best policy). While the wisdom of the legislature's policy choices in allocating financial resources is not relevant to this analysis, the panel can consider how those choices impact the State's ability to meet the *Rose* factors. Ultimately, the panel must assess whether 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 as presently codified in K.S.A. 2013 Supp. 72-1127."

Gannon v. State, 298 Kan. 1107, 1170-72 (2014).

In undertaking our obligations under the *mandate* we issued an *Order to Show Cause* on April 25th in regard to the legislative response to the Kansas Supreme Court's opinion in reference to supplemental general state aid and capital outlay funding requesting the parties' positions. We set a hearing on these two equity issues for June 11th.

Simultaneous with our filing, the State filed a "*Notice of Full Equalization Funding and Motion to Dismiss the Individual Plaintiffs and the Equity Claims*". The State further responded to our show cause order as did the Plaintiffs. In the interim to the hearing, though extraneous to the show cause order, the Plaintiffs filed a *Motion for Judgment on the Existing Record* to which the State filed a *Response* and Plaintiffs later filed a *Reply*.

At the hearing, the Court did not address adequacy issues. It did conclude that the legislature had complied with the high court's order in regard to supplemental state aid and capital outlay funding. The Court reserved the issue of whether all "equity claims" that might be embedded in an adequacy review should be dismissed. Subsequently, the Plaintiffs also filed a motion to dismiss the individual Plaintiffs. A journal entry in regard to these issues was submitted which exhibited conflict over the resulting case caption if the individual Plaintiffs were dismissed.

We now find that in regard to the dismissal of the individual Plaintiffs that the individual Plaintiffs were effectively dismissed by our original *Gannon* trial court opinion and by its affirmance on the issue of the individual Plaintiffs standing on appeal and that a further journal entry is not necessary on that issue. Further, we find that amending the caption of the case would serve no good purpose. The caption of a case but

reflects its original filing and this case is on remand and is not a new case.

Further, the opinion of this Court and that of the Kansas Supreme Court spoke to the specific equity issues resolved at the hearing. No other equity issues were addressed. We found, and do find, the legislature substantially complied with their obligations in regard to supplemental state aid and capital outlay. No further journal entry is required beyond our finding here. Further, we are of the opinion that if any equity issues arise as a matter of our adequacy review, we believe they are not precluded by the remand order.

At the hearing, we requested certain information from the Kansas State Department of Education and invited proffers from the parties of any further evidence or considerations thought appropriate. To which the State by a pleading of August 1st formally objected, but, notwithstanding, provided further information and filed its proposed *Findings of Fact and Conclusions of Law* to which the Plaintiffs responded.

The State subsequently filed a *Motion in Support of Judgment Pursuant to K.S.A. 60-252(c)* to which the Plaintiffs responded. Plaintiffs on September 2nd filed a *First Supplemental Response to the Panel's Request for Information.*

We have concluded all these motions and arguments implicitly by our opinion following. We have limited our review to the past record, but where we deemed appropriate, we have taken judicial notice of subsequent documents and legislative action which we firmly believe are not reasonably subject to dispute.

We believe the Plaintiffs' Proposed Findings of Fact attached to their pleadings for Judgment on the Existing Record speak the truth, as we also believed their original Proposed Findings of Fact spoke the truth. As before in our original *Opinion*, all facts, by whomever presented, could not reasonably be discussed individually. Facts inconsistent with our original *Opinion* and our *Opinion* issued following are rejected implicitedly. We diligently searched the

State's proffers for facts or issues that would alter our original judgment or change the course of the one we now issue and found none would be of material, controlling significance. No testimony was proffered nor can we perceive of any but a pure recantation of prior testimony that would cause us to consider any had it been offered. As is obvious by the resulting opinion following, our divergence with the Plaintiffs rests principally in the amount of dollars believed to represent a state of adequacy in meeting the *Rose factors*, not the clear fact that constitutional inadequacy from any rational measure or perspective clearly has existed and still persists in the State's approach to funding the K-12 school system.

What then, at the time of our trial, was the state of the constitutional adequacy of the Kansas's K-12 educational system? Has there been any material change? We find the following:

ADEQUACY AS A MATTER OF PRECEDENT LEGAL OPINION:

The *Rose factors* referenced were articulated in the *Rose* case, quoted by the Kansas Supreme Court in Gannon as follows:

> "'[A]n efficient system of education must have as its goal to provide each and every child with at least the seven following capacities: (i) sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization; (ii) sufficient knowledge of economic, social, and political systems to enable the student to make informed choices; (iii) sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation; (iv) sufficient self-knowledge and knowledge of his or her mental and physical wellness; (v) sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage; (vi) sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and (vii) sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market.' 790 S.W.2d at 212."

298 Kan. at 1164.

As noted by the *Gannon* Court these factors have long been seen as substantively incorporated by Kansas statute, to-wit:

> "The *Rose* court constitutional standards have been remarkably paralleled since 2005 by the Kansas Legislature's express educational goals—now set forth in K.S.A, 2013 Supp. 72-1127(c). And those statutory goals appear to signal a deliberate legislative decision to adopt the *Rose* standards as articulated by the district court quoted in U.S.D. No. 229 11 years earlier."

298 Kan. at pps. 1166-67.

As such, these standards for testing the adequacy of measures or funding of the Kansas K-12 school system have been known and hence its principles have been implicitly recognized by the Kansas judiciary at every stage, as the Gannon Court noted, beginning in some measure since 1994. Just as any person who enters into an agreement affected by the law, that law becomes a part of the agreement, expressed or not. Likewise here, if doubt exists, we always intended to speak in this case implicitedly in regard to K.S.A. 72-1127(c) and the *Rose* tenets it emulated. Further, if emphasis

in our original *Opinion* rested in cost analysis, it was borne of two factors.

First, the Legislative's Post Audit Study of 2006 was framed from the perspective of what it would cost to accomplish the goals set forth in K.S.A. (2005) 72-1127(c), hence, the outputs recognized were mirrored and mated to these experts' estimates of the costs to their accomplishment. *See* Plaintiffs' Exhibit 199: *LPA* study, *Appendix* 2, pps. 139-142. Further, the experts, Ducombe & Yinger, were well versed in school finance issues. *Id., References* at pps. C-41, C-42. Further, though the Augenblick & Meyers study of 2002 has been characterized as overly input based, we sincerely doubt that its authors, or the objectives for which the inputs were formented, expressed or not, did so in ignorance of recognized educational objectives, such as the *Rose* factors, themselves formally enunciated in 1989. *See also*, K.S.A. (2001) 72-6439(a); Plaintiffs' Exhibit 203: *A&M* study at 111, pps. 111-1 - 111-3 and Tables 111-1, 111-2. Admittedly, however, the

performance standards were lower. *Id., Appendix* B at "outcomes". The *Rose* factors, as well articulated as they are, nevertheless, seem to only express but the commonsense foundation for any enlightened K-12 educational system. As such, as the *Gannon* case noted, their lack of explicit statutory expression would not negate either their existence or their application. 278 Kan. at pps. 1166-67. Nevertheless, it must be acceded, these *Rose factors*, as specifically identified, had not until the *Gannon* case been adopted expressly *as the basis for the determination of Kansas Art. 6, § 6(b) constitutional adequacy.*

Secondly, in *Montoy II, Montoy v. State*, 278 Kan. 769 (2005), the Kansas Supreme Court had found that the 2002 Augenblick & Meyers cost estimates had been found to represent the only evidence of costs and recognized that the study evidenced a substantial shortfall in state funding based on then existing state standards 278 Kan. at 771-773. In *Montoy III, Montoy v. State*, 279 Kan. 817 (2005), the Court found that the

Legislature had yet to meet the cost deficiencies noted in *Montoy II* after the legislature had ordered a partial increase in funding pending a new cost study. 279 Kan. at 844-845. Finally, in *Montoy* IV, 282 Kan. 9 (2006), the Court found that the intervening Legislative Post Audit study that was performed in that interim from *Montoy III* had substantially confirmed the Augenblick & Meyers study costs and did so in terms of the cost of meeting the K.S.A. 72-1127(c) standards. Further, the *Montoy IV* Court found its past findings had been substantially met by the legislative enactments to that date, which included formula changes and the multi-year funding promised, which ultimately ended with a BSAPP of $4492 for fiscal year 2010 (July 1, 2009 - June 30, 2010) and the enactment of a statute that provided for regular funding revisions based on inflation, *i.e.*, K.S.A. 72-64c04. However, the *Montoy IV* Court opined that substantive reliance or any defects or deficiencies in the LPA study or the ultimate effect of the statutory formula changes to the

school finance structure could not be authoritatively reached in that appeal, leaving any test of those changes or that cost study's accuracy as being representative of the adequacy of funding to a later day, if ever need be. 282 Kan. at 21, 23.

The need arose in the form of the filing of this *Gannon* case on November 2, 2010. The pleadings, and the evidence produced at this subsequent trial, over which we presided, reflected that the Plaintiffs' complaints were not so much occasioned by any shortfall or defect in the A & M study's, or the LPA study's, analysis and conclusions, but rather from the wholesale abandonment of the commitments made to the *Montoy IV* Court by the executive and legislative branches of government subsequent. Hence, we tested the underlying analysis of not only the LPA study, since it had never been tested, but also retested the A&M study as to its findings. As noted, the former was premised on meeting the *Rose* mirrored goals set out by K.S.A. 72-1127(c) enacted in the 2005 legislative session. We found the

results of that study substantially authenticated and supported, in dollar terms, what was needed to meet the K.S.A. 72-1127(c) standards, the Kansas Supreme Court's judgments made in *Montoy III* and *Montoy IV,* and, with appropriate reconciliation of the costs factors producing both studies' results, that the LPA study was relatively complementary to the A&M study's results. We, then proceeded to determine what, if any reasons existed, for the abandonment of the statutory and funding commitments made that had led to the *Montoy IV* court's release of that case in 2006 as in "substantial compliance" with its *Montoy* judgments. In this latter sense, and as did the Plaintiffs in much of the presentation of their case, we treated this case presumptively as a question of enforcement of the *Montoy* cases, hence, looking only for changes, up or down, that would require from the new facts adduced any material alteration to any of the previous conclusions reached.

As we noted, the subsequent legislative and executive retreat from that "substantial compliance" found by the *Montoy* court, at least at first, was prompted by the "Great Recession", the effects of which discombobulated government revenue streams across the entirety of the United States, as well as globally. However, its effects were moderated on state governments to some degree by federal assistance in the form of federal ARRA grants, which in Kansas were applied, *in substitution for state revenues*, in part, to mitigate the effect of the revenue shortfalls on the Kansas K-12 educational system. By an example, sixty-six percent (66%) of the supplemental state aid, in fiscal 2010 was funded by these intended *short term* federal dollars (Plaintiffs' Exhibit 296). We attempted to detail, by following the pattern and thrust of the evidence advanced at trial in support of, or in opposition to, Plaintiffs' claims, the impact of the budget cuts on the State of the Kansas's K-12 education system beginning from the filing of the

original *Montoy* case to the time of our issuance of an opinion by us in this *Gannon* case on January 11, 2013.

This history and the evidence adduced revealed that, yes, money makes a difference, such that from the infusion of new money into the K-12 educational system, beginning in 2005 after *Montoy* II and ending with the commitments made to the *Montoy* IV Court in 2006, until the beginning of the retreat from those commitments after the BSAPP had reached $4,433 for FY2009 on July 1, 2008, student performances/achievements, based on accepted testing methods, evidenced considerable progress, *i.e.*, money was making a difference. We found this educational progress continued and did not level off until the 2010-11 school year, even though State funding had dwindled, which result we found had most likely been a carryover from the educational inputs made in the earlier years of the increased funding and sustained, in part subsequent, by the noted federal assistance, local school district efforts to dip into, and use, their cash balance reserves, and

local school district efforts to shield the classrooms, as best they could, from the continuing lack of the once anticipated state funding. Our conclusion, certainly based, in part, on the precedent of the facts underlying the *Montoy* decisions, was that the current funding levels, having devolved to pre-*Montoy* levels, could not be sustained, that is, that *no evidence* justified a conclusion that what was now less funding could somehow equate to equal or more in supporting the outcomes demanded by the K.S.A. 72-1127(c) standards and the study experts opinions. (District Court *Gannon Opinion* at pps. 183-185).

Accordingly, we found the Kansas K-12 school financing formula constitutionally inadequate in its present failure to implement the necessary funding to sustain a constitutionally adequate education as a matter of current fact as well as the precedent facts that supported the *Montoy* decisions. That is still our opinion.

ADEQUACY AS A MATTER OF STUDENT PERFORMANCE:

While at the time of the trial to the time of our original *Opinion* in this case, many of the FY2012 student performance statistics were unavailable or at least not in final form, but their direction at best was such that, but for the *Waiver* received from the federal *No Child Left Behind Act*, that Act's compliance thresholds would not have been met. The facts found at trial revealed substantial gaps remained in student performance on student achievement tests when students were categorized into subgroups by race or ethnicity, English speaking ability, or family economic circumstance and were most likely to continue unabated without adequate funding. (*Gannon*, District Court *Opinion* at pps. 159-190). Such a result could not remotely be "fitting, proper, appropriate or satisfactory", *Gannon*, 298 Kan. at p. 1150. Such a downward result would now affront the "*Rose* factors" across the board, but, particularly, factor "(i) sufficient . . . communication skills . . .."; factor

"(vi) sufficient . . . preparation . . . to choose and to pursue life work intelligently"; and factor "(vii) sufficient levels of academic or vocational skills to compete favorably [in the marketplace]". The "*Rose* factors" speak not to the majority of students, but to *each* student individually. See, "*Rose* factors", *supra,* at pps. 5-6.

That students in these subgroups have the same capacity to learn and achieve, given adequate funding and the right approach, is demonstrated by the evidence advanced concerning the Emerson elementary school in Kansas City, Kansas, as detailed by the Kansas City, Kansas, USD 500 Superintendent, Dr. Cynthia Lane, as follows:

> "Q. Do you have a school in Kansas City, Kansas USD 500 called Emerson?
>
> A. I do.
>
> Q. I'd like you to tell the Court - is that a grade school?
>
> A. It's an elementary school.

Q. I'd like you to tell the Court the history of Emerson Elementary.

A. I'd be glad to. Emerson Elementary School is a small neighborhood school and in the part of the community that's referred to as Argentine. And it has a rich history of very much a community center. Unfortunately, part of its history was that three years ago it was declared the lowest performing elementary school in the State of Kansas.

You may be aware that federal department of education requires that our state department rank order all schools based on their performance on state assessment, and Emerson Elementary was at the very bottom of performance; extremely discouraging and heart wrenching to know that we had fewer than 30 percent of the children in that building who were able to meet standard.

The demographic make-up of Emerson, at that time, and continues to be about 50 percent African American and about 48 percent Hispanic, so high minority, very few Caucasian children in the school. But we implemented some very extreme interventions, if you will, that

were funded by a federal School Improvement Grant. We were really fortunate that with this bad news came resources.

And very pleased to be able to tell you that they have increased their performance on both the reading and math state assessment to have more than 85 percent of their children meeting or exceeding expectations just in the last three years. It's a remarkable story.

Two weeks ago, the assistant secretary of education, Jason Snyder, visited Emerson because he had seen their results. And he came to see what we're doing there and to hold that up to the nation of what needs to be done to help kids succeed, particularly kids that come from minority backgrounds.

So we're real proud of Emerson and it's a success story. And we're looking at that now, the model that they used there, to try to replicate that in some of our other elementary schools that are very challenged.

Q. Let's talk about how that turnaround occurred. What were the strategies that were implemented at Emerson that

caused the increase in performance?

A. Well, the first thing we did was sit down and have a conversation with every employee that was assigned to the building. And part of the conversation was to really determine whether or not they believe that children, regardless of their background and their poverty situation, could learn at high levels of expectation. And to be honest with you, about 50 percent of them did not believe that the children that were attending that school could truly perform and meet the high expectations met by our state and by the district.

So we removed the principal and we replaced 50 percent of the staff -- it's a small building so eight to 12 teachers, a principal and a secretary -- and began providing that group of individuals intensive professional development, particularly in the areas of literacy. We found that the staff really didn't understand how to teach children to read and write and to do that in a way that kids could express what they knew effectively. So we provided intense training.

We put in place a parent liaison who spent the first year of school having porch visits, going to each family's home to try to fully engage the family in what was happening there. We've extended their school year and their school day. Children come to school at eight and stay until seven in the evening, and we provide intensive literacy and math instruction as part of their after-school program, as well as enrichment kinds of things.

We implemented what we call a bookbag program, so every week children take backpacks full of books home, because we want parents to have a meaningful way of helping their children improve. So those are some of the things we have done.

Another thing I might mention is strong partnership with some community agencies to help families meet needs, help them pay utility bills, help them access resources for food. And in some cases, we make connections with their parents in terms of employment opportunities.

Q. The strategies that you've identified, did those come with a cost?

A. It came with a significant cost. Emerson receives, in that grant, the initial year was $2 million in additional resources, and for a school that has 180 children, that was significant. And that amount has declined over the last -- last year was about 1.2 million, I believe, and next year will be slightly under a million dollars.

So the next challenge for us will be, now that we know what we know, we know what the children need in order to be successful and how to engage families, how will we sustain those resources.

Q. And $2 million grant came from what source?

A. Came from the federal School Improvement Grant under -- the department of Title I -- or Title.

Q. Was there any additional state funding that was supplied to Emerson three years ago that affected the turnaround?

A. No. No additional state money; only the federal grant.

Q. And with that federal grant you were able to turn that school around to take it off the

bottom of the list of elementary schools in the State of Kansas?

A. That's right. Their performance is now very, very strong and very competitive.

Q. What did the school district do in order to get the grant, this $2 million grant, three years ago?

A. It was a competitive grant process. Our partners at the state department notified us that the school was eligible. The first thing we had to do was sit down and have real conversations about why is it we're not meeting needs of these kids -- they call that root cause analysis, what's in the way -- and craft a plan using actual student performance data, here's what we know now and here's what we expect, and submitted that application. And we're pleased that it was funded.

Q. In your opinion, did the additional resources that were provided through the federal grant have anything to do with the turnaround?

A. It had everything do with the turnaround because without that, we wouldn't have been able to purchase the -- we have a lot

of technology now the children are using and are learning.

We wouldn't have been able to do the professional development to help teachers learn how to teach literacy, in particular. We wouldn't be able to provide that extended day for them. We wouldn't be providing a summer session for the children who need it. None of those resources would be available.

Q. And what do the test scores at Emerson look like today?

A. Reading is at 85 percent of the children meeting or exceeding standards and math is just under that at 83 percent, keeping in mind that they were in the 30s just three or four years ago.

TR: p. 216, l. 21 - p. 222, l. 24.

. . .

Q. With additional resources, would you be able to reach those kids and enhance their proficiencies?

A. It's not about the children's capacity to learn. It's about being able to provide them instruction in a

way that helps them move forward.

And we have examples that we've talked about already. Sumner Academy of Arts & Science, Emerson Elementary School, and I can name others, places where they are moving their children forward. So with the additional resources, if I could replicate in every elementary school what we have happening at Emerson, I'm confident that our children would do very well.

TR: p. 284, l. 9 - 21.

. . .

Q. Well, when there's a cut in funding, does the cost of those kids go down?

A. Yes, the cost stays the same and actually is there, but we have less funding to be able to fund that.

Q. Okay. And in terms of additional resources, are those additional resources needed for kids that cost more?

A. The additional resources are needed for those kids that cost more, absolutely.

> Q. I asked you during the break to get some information on Emerson.
>
> A. Mm-hmm.
>
> Q. And I want to ask you about Emerson. The grant money that was received at Emerson, divided by the number of pupils at Emerson, is what number?
>
> A. Approximately $6,500 per student, keeping in mind that is a School Improvement Grant fund, so in essence, that's like a windfall of money. It's a one-time grant opportunity that lasts for three years. So that's in addition to the base state aid that we would receive, so $6,500 on top of the base state aid."

TR: p. 408, l. 2 - l. 24.

While no one saw fit to specifically provide the actual Emerson school's before and after staffing patterns or program details to this Court as an exemplar, nevertheless, by reference to Dr. Lane's testimony and to the descriptions of the federal program backing this funding initiative, which we here

judicially notice (U.S. Department of Education at ED. Gov: School Improvement Grants), it ranged from the readjustment of attitudes of educators, extensive professional redevelopment and retraining, the extension of school hours, the addition of adjunctive personnel, and, generally, a more hands-on, holistic family and educator involvement in the success of each student, such that Emerson, a grossly non-performing school previously that was principally composed of the same character of student sub-groups that lag student achievement goals statewide as do those subgroups in the Plaintiff school districts, went from a 30% achievement test success rate to an achievement test success rate of 85%.

We, in conjunction with the above discussion, further note that these achievement gaps still exist statewide and at the Plaintiff school districts. The 2011-12 testing records for those tested reveal a static or downward direction as to all students and for all student subgroups in reading from that of 2010-

2011. They reflect only a slight uptick in math proficiency in all categories except students with disabilities. The Plaintiff school districts substantially follow suit. (Judicial notice of Kansas State Department of Education: "Report Cards 2011-12" v. "Report Cards 2010-11"). While the testing nomenclature for the results of testing for school year 2012-2013 has changed due to the Waiver from the *No Child Left Behind Act* from "annual yearly progress (AYP)" to "annual measurable objectives (AMO)", the Kansas Department of Education statewide "Report Card" for the 2013 testing in math and reading reflects a substantial downshift in all scores, particularly, the subgroups. This 2012-2013 statewide "Report Card", as noted, shows drops in all categories. From 2011-2012 to 2012-2013, by example, African Americans *not* meeting the standard in reading statewide went from 27.7% up to 31.6%; Hispanics from 21.7% up to 26%; the economically disadvantaged from 15.9% up to 18.9%; and English language learners (ELL) from 25.2% up to now 31.1%.

Similarly, in math, African Americans *not* meeting standard went from 31.8% to 40.7%; Hispanics from 22.5% to 33%; the economically disadvantaged from 21.8% to 30.8%; and the English language learners from 25.5% to 37.6%. For all students statewide, those *not* meeting the reading standard went from 12.1% to 14.4% and for math those *not* meeting the standard went from 14.2% to 20.8%. White students statewide went from 8% *not* meeting the reading standard to 9.8% and in math went from 10.2% *not* meeting the standard to now 20.8% *not* meeting it. The Plaintiff school district's substantially followed suit. (Judicial notice of 2012-2013 Statewide "Report Cards" for reading and math). Further, a randomly selected examination of a "Report Card" - the Shawnee Mission USD 512 school district - also reflected comparable, across the board, decreases. *Id.*, 2012-2013 "Report Card" at "all students, all assessments". We recognize, as proffered by the State, these 2012-2013 statistics were possibly affected by the change in nomenclature and the approach to the

proficiency measures. *See State's Proposed Findings of Fact and Conclusions of Law,* Fact 82, Defendant's proffered Exhibit 1522: Message From the Commissioner. Nevertheless, the tests noted were still given, and minimally, these statistics provide *no* evidence of student progress and *no* evidence has been proffered to us otherwise. Plaintiffs' Exhibit 422: DeBacker Deposition TR: at p. 31, l. 16 - p. 33, l. 16; p. 87. l. 15 - l. 22; p. 89, l. 15 - p. 90, l. 14. A new category of "approaches standard" is one, nevertheless, *below* the standard.

As to these achievement gaps, we further note that often raw statistics can lack true meaning if not placed in a familiar context or other personal reference perspective. Nameless numbers or percentages, presented only in the abstract, are but naked descriptions. We offer this example. In the 2010-11 school year, the number of students statewide not meeting the standard set in math was 69,670 students or 14.6% of all students and in reading it was

58,218 students or 12.2%. (*Gannon* District Court Finding of Fact No. 453) If the statewide category of demonstrable non-proficient students in reading was considered to be the sole student body of a single, separate, school district (58,218), this school district would have constituted the largest school district in the state, where Wichita U.S.D. 259 was then the largest with 44,936 students. If this hypothetical school district was composed of only those statewide who were non-proficient in math (69,670), such district would almost equal the student bodies of all the named Plaintiff school districts, which had 74,004 students in this period.

The economically disadvantaged subcategory of non-proficient students statewide in reading achievement was 44,248 or 19.5% of all students and 50,734 or 22.2% of them statewide were non-proficient in math. Either of these two latter separate categories of non-proficient students could have filled nearly every seat in every school in every school district in every

county with an eastern boundary beginning west of Salina, which school districts had 51,617 total students overall. (See Plaintiffs' Exhibit No. 11, *Gannon* District Court *Opinion* at Findings of Fact Nos. 405, 406, 453).

The number of Hispanic students statewide not meeting the math standard was 27.6% of all such students or 17,579 and in reading 21.6% or 16,801 students. The number of African American students statewide not meeting the math standard statewide was 11,569 students or 32.6% of all such students. (*Id.* at Fact No. 406) Their number not meeting the reading standards was 9,582 students or 27%. *Id.* at Fact No. 405. If these separate categories of Hispanic or African American students who were non-proficient were each considered to be the inhabitants of a separate city in Kansas, Hispanics would have comprised, respectively, the 25th largest city and the 26th largest city, just behind Newton, Kansas, and ahead of Great Bend, Kansas, while the African American students would

have comprised, respectively, the 32nd largest city, a city larger than each of the cities of Atchison, Merriam, or Parsons, Kansas, and the latter group of non-proficient math students would have comprised the 38th largest city in the state or larger than each of the cities of Independence, Mission, or Augusta, Kansas (2010 U.S. Census).

The number of English language learners (ELL) not meeting the reading standard statewide was 12,675 of such students or 25.2%. *Id.* at Fact No. 405. Their number not meeting the math standard was 11,489 students or 27.8% *(Id.* at Fact No. 405). If each of these non-proficient categories of ELL students each comprised the fulltime equivalent student body for any Kansas college that student body would have been larger than the student body of any Kansas college or university except K.U. (20,596) and K.S.U. (22,468) (Kansas Board of Regents, Kansas Higher Education Enrollment Report, Fall 2012). Either group would have filled substantially all the seats in the Johnson

County Community College in 2012 (12,955) (Kansas Community College Enrollment, Kansas Association of Community College Business Officers, January, 2012).

As we found earlier in our first Gannon District Court Opinion, the overwhelming majority of educators and experts firmly believe educational success, particularly, for those students often dealing with circumstances or personal issues beyond their control, and which, by expert consensus, are generally more difficult to educate or amenable to educational breakthroughs, find benefit only in more personal attention from their instructors, associated instructional personnel, and from other supporting services. The Plaintiff school districts particularly are representative of such schools having these large subgroups. This, of course, means smaller class sizes and more teachers and adjunctive educational personnel to assist both students and teachers. *Gannon* District Court Opinion at pps. 61-68.

However, a great many of the known and successful educational approaches, as recited at the trial, e.g., Dr. Lane, were abandoned or greatly restricted as a result of the funding shortfalls we noted, which have not, by any evidence, ever been even closely restored to that level of funding where consistent progress was firmly evident. See Plaintiffs' Exhibits 253-268, 272, 273, 275-281, 283-285, 296, 335, and *Appendix B* attached hereto. Given the continuing grade advancement and migration upwards of K-12 schoolers during their school careers, it seems but obvious that for educational advancement, much less the maintenance of results accomplished prior with the earlier funding initiatives implemented, but now abandoned, that the revenue streams which supported those results for students in that period of favorable funding needed to be continued to be provided in order to properly educate the continuing stream of new faces going forward, either initially entering the school system or

advancing in grade. *No* evidence or proffer of evidence supports otherwise.

As the *Rose factors* convey, K-12 school is also a means of learning how to interact with each other, be competitive without being hostile or devastated, and appreciating the arts, music, sports and both self and the world around us. These attributes of K-12 schooling are deemed very important and an integral part of an educational pursuit if the system is to be considered constitutionally adequate. *See Rose factors* at "(iv) sufficient self knowledge [and one's state of being]"; "(v) sufficient grounding in the arts . . . to appreciate his or her cultural and historical heritage." We would believe these latter "awareness" factors also would include student interactions, whether in the classroom or in extra-curricular pursuits, that would engender a respect for others' aspirations, the undeniable value of teamwork, an understanding of the necessity for fundamental fairness in all human endeavors, and that setbacks can be

opportunities for learning and moving forward, not giving up. Yet, it was many of these types of programs and their associated personnel that would lead to such "awareness" that fell by the wayside first in the local school boards' attempts to salvage the "three Rs". By the evidence, or rather by the lack of evidence or any proffer of restoration, such programs remain impeded. See *Gannon* District Court Opinion, p. 65 at Finding No. 203; Plaintiffs' Exhibits 253, 254, 255, 335 and 296. As Plaintiffs' Exhibit 254 details, which we have included here as *Appendix B*, the impact of the loss of funding was endemic, systemic, and statewide, including the named Plaintiff school districts.

While we found the BSAPP figure set by the school finance formula was the driver of educational funding to its weighted resulting total, other funding sources provided independently by the legislature were also important, much of which, were eliminated or reduced, requiring those programs if they were to be maintained, to be funded from the diminished BSAPP dollars, *e.g.*,

Gannon District Court Opinion, pps. 79-80 at Findings Nos. 253-257, 259. These programs such as teacher mentoring, parents as teachers, and the professional development of educators all dovetail into those endeavors which import quality and breadth of effort and involvement into a successful, constitutional K-12 system, all of which programs, like the Emerson school example demonstrates, have the capacity to increase the likelihood of achieving better individual student learning and performance. Thus, when eliminated, cut, or otherwise put in competition for dollars intended elsewhere, as has been done, the K-12 school system's forward progress is stalled and remains inadequate to the task and diminishes the required learning experience.

Here, an example rests in the fact that transition to the *Common Core* standards and the success of the objectives sought by them, which encompass a great swath of the Rose factors, is keyed initially, much like was done at Emerson school in implementing its

changes, in intensive teacher retraining. Here, that training was left, or will be principally left, to existing and, probably, local resources, meaning Common Core may succeed but, if so, most likely at some other program's or learning opportunity's expense. Here, we, acknowledge a Legislative Post Audit study concerning this expense which sees its implementation costs as likely not continuing beyond five years (*See State's Proposed Findings of Fact and Conclusions of Law* at Exhibit 1504, pps. 15-20: Legislative Post Audit *Performance Audit Report*). We acknowledge it, not for its veracity or soundness of conclusion, but, rather to only note, if correct, the cost of implementation of Common Core standards, if not funded separately or by an increase in other available funds, would be but an exemplar of the fact that individual student and any systemic progress in the K-12 system is now, principally, at this particular state of constitutionally inadequate funding, wholly cannibalistic in nature.

Similarly, if other professional development is not fully funded separately or by an increase in other funds, a teacher will more likely than not only gain professional expertise in one area of instruction at the expense of gaining expertise in another, much the same as where the student artist, musician, or athlete has been forced to yield those pursuits to the budget imperative of preserving the learning of the fundamentals of reading, writing, and arithmetic. The same principle of robbing Peter to pay Paul applies to any other necessary but independently paid program or expense that is underfunded and not accommodated elsewhere.

Since the date of an original decision in January 2013, the BSAPP, then at $3780, has only risen, first to $3838 for FY2014 (7/1/13 - 6/30/14) and now at $3852 for FY2015 (7/1/14 - 6/30/15). This amounts to a total increase in the BSAPP, but only as of late, since FY2009 of but 1.9% against a rise in inflation for that period of approximately 11% or an effective net loss in

purchasing power of 9.1%. The local option budget cap set by K.S.A. 72-6433d, which was principally at $4333 at the time of our decision remained so until this year, when it was raised in the 2014 legislative session to $4490 with the local option budget authority for those few districts able to employ the high end of authority raised to 33% from 31%. This represents only a 1.3% increase *since 2008*. However, even this increase in authority is set to expire in FY2017.

We find that on the other hand certain programs related to technical or tradesman education or joint high school and college course crediting are a boon to the K-12 system, particularly, in tailoring educational opportunities to likely student abilities, preferences, and needs. Further, they do not appear structured or funded such that they necessarily cannibalize other programs or student needs because many have drawn in resources outside the K-12 school system for assistance. As such, being innovative, yet, addressing need and lessening barriers, they are to be applauded.

Yet, these programs are neither universal in accessibility nor universal to the need. By example, only higher achievers qualify for college course crediting. *See,* Kansas Board of Regents Regulations at K.A.R. 88-29-1, *et seq.; e.g.,* K.A.R. 88-29-1(g); 29-11; 29-12; 29-18; and 29-19. Outside supported technical education may be limited by the student's particular geographical location in the State. While we requested information from the State in regard to the number of students affected by these programs, it has yet to be provided. *See State's Objection to Panel's Requests for Information Not in the Trial Record: "State's Response . . ."* at p. 6, column 4 across, column 4 down.

While these noted programs do add to the K-12 educational system and advance student goals, they do not of themselves, as such, cure the K-12 system's deficiencies in providing the underlying breadth of resources that would support some reasonable assurance that each student, so inclined, is able to obtain this

third party assisted benefit in aid of "(i)", "(vii)", and, particularly, "(vii)" of the "*Rose* factors": "sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently".

These noted programs are the type of educational innovations and endeavors which, perhaps, we might assume the Kansas Supreme Court referred in its Opinion, 298 Kan. at p. 1170, when it said ". . . 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". They are, however, by the limitations of their offerings and by the specialty of their attraction or qualification, too few and spring from too narrow of an educational launch pad to cure the overall disease of chronic underfunding occasioned to the educational mission as a whole, which undermines accomplishment of the educational landmarks

as set by the *Rose factors*. We uniformly doubt, and certainly no evidence has been provided nor proffered that would give us a rational basis to believe, that merely meeting a testing proficiency cutoff of 68 on a scale of 100 in either reading or math, which skills lay the foundation for understanding all else and enabling critical and logic based thinking, would satisfy the *Rose factors* or enable such a merely "proficient" student to enter college programs or rewarding careers generally, much less meet the qualifications needed to be admitted into this limited *genre* of special collaborative programs.

ADEQUACY AS A MATTER OF DOLLAR FUNDING:

On this particular discussion of constitutional adequacy, we would begin by readopting what we stated in our original opinion at pps. 55-190 by fully incorporating what we found without restatement here.

The Augenblick & Meyers study of 2002 recommended its findings be "restudied" every 4-*6 years* and interim thereto the legislature was to devise and maintain an

inflation mechanism enabling such costs to keep pace. (Plaintiffs' Exhibit 203 at p. ES-4; *Gannon* District Court *Opinion* at p. 91). Subsequently, the Legislature set $4492 as the fiscal year 2010 BSAPP (K.S.A. 72-6410(b)(1)) and K.S.A. 72-64c04 provided a statutory means for an inflation adjustment going forward. By the time of our trial in the summer of 2012, both the funding of the statutory $4492 BSAPP and the statute providing for an inflation adjustment of it had long gone by the wayside, the former either by legislative non-appropriation or executive action in the form of an allotment. The $4492 statutory figure for the BSAPP was eliminated in the 2014 legislative session to now not be below $3838. See § 37(b)(1) of Senate Substitute for HB2506, amending K.S.A. 72-6410(b)(1). No new cost study has ever been commissioned. Thus, the reduced funding status discussed in the original trial court *Gannon* opinion still exists, notwithstanding the 2013 legislative session's $38 increase in the BSAPP, the 2014 legislative session's boost of the

BSAPP by $14, the 2014 legislative sessions' restoration of the separately paid and calculated capital outlay and supplemental state aid, and the increase in the local option budget authority by raising the K.S.A. 72-6433d cap from $4333 to $4490 while giving the ability to *some* districts to raise their taxing cap from 31% to 33%. As we noted, the total raise in the BSAPP only boosted that statutory fiscal driver of the school district's general funds by 1.9%, since FY2009, however, when the consequence of inflation is considered, the currently set BSAPP of $3852 actually reflects a loss of purchasing power totaling 9.1% since then. Similarly, as we noted, the raise in the K.S.A. 72-6433d BSAPP to $4490 was only a 1.3% increase but left a 9.7% decrease in its purchasing power from that of FY2009.

Again by reference to the cost studies, which we adjusted to assure uniformity of expenditures to obtain the comparative results necessary to a constitutionally adequate education as defined by the *Rose factors* and

which we then further adjusted the dollar projections for the effect of inflation to 2012 dollars, all as reflected in our charts and their footnotes in our original *Opinion*, it can be demonstrated that the State's school funding system, as presently situated, remains constitutionally inadequate. Even more salient, however, assuming the State is to get credit for local school district revenues derived from the State's extension to local school districts of local taxing authority for a local option budget, that inadequacy persists.

Considering our charts in our original *Opinion*, we attempted to show in a uniform fashion how the cost studies inflation projected recommendations comported with various funding levels, including a projection that would include the local option budget. *See Gannon* District Court *Opinion* at pps. 102-107. We have done that again here, as well, but modified our approach to the LPA study in regard to federal funds and capital outlay. *See Appendix A* to this *Opinion*. Our

determination at the close of trial, which was based on the then status of state funding, the fact that the Kansas school finance formula's principal intended driver is its BSAPP to which weightings are then applied, the fact K.S.A. 72-6410(b)(1) still then set the BSAPP for FY2010 at $4492, the obvious need for further legislative action to reflect the effect of inflation, and the absence of evidence quantifying in dollar terms the actual costs or embedded costs, if any, of complying with the *Waiver* or the Common Core standards, and, lastly our deference to what we hoped would be a legislature that would act in compliance with Article 6, § 6(b) as declared by the *Montoy* opinions, we, and as a beginning means of enforcement, enjoined funding of the BSAPP below the then statutorily set sum in K.S.A. of 72-6410(b)(1) of $4492 as unconstitutional.

In arriving at our initial decision, we through our comparison chartings and discussions concerning the premises for the figures displayed - principally

through footnotes – reconciled the expert reports as best we could such that each figure used encompassed the same factors to its dollar figures and then displayed several arrays for comparison. *Gannon* District Ct. Opinion at pps. 97-119. Our point in doing so was intended to encompass, in part some answers to the Kansas Supreme Court *Gannon* opinion's admonition to us to consider federal funds, KPERS, and other total revenue sources in our evaluation of adequacy. 298 Kan. at 1171.

As a panel, our intent was to convey originally, perhaps not well articulated, that the BSAPP of $3780 in FY2012 as adopted by the legislature and as it was represented and compared in our charts and discussions was constitutionally inadequate in comparison with the need as projected by two expert costs studies that were intended to reflect *only core outcome, performance based, education expenditures such as were necessary to support a constitutionally suitable adequate education within the meaning of Art. 6, § 6(b).* That state of

constitutional inadequacy would remain now in the face of the formal adoption of the *Rose factors* by the Kansas Supreme Court in this present proceeding and notwithstanding the Kansas legislature's subsequent increases in the BSAPP to $3852 and the restoration of capital outlay and supplemental state aid funding authority as it existed in FY2010. We stand on our belief that precedent Kansas Supreme Court cases, as well as the legislature, implicitly, if not expressly, accepted that the then existing Kansas's educational standards approximated the functional equivalent of the *Rose factors* and those factors most likely guided the cost study reports as well.

ADEQUACY OF DOLLAR FUNDING IN TERMS OF SOME OTHER K-12 EXPENDITURES OR THEIR FUNDING SOURCE:

Certainly by the evidence, the BSAPP as then constituted, and as conformed for the purpose of our charting comparisons, reflected no room for diversions from its purposes nor excess cash availability embedded within it to divert to, or be in substitute for, other

necessary expenditures such as for the independently paid state KPERS contribution, capital outlay, or for supplemental state aid. KPERS funding, then and now, involves a pass-through accounting.

Special education, in effect, is separately funded. By K.S.A. 72-978, it is the equal of the weighting for special education students, *e.g.* Plaintiffs' Exhibit 12, p. 10, columns 18 and 18(a). It is then set off as a credit as "local effort", effectively reducing the State financial aid payment made pursuant to K.S.A. 72-6416 by an amount equal to the additional dollars that would otherwise be generated from this special education weighting. Though this special education payment is initially deposited to a school district's general fund, it is required to be transferred to the special education fund of the school district. *See* K.S.A. 72-979(a); K.S.A. 72-6420(a). This fund is a special use, restricted, fund. *See* K.S.A. 72-965; K.S.A. 72-6420(b). Accordingly, in our current charting comparisons in Appendix A, the special

education payment has been removed from the general fund used for cost estimate comparisons. Neither of the cost studies included special education in their estimates.

Federal funds, where federal flexibility exists for credit against state obligations, appear to have been accommodated in the "local effort". For those federal programs not so accommodated, it is more than clear that they are specifically targeted funds, limited to the identified category of students targeted, limited in use, and limited in duration. Further, federal funding, by example to the Emerson school, is limited in breadth such that not all school districts with similar needs are included in the funding. Therefore, without statutory authority or a reliable mechanism to adjust for the receipt of such funds for a single school district, but not others, a blanket credit for all such federal funds in establishing a BSAPP amount is unwarranted when assessing adequate funding for *all* school districts. The *School District Finance and*

Quality Performance Act clearly recognizes this fact and the fact these federal funds fall without the intended scope for the district's operating budget structure. See K.S.A. 72-6430(f).

Further, and principally, all such federal funds substantially go to groups for which the Kansas school finance formula provides a weighting. However, the Kansas school finance formula, by reference to the noted cost studies recommendations, has, for the most part, never reached the essential weighting multipliers suggested as necessary by the cost studies, particularly, in the larger schools, *e.g.*, Plaintiffs' Exhibit 199, Ducombe & Young Study, at pps. C-27 - C-32. Thus, in so far as this latter is true, then besides federal prohibitions on substituting federal funds for state funds and the limited focus and time qualified nature of these principally discretionarily dispersed federal funds, Kansas's lower than recommended formula weightings for these targeted groups would belie the consideration of the federal

funds in any test of *state funding adequacy* particularly, *statewide* school funding adequacy.

Further as we noted in Footnote 9 in our original *Gannon* trial court opinion at p. 105 in reference to the LPA study, we doubted, which means we simply did not believe it was proved, that federal funds would be a deduct from the costs shown needed. If one references what Ducombe & Young listed as "expenditures", it included the general fund and supplemental general fund as well as other special funds or sources of funding, including federal. *Id.* at pps. C-47-C-48. Yet, however, the comments in its *conclusion* section clearly delineate its study was constructing a school district's general fund. *Id.*, at pps. C-39-C49. Ducombe & Young described their cost projections for each school district in their *Appendix F,* which is reflected at an asterisk at the end, the following:

> "*Base State Aid Per Pupil (BSAPP) for 2005-06 multiplied by weighted FTE without weights for special education, vocational

> education, or transportation. The product is divided by the unweighted FTE and by a deflator (1.06) to turn it into 2003-04 dollars."

Thus, unless and until, expenditures from federal funds may be used as a credit against *and supplant* state funds, and it was state funds only that the authors understood made up a school district's general fund, implying federal funds would cover outcome expenditures identified seem incorrectly premised. Further, attempting to extend the credit beyond the very student constituency or school to which it applies would diminish the needed resources for those others not its recipient. This is particularly true of federal funds for the reasons earlier noted.

Hence, the LPA estimates in our *present* chart in *Appendix A* do *not* reflect a deduction for federal funds. The legislative post audit division removed federal funds from its experts' projections. *See,* Plaintiffs' Exhibit 199 at p. 35 and Appendix 1.2. Of course, the Augenblick & Myers study excluded federal

funding consideration altogether. No distinction in the State's obligation was made by the studies for the source of other funding sources listed, including the supplemental general fund. Subsequently, the legislative post audit division, itself, did make a distinction in estimating the State's obligation in terms of the BSAPP necessary when, by example, the Legislature declared that supplemental general state aid funding was to be considered in meeting its obligation after *Montoy III* by enacting K.S.A. 72-6434(e)(1). *See* Plaintiffs' Exhibits 176, 197. Thus, in so far as our original footnoted comparative analysis of costs in relation to the LPA study in the Gannon trial court opinion adjusted cost projections downward for federal funds, we believe both we and the legislative post audit erred.

Further, carryover cash balances from certain local school district funds, including its general fund, are recognized and set off as credits to the state against the State school finance payment due as calculated from

the BSAPP and the number of weighted students, just as the State's financial obligation only arises after the locally imposed 20 mill-state property tax is considered. *See* K.S.A. 72-6416; K.S.A. 72-6410(c): "Local effort". *Also see*, Plaintiffs' Exhibit 3; *Gannon* District Court opinion, chart footnotes, pps. 103-107.

Certainly, by example, it would benefit local school districts if State KPERS moneys were *added* so as to be included in the BSAPP since that would boost the general fund as weighted, unless it would be setoff as is done with the special education weighting. Such a cost or expenditure, nevertheless, cannot reasonably be considered as a setoff or credit against, or as a cost or expenditure to be considered in lieu of, some other costs or expenditures reflected in the BSAPP, or as it is weighted, in measuring the *Rose factors* adequacy of the currently structured and funded Kansas school finance formula. To do so would necessarily supplant funds overwhelmingly shown as now inadequate to fund

the legitimate needs that comprise an adequate "*Rose*" factors, constitutional, education. The same can be said of any other independently derived state payment such as capital outlay, bond and interest funding, supplemental state aid, or, as we will discuss subsequently, local option budget revenues. Too, as noted, the special education weighting is essentially neutral in regard to a school district's general fund by its use as a credit to the state payment otherwise due a school district. Thus, no payment or credit advanced, however realistic, necessary or required it may be overall in regard to the State's K-12 education system, should properly be seen as one to be included in any measure of the adequacy of the Kansas K-12 school finance formula *as currently structured.* Hence, only when a separate payment or receipt previously made was not to be made or reduced and would cause the school system to cannibalize other funds in compensation for the loss, would separate payments become relevant, here, by example, the prior cutoff of

capital outlay funding or the reduction in supplemental State aid.

ADEQUACY AS A MATTER OF DOLLAR FUNDING WITH THE LOCAL OPTION BUDGET TREATED AS A STATE FUNDING RESOURCE:

Within an adequacy inquiry, there needs to be more critical attention to the question whether a unified school district's local option budget in full or in part, including as it may be supplemented by general state aid payment entitlements to some school districts, should be considered as part of a fiscal adequacy test of meeting the State's Art. 6, § 6(b) constitutional obligations. This arises because of the 2014 legislative's declaration in § 28(c) of Senate Substitute for HB2506 claiming credit for those funds in fulfilling its Art. 6, §6(b) constitutional duties.

A unified school district that seeks to implement a local option budget finds that its local option budget is capped and is not an unlimited one. One component of the cap is the amount of dollars generated by the authorized BSAPP amount and the various weighting or

factors as set by the legislature in the school finance formula which govern the dollar size of a district's general fund (K.S.A. 72-6410; K.S.A. 72-6433(a)) or, alternatively, a legislatively designated BSAPP amount when a currently funded BSAPP amount is less than a certain sum (K.S.A. 72-6433d). A second component of the cap comes into play by the legislature's specification of an applicable percentage of a school district's general fund for which local taxes may be imposed to reach an authorized cap. (K.S.A. 72-6433(a)). At this juncture, a third component of a cap comes into play. This is the option of a local school board to set the actual percentage for its LOB budget within that authorized limit as set by the legislature, which amount may be subject to an enhanced percentage of the cap to which the citizens of that unified school district may agree through a ballot initiative (K.S.A. 72-6433(e)). *There is, however, no legislative mandate requiring a local option budget.* The only mandatory taxation imposed on local school districts is for the

20 mill state imposed property tax which is credited first to fund a district's general fund budget obligations up to the extent of the weighted per pupil costs produced by the established BSAPP with any balance of tax revenues gained from the 20 mills assessment being within the control of the State.

While incentive exists by law to encourage a local option budget, such as supplemental general state aid payments, a grant of capital outlay authority, or the ability to make certain interfund transfers if a LOB is adopted, it is the practical limits to its property tax raising resources and local interest and concern, or exigencies, such as evidenced in this case, when the abandonment, in part, of state funding responsibility occurred beginning in February, 2009, that drive the creation of, or size, of a local option budget. Further, because a local option budget, if one is adopted, is capped by the dollar amount of its general fund or the alternative calculation permitted by K.S.A. 72-6433d and by local school board or voter decision as

to the taxable percentage, supplemental general state aid, when provided, may be an addition to, and sometimes in lieu of, local funds that would have otherwise had to have been required to have been generated by an adopted LOB.

The need for this equalizing supplemental state aid payment arises because of a lack of existing property tax eligible resources in a school district that could be used to achieve such LOB revenues from a mill levy within the authorized percentage cap and/or by virtue of local school board or voter choice in setting the taxable percentage. Supplemental state aid encourages the adoption of an LOB to the amount available for the reasons earlier noted and in some instances supplemental state aid softens the impact to local taxpayers in adopting an LOB because the local option budget, whether derived from local revenues solely or with the addition of supplemental state aid, would remain capped by the BSAPP amount selected to generate the general fund used to calculate the LOB.

LOB receipts are placed in a school district's supplemental general fund, including supplemental state aid payments, and these funds are to be expended for school purposes (K.S.A. 72-6433(j)). School districts may keep the unexpended balances in such fund at the end of a fiscal year with the exception that any percentage remaining of unexpended balances attributable to supplemental state aid is required to be paid back to the State (K.S.A. 72-6433(4)).

In our first *Gannon* opinion we discussed the LOB and the statutory provision of K.S.A. 72-6434(e)(1), which declared supplemental general state aid's use as in, and for, satisfaction of the state's educational standards and ensuing obligation to provide a constitutionally adequate education to each Kansas K-12 student. Heretofore, LOB funds, including supplemental state aid, was thought to have been left to local school board initiative in providing what the local school board deemed wisest in assuring the best school experience for its own K-12 students. We found that the

K.S.A. 72-6434(e)(1) provision noted, which directed to state control the expenditure choice for these equalizing payments made for the supplemental general fund, to be directory only as otherwise that statutory provision created, depending on the extent of the dollar receipt of supplemental general state aid by the district, an inequitable encroachment on local control. It created a disparity between districts in their choice of how to expend funds in their supplemental general fund "for school purposes" when not all of that fund was derived from the exercise of their LOB taxable authority. District Court *Gannon* opinion at pp. 132-133. The greater the need for supplemental state aid, the greater the restriction, hence, the greater the disparity and encroachment on heretofore perceived local choice of expenditure and authority. Further, the "use it or lose it" requirement of K.S.A. 72-6433(4) for those receiving supplemental state aid enhanced the disparity in choice. As we will discuss subsequently, that disparate impact may be ephemeral

and exist in theory only when the school district's general fund, as weighted, is underfunded because either the BSAPP, or the weightings available to it, are set too low.

The first question, however, is whether the existence of LOB authority and the fact of local school board choice to exercise that authority to some degree up to the maximum authority granted should be included within a test of adequacy in meeting Art. 6, § 6(b) compliance, particularly, if local school board expenditures derived from the fact of the implementation of LOB authority to tax locally are themselves necessitated in order to provide a constitutional education in light of the *Rose factors* to students of the local district due to a lack of direct state funding from state taxable resources. In other words, if the LOB funds are derived from that discretionary authority for local taxation, can they, without more than mere declaration, be claimed by the State as in satisfaction of any Art. 6, § 6(b)

constitutional adequacy test, particularly, if they are required to be applied by local school districts just in order to meet the *Rose factors* by a necessity borne of the legislative decision to not provide state revenues derived from statewide sources to school districts? Can the fact of the existence of these local school board choices to have an LOB in a certain amount count as a measure of funding adequacy as long as the choice to generate such funds was, in fact, made and the funds generated or received, in fact, are so applied? If so, our noted finding regarding the disparity between local school districts in the use of their supplemental general fund based on the source of the funds within it, while it may be true, has been mooted by the reality of the necessity of expending LOB funds, however derived, to make up for, and make due for, the inadequacy of its BSAPP generated general fund to meet the standards of a *Rose factors* education.

Seemingly, advocacy for, and countenance of, the use of these funds to meet any adequacy test is now

firmly the State's position, whereas, heretofore, it only was so impliedly. We admit, that beyond the question of the use of LOB funds derived from supplemental state aid, we considered the accepted purpose of a LOB was for enhancements for a school district's K-12 students which its local board wished to provide voluntarily in an effort to provide better than what Art. 6, § b(b) might deem adequate. In other words, in terms of the latter, a *local choice* to use *local funds* to provide the most optimum education its taxpayers were willing to *voluntarily* support. Nevertheless, we held no doubt that LOB expenditures, to a very great extent, were directed toward meeting, as the local board thought best, and in prescient fashion, the K.S.A. 72-1127(c) standards. In fact, as state school funding was ratcheted down beginning in February, 2009, the budget cuts implemented by local school districts indicate that many of what we believe are the truly necessary personnel and programs that are needed to meet the *Rose factors* were actually being

funded, even then, by the LOB funds, *i.e.*, "not mandated", under the guise of enhancements, *e.g.* Plaintiffs' Exhibit 288 (Hutchinson U.S.D. 308).

The State's position of seeking credit for LOB expenditures has now gained formal legislative expression, consistent now with that earlier expressed claim for credit for supplemental state aid funds by, as we noted, 2014 Senate Sub HB 2506, § 28(c)'s inclusion of revenues derived from the local taxation authority granted by the legislature for LOB's as one component of the State's contribution to meeting its Art. 6 § 6(b) obligations:

> "New Sec. 28. Article 6 of the constitution of the state of Kansas states that the legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools; provide for a state board of education having general supervision of public schools, educational institutions and the educational interests of the state, except those delegated by law to the state board of regents; and make suitable provision for finance of the educational interests of the state. It is the purpose and intention of the legislature to provide a financing system for the education of

> kindergarten and grades one through 12 which provides students with the capacities set forth in K.S.A. 2013 Supp. 72-1127, and amendments thereto. Such financing system shall be sufficiently flexible for the legislature to consider and utilize financing methods from all available resources in order to satisfy the constitutional requirements under article 6. Such financing methods shall include, but are not limited to, the following:
>
> . . .
>
> (c) *any* provision which authorizes the levying of local taxes for the purpose of financing public schools; and" [Emphasis added]

It may well be true as a matter of theory, even as a matter of fact, that an expenditure from its supplemental general fund - its LOB fund - by a school district could in some instances, maybe in many instances, maybe in all instances, *depending on the point of time or circumstances*, materially aid in providing or sustaining a constitutionally suitable education and could, *at a particular point in time and through a proper statutory structure*, be considered within the total framework of school funding to be a relevant part of a test of meeting "adequacy" in terms

of Art. 6, § 6(b)'s command to "make suitable provision for finance" of Kansas's K-12 educational system. However, in our view, *as the statutory structure now stands,* only if "accidentally" or "fortuitously" can stand as principled constitutional standards under Art. 6, § 6(b) could this be true.

We believe the state school finance formula's failure to provide a statutory mechanism to delineate and assure a fail-safe, such as a contingency reserve of funds, that would provide reliable state sourced funding when such voluntary taxation, *i.e.*, the LOB, including supplemental state aid, falls short represents a structural flaw in the argument made and a constitutionally unacceptable flaw in what § 28(c) of Senate Substitute for HB2506 purports to support or implement. A mere declaration such as § 28(c) cannot suffice as an enforceable command by present statutory structure as it leaves the option for a local option budget and its amount voluntary. If this is to be the legislative direction, then there needs to be in

addition to a fail-safe, a ceiling or a floor, by example, most equitably by percentage, defining the limits to the State's right to compel the use of such funds as the State would direct in meeting the State's obligation under Art. 6, § 6(b) to provide a *Rose* factors education for each and every K-12 student. This lack of enforceable defining features to § 28(c)'s declaration represents a structural flaw to its consideration as a reliable, constitutionally acceptable statutory structure, rather than its present discretionary structure, to assure the constitutional adequacy of the K-12 school finance formula or its funding. The LOB portion of the Kansas school finance formula is not so sufficiently designed today, nor was it structurally originally intended, to stand as a failsafe funding mechanism that would assure each and every Kansas K-12 student the education our Kansas constitution commands and is designed to assure.

Further, one cannot accept the State's argument or § 28(c)'s declaration as constitutionally sound just

because such dollar adequacy might exist *at this, or any other, moment in time*. To do so would make the Art. 6, § 6(b) constitutional assurance of an adequate education in light of the *Rose factors* a function of fortuity and local largess rather than one of enforceable constitutional substance. Constitutional funding adequacy could exist, but would vary as a local phenomena only, yet the cure for any deficiency could not be a challenge under the present statutory structure to local school board discretion in establishing a local option budget or school board or voter discretion in the amount of its funding, but rather, by the current statutory structure of the Kansas school finance formula itself, even if § 28(c) of Senate Substitute for HB2506 is to be considered, the cure would still remain one directed to the State by our Kansas constitution. Legislative compliance with Art. 6, § 6(b)'s command to "make suitable provision for finance" can be neither discretionary nor haphazard by result nor may such obligation be

delegated to other entities having such a discretion. As such, advancing a mere declaration as is § 28(c) and a consequent unsecured reliance on a voluntary local option budget as proof of the constitutional adequacy of the State's school finance system is flawed as it exposes a structural flaw in the State's duty to provide that "suitable provision for finance" that would secure a constitutionally adequate education for each and every Kansas K-12 student.

The disparities that can be, and are, produced by incorporating the statutory availability of a voluntary LOB as a measure of the constitutional adequacy of K-12 funding is reflected in a chart prepared by us attached to this opinion as Appendix A. Plaintiffs' Exhibits 243-245 also reflect, in some measure, the breadth of that disparity. It also demonstrates that at the time of our original decision in January 2013, as well as presently, that funding adequacy, even when school districts' LOBs are drafted, whether as *de facto* in the past, or now as attempted *de jure*, in support of K-12

school funding adequacy, it is not accomplished or certainly not structurally likely to reliably, uniformly, or equitably be accomplished.

Rather than encumber this opinion here with an explanation of these charts, we put those explanations in a preface to that *Appendix*. We have attempted also to make it self-explanatory otherwise. As the charts would reveal, just to cover the funding shortfall existing in FY2012 *by just the average of the cost studies* per pupil estimates *from the general fund of a school district* only, and using U.S.D. 259 in Wichita as the first example, U.S.D. 259 would need to have an increase in its available funds of $136,583,532. (-$2980 per pupil x 45,833.4 FTEs). *See, Appendix* A, Chart USD 259, Col. J ÷ Col. B. For Plaintiff USD 308 in Hutchinson, the need would be $13,835,493; for Plaintiff U.S.D. 443 in Dodge City, the need would be $15,863,059; for Plaintiff U.S.D. 500 in Kansas City, the need would be $60,953,510; and statewide the need would be $1,185,684,916 if only school district general

funds were to be the sole source of funding and not LOBS. Even at the current FY2015 BSAPP of $3852, these general fund shortfalls would only be reduced by 1.9%. Further, given inflation from 2012 to 2014 of 3.606%, this subsequent increase in the BSAPP actually amounts to a 1.7% decrease since 2012 in terms of the purchasing power of these general funds.

Even were the above noted school districts general funds in FY2012 combined with their FY2012 LOBs, the funding shortfall, based *on the average of the cost estimates,* would yet be for U.S.D. 259, a remaining (-)$40,333,392 shortfall ((-) $880 X 45,833.4 FTEs); for U.S.D. 308, a (-)$5,063,877 shortfall; for U.S.D. 443, a (-)$1,189,485 shortfall; for U.S.D. 500, a (-)$15,460,181 shortfall; and statewide, a remaining (-)$218,391,696 shortfall. Even with the increase of the LOB BSAPP cap of K.S.A. 72-6433d from $4433 to $4490 for FY2015 or 1.2858% or $12,440,361, the total increase in the combined statewide general funds and supplemental general funds of $61,101,595 is but a

1.7342% increase against inflation from 2012 of 3.606% or $127,011,847 (Statewide Chart, col. M: 3,522,236,455 X 1.03606) or a net loss in purchasing power from 2012 of $65,910,252.

Of the statewide shortfall in FY2012 from *all funds available to school districts*, the Plaintiff school districts were bearing 28.41% of the statewide shortfall ($62,046,935 ÷ $218,391,696). Hence, while merely bumping up the total revenues to cover the *average* statewide shortfall shown in *Appendix* A of (-)$480 per pupil might benefit Dodge City's FY2012 (-)$196 per pupil shortfall from all funds ((-)$480 v. (+)$196 = +$284 per pupil gain), it would leave a *collective* shortfall to the other three Plaintiff school districts of $27,488,186 or $395.40 per pupil short of the average of the cost estimates even when *all* current sources of revenue are considered, ranging from (-)$400 per pupil in Wichita, (-)$573 per pupil in Hutchinson, and (-)$339 per pupil in Kansas City. Even Dodge City's gain of $284 per pupil if there was to be

an across the board $480 per pupil statewide rise in funds available would be but $1,723,454 for Dodge City, leaving it just 11.74% of its FY2012 LOB ($1,723,454 ÷ $14,675,900), it having already exhausted its general fund and all contingent cash reserves.

Further, by examining the charts in *Appendix* A, it can be seen that funding Kansas K-12 schools to the average of the cost studies estimates through the general fund alone in FY2012 would produce significant disparities when the statewide average shortfall per pupil (-$2606) is compared with that of the Plaintiff school districts. By example, U.S.D. 259's shortfall was (-) $2980 or 14.4% above the statewide average; U.S.D. 308's shortfall was (-) $2877 or 10.39% above the statewide average; U.S.D. 443's shortfall was (-) $2614 or 3.06% above the statewide average, and U.S.D. 500's shortfall was (-) $3229 or 24% above the statewide average shortfall.

Further, by examining the charts in Appendix A, it can be seen that while funding Kansas K-12 schools to

the average cost estimate of the cost studies from the general fund only in FY2012 reflects significant disparities between school districts, that disparity is much more pronounced when the FY2012 LOBs are added in to meet the costs each would experience in providing a constitutionally adequate education. When the general fund and LOBs are combined, U.S.D. 500 maintains a 78.6% shortfall above the average statewide (-$819 v. -$480); U.S.D. 259, an 83% shortfall above that average (-$880 v. -$480); and U.S.D. 308, a 219.375% shortfall above that average (-$1053 v. -$480). Only U.S.D. 443's shortfall of (-) $196 falls $284 *below* the statewide average of (-) $480 per pupil. Nevertheless, that disparity from the average statewide is 69%.

These comparisons indicate that statewide, as a systemic whole, the FY2012 BSAPP of $3780, when weighted to make the general fund, and less the special education payment, and even when the school districts' LOBs in FY2012 are added in, the Plaintiff school districts, and school districts on the average

statewide, were put in a substantial financial bind, such there can simply be no doubt, *if any credence at all is given to the cost studies,* that a state of inadequacy in the capacity to provide an education meeting the *Rose* factors existed in FY2012 *even when all school district funds are considered.* The veracity of the cost studies is further buttressed by the cuts in staffing and programs evidenced after February 2009, *e.g., Appendix* B.

In the chart in Appendix A, we have projected the shortfall at different funding levels statewide. The special education payment is excluded in the comparisons. The exclusion of the special education payment is recognized by a reduction in the general funds totals shown. In FY2012, the special education payment, equal to its weighting, was $435,961,209. The general fund amount shown represents the amount that would be left to be paid by the State after the special education payment is deducted from the state payment due pursuant to K.S.A. 72-6416.

The revelations coming from this chart provide evidence of the legal fact that the continuing, and presently existing, legislative failure to set the BSAPP at a higher level and/or adjust the weightings to be applied upward in support of producing a district's general fund represents a glaring constitutional flaw in implementation of the K-12 school finance system. The chart's revelations further belie any practical, as well as legal, reliance on a LOB as a constitutionally adequate funding source given its statutory funding design is optional and voluntary as to both its existence and in the dollar contribution to be made by it. Further, budget projections are compromised by the differing deadlines for determining the State budget and for determining a school district's budget. The State has to act on its budget generally in the spring (legislative session) before the school districts declare their budget commitments (August).

Reference, too, to our *Appendix B*, which reflects the decimation that occurred to staffing and school

programs from cuts initiated beginning in February 2009, evidences that requiring the LOBs and necessary reserve funds to be consumed is itself an insufficient backstop for insufficient funding from direct statewide resources to the BSAPP and its weightings. As we have noted earlier, the legislature's failure to restore the BSAPP and its weightings to an adequate level, in fact, allowing the BSAPP, as the generator of adequate funds, to actually fall 9.1% in purchasing power since 2009, despite token increases since, answers the question of whether adequacy has somehow been restored or achieved.

Further it should be considered that just to have restored the reserve funds held by schools in FY2009, even if perhaps now accomplished, would have required the cannibalization of other funds since these reserve funds principally originated from transfers from the general fund. *See* K.S.A. 72-6409(b); K.S.A. 72-6426; K.S.A. 72-6428. Maintenance of reserve funds is an important component of budgeting. See Plaintiffs' Exhibit 348. Most certainly, LOB budgets guided by the

alternative BSAPP LOB budget cap of $4433 until this year provided no source for the restoration of school resources, purchasing power having been eroded by 11% by the effect of inflation since that alternative BSAPP figure was set by K.S.A. 72-6433d. The 1.2858% increase to $4490 in the K.S.A. 72-6433d cap enacted in the 2014 legislative session for FY2015 obviously cannot provide an adequate resource except by reducing the lost purchasing power from 11% to 9.7% beginning in FY2015. Further, since inflation is a constant factor going forward, to stand still is to lose more.

ADEQUACY AS A MATTER OF EXPERT OPINION, EXPERTISE, OR INVOLVEMENT:

Considering the previous discussion, we find it significant that the true experts, and the true expertise in the area of education, as presented to us, were from those trained or tasked with actually providing, or overseeing, the state's educational pursuits. In this case, these are the teachers and staff of the local school districts, the local boards

of education, the members of the Kansas State Board of Education, and others who have been tasked with the day to day duties or have material involvement with the needs and operation of the Kansas K-12 school system. Of the experts presented extraneous to the Kansas school system, such as Dr. Baker or the retained and underlying principals behind the Augenblick & Myers study and the retained and underlying principals behind the LPA study, we find these authors' credentialed opinions, prefaced as they were against the outputs to be achieved, to be highly credible and wholly unimpeached. We find the State's expert, Dr. Hanacek, as we had earlier noted in our original *Opinion*, believed that educational advancement rests in the quality of, not necessarily the quantity of, the resources it purchases. This, of course, is but a truism. We doubt he would eschew any of the *Rose* factors as not proper goals of an educational system nor doubt that the overwhelming majority of students can be taught, rather differing only on how best, how

efficiently, or at what cost it can be done. He acceded that it was the quality of the teaching that is key. Hence, Dr. Hanacek's opinions would not impeach the existence of achievement gaps, only question the strategies employed to overcome them. He proffered no solutions, but quality teachers, and certainly nothing that could be provided cheaper, much less free. As we noted, nothing in this case impedes independent inquiry into efficiencies, but the State's constitutional duty of providing a constitutionally adequate K-12 education cannot wait on the resolution of better or less expensive methods to its end.

The Kansas 2010 Commission, originally created by the legislature to monitor and report on school finance issues, recommended in its annual reports from December 2007 through its last report to the 2011 legislature issued in December 2010 that the BSAPP be set at $4492 and that figure be inflation adjusted. (Plaintiffs' Exhibits 178 (2010) - 181 (2007).

Further, the Kansas State Board of Education, has by a majority, at its meetings in July of each year beginning in 2009 recommended, unfailingly until this year, that the Legislature "fund current law" for the fiscal year next following the meetings. Before this year, there was a statutorily set BSAPP of $4492. Further, other separately paid school funding was recommended including supplemental state aid, capital outlay, parents as teachers, the Mentor Teacher Program, professional development, school lunch, and national board certifications. See Plaintiffs' Exhibit 188: Board minutes (2009) at pps. 3-4); Plaintiffs' Exhibit 190: Board minutes (2010) at p. 3; Plaintiffs' Exhibit 186: Board minutes (2011) at p. 4 (also by judicial notice); Board minutes (7/10/12) at p. 5 (judicial notice); Board minutes (7/9/13) at p. 3 (judicial notice): recommendation for FY 2015 (judicial notice). For FY2016, the Board recommended the BSAPP be at $4200 but increase the special education payment to 92% consistent with the long existing statute

(K.S.A. 72-978(a)(11)), increase Parents as Teachers funding and partially fund other noted separately paid programs. Prior to this meeting, the 2014 legislature had restored capital outlay funding and full supplemental state aid funding pursuant to an order of the Kansas Supreme Court. However, the legislature amended the $4492 BSAPP set in K.S.A. 72-6410(b)(1) to reduce it to "be at least $3838". (Senate Substitute for HB2506 § 37(a)). Hence, using its prior terminology of "funding the law" the Board obviously believed was not appropriate. For FY2017, the Board recommended the BSAPP be increased by $100 per year as their recommendation after FY2016 and adopted like recommendations made for FY2016. Board minutes (7/8/14) at pps. 3-4 (judicial notice). No evidence has been proffered for the $4200 BSAPP sum and the $100 annual increments. As we note, that beginning sum is inconsistent with the established facts, both present and historical.

Every school district official, every teacher, and every school employee that dealt with students and every official from any association that dealt with K-12 schools and their funding needs opined that school district needs in terms of funding were presently, and clearly, inadequate to the tasks of providing a constitutionally adequate education to Kansas's K-12 students. None waivered in their opinion, no opinion faltered in the face of cross-examination, and no evidence, other than that previously rejected by us, was offered to the contrary. The experts whose studies propounded the costs to sustain a constitutionally adequate education similarly stood unimpeached as to either qualifications, expertise, or their conclusions reached. Nothing advanced here subsequent has undermined their opinions.

Accordingly, we conclude that that the Kansas K-12 school finance formula still stands as constitutionally inadequate by its failure to assure and implement adequate funding to meet and sustain a constitutionally

adequate education as a matter of sound expert opinion and sound opinion from those with relevant and reliable expertise and experience with the Kansas K-12 school system. As the *Rose* factors but express the accepted, common sense, outcomes to be achieved from a K-12 education, the approaches and principles to that end must rest currently with educators and those others knowledgeable in the approaches to accomplish those ends. It is fair and reasonable to believe, as highly true, from all the evidence advanced in this case emanating from these knowledgeable people, that these educational goals, these *Rose* standards, are not met, and will not be met, by the current level of state supported educational funding. School districts now stand belabored by fiscal incapacity to do so and hampered further by the resulting inability to accomplish those ends over the necessary time it takes to develop plans to do as was expressed by Dr. Lane. Clearly, the conclusion expressed directly, and certainly implicitedly, by all such individuals at

trial was that current funding was inadequate to the task of assuring a constitutionally adequate education, one that is tailored to, and will meet, the needs of the wide diversity of individual students that comprise the Kansas K-12 student body.

CONCLUSIONS:

At the beginning of FY 2009 (July 1, 2008), the evidence established that the Kansas K-12 school system was functioning as a K-12 school system should in order to provide a constitutionally adequate education to Kansas children. It was supported by, and based upon, a consensus of expert opinion, both as to need and expense. At that time, the Kansas K-12 school system had the apparent necessary fiscal capacity and statutorily set funding in the future to plan to meet, and meet, the *Rose factors* if the LOB was considered, as well, a financial resource to some greater or lesser extent. At that time, the BSAPP was $4433, capital outlay was fully funded to its statutory measure, special State supplemental aid was fully funded,

special education was funded above the federal "maintenance level", other programs such as Teacher Mentoring and Parents as Teachers were funded, Title I federal funds were being used, and a measure of LOB funds were still available for local enhancements or innovations. There was no cannibalization evident that would sacrifice essential staffing or programs to even still more essential staffing and programs. At that point the K-12 system was constitutionally functioning and moving, in our view, toward improving students' progress and opportunities as identified by the *Rose factors*. There were, in that period, resources available that gave school districts the fiscal capacity to provide a constitutionally adequate K-12 school education in light of the *Rose factors* to each student in Kansas willing to grasp it. The removal of any one of these financial pillars, whether separately funded or not - this *total* funding - was, is, and would be, a negative and demonstrably, in the recent past,

turned, and still turns, the K-12 system on itself harming its students.

Such a condition, as evidenced by the lack of proffers of any material change and the lack of any material dollar resources coming into the system, still materially persists. The recent restoration of capital outlay and supplemental state aid funding for FY2015 only eliminated the cannibalization of other needed funds that were used to augment these recently restored source of funds in the past. Therefore, in our view, as we noted, any claims for credit or setoff for otherwise independently *established* sources of funding has clearly not been sufficiently advanced, if at all, or otherwise lacks the facts, good sense, or sophistication to support the attempt and must be rejected. K-12 school funding in Kansas is still proceeding by political choice to use otherwise available state financial resources elsewhere or not at all or to shield above a certain level important local property tax resources from statewide taxation, both to

the harm of the Kansas K-12 school system and in the face of the constitutional imperative of Art. 6, § 6(b).

As we said in our original *Opinion* at p. 110:

> "Certainly what the exact amount needed can well be seen to be within a range where some discretion may be exercised simply from the complexity and imprecision of the forecasting tools. A point fixed such as to discourage waste and promote efficiency is rational, but that point cannot be set merely by the amount of funds elected to be made available. *Compare, Americare Properties, Inc. v. Whiteman,* 257 Kan. 30 (1995)."

Importantly, we then felt, and still feel, that it is very important to ensure that a "brightline" of funding and formula structure be established from which to measure needs, whether that be an increase or decrease, and as a basis from which to assure constitutional adequacy has been maintained. The continuity of funding - its stability - is important for institutional planning and the maximization of existing resources and efficiencies. It was once said in a prior opinion that "hundreds" of ways were

available to the legislature to address K-12 funding issues. We would disagree as to the number, however, more to the point is that there are equally many such ways to undermine the K-12 school system, including to simply misspeak the essential expenditure needs that actually further student achievement. Without a brightline, the plethora of means to make dissipating changes to the Kansas K-12 finance formula can be gauged neither easily nor are they readily subject to prompt scrutiny. An example would rest in the elimination by § 36(f), § 36(u), and § 67 of Senate substitute for HB2506 of the non-proficient weighting for students otherwise ineligible for a free lunch, which caused a statewide decrease in funds that would have otherwise been employed to combat student non-proficiency, which status epitomizes a failure of educational purpose at a level far below that envisioned by the *Rose* factors. A brightline would also establish a baseline from which to calculate inflation. As a "brightline", such sum and the

statutes distributing it, would stand as clear markers to evaluate the effect of any forthcoming, or in-progress, changes to the K-12 school system as well as to accommodate in dollars any efficiencies that might be subsequently brought to bear in the future that could diminish or stabilize system costs.

We did not, at the entry of our original *Opinion*, expressly include a future inflation adjustment above the BSAPP of $4492 we deemed preliminarily "adequate". Rather, we sacrificed that obvious need in favor of that fixed brightline set by statute K.S.A. 72-6410(b)(1), since repealed and now reduced to $3838, leaving the obvious to the legislature or by the passage of further time to a modification of our brightline judgment amount on appeal. Nevertheless, inflation needs to be considered.

As we have discussed in our earlier analysis, if the LOBS are to be relied upon as a significant funding source, both a fail-safe and a floor need to be established to assure the existence and continuity of

adequate funding. However, until a floor is established to determine where and at what level reliance on local option budgets must necessarily cease and a fail-safe funding mechanism established to assure constitutional funding adequacy in order to prevent an unconstitutional shortfall, no proper allocation between a BSAPP and LOB funding can be identified, only the total of the shortfall can be best identified by reference to the per pupil core expenditures necessary to meet the educational outcomes set by the *Rose factors*. Thus, at least in the first instance, a political judgment must be made by the legislature in regard to the proper reaches of, and parameters for, the concept of the LOB in terms of the use of those funds for enhancements or spending at the choice of local school boards. However, the need to establish such a floor and establish such a fail-safe is not an option if the LOB is to be relied upon as a pillar of constitutionally adequate funding. Without such a line and without such a fail-safe, the Kansas school finance

formula's current reliance on the LOB as a funding mechanism is clearly violative of Art. 6, § 6(b) as it lacks assurance to the funding.

Here, as we noted earlier, the long time consensus of expert opinion and expertise reflected that any sum less than the value of $4492 as the BSAPP, including the pre-existing weightings to be derived from it, would be inadequate from any expert or evidential perspective. The unanimous evidence was that the Kansas K-12 system was progressing in its educational mission from and after the *Opinion* in *Montoy II* to the beginning of the cuts first had in February, 2009, when the BSAPP beginning July 1, 2008, had been set at $4433 and was scheduled for FY2010 to be $4492. These established BSAPP amounts were subject to set off for the State's special education payment after weighting to comprise a school district's general fund. Inflation was not a factor, given the "Great Recession", until beginning in 2010. Now $4492, as the FY2010 BSAPP was then set to begin July 1, 2009, would

be worth $4980 in 2014 dollars. A BSAPP in 2012 dollars of $4492, as we sought to enforce in our January 2013 *Opinion,* would now be worth $4654 in 2014 dollars.

Of note to these funding considerations, however, is that in FY2009 the LOBs of school districts statewide at that BSAPP funding level of $4492 in 2009 dollars would have required about 66% of those funds, *as measured against the average of the cost projections, to be used to support a constitutionally adequate level of funding,* hence, leaving about 34% to be substantially used in their traditional sense for enhancements. This allocation was determined by using our charting methodology in reference to Plaintiffs' Exhibit 9 - *FY2009 Legal Max* - and adjusting the general funds, exclusive of special education, and the LOBs upward by 1.33% to reflect the higher BSAPP of $4492, then deflating the cost estimates, as shown in 2012 dollars, by 7.01%. That BSAPP sum of $4492 in FY2009, based on the allocation of costs between the

general funds and the LOBs statewide, comports with our demonstrative charts at about 5.5% above that for a BSAPP set at $4654 in 2014 dollars. *See Appendix A.* All USDs at Column V. However, when a BSAPP of $4492 in 2012 dollars is configured against the needs of the Plaintiff school districts, with the exception of U.S.D. 443 in Dodge City, the LOB funds remaining, if any, for accomplishing a locally determined use are substantially, even perilously, reduced, in fact down to below zero in U.S.D. 308 in Hutchison, leaving only about 8% in U.S.D. 259 in Wichita, and only near 16% in U.S.D. 500 in Kansas City. Only Dodge City, at about 42% remaining, escapes this dearth in funds available for purely local discretion and choice. Inflation adjustments, *which also require inflation adjustments to the study cost projections*, do nothing but maintain the status quo, by example, a $4492 BSAPP in 2012, which would be $4654 in 2014 dollars, is but a maintenance mechanism for a status quo not a cure for any deficiencies existing in funding. Hence, the above

discussion in reference to the Plaintiff school districts applies without material change at a BSAPP of $4654.

Assuming all other financing sources established by law are substantially funded in full and assuming no material changes to the statutory formula or weightings have been made or if made to the downside will not be maintained, our charting would indicate that a BSAPP near $4654 could be appropriate, *but only so if it was also accompanied by selective and relevant upward changes in weightings* such as to meet the obvious needs of the Plaintiffs, and like school districts with large subgroups, that, in having been forced to use their LOB funds in the past or will without increased direct state sourced funding, need to in order to provide their students with the adequacy of education the Constitution demands. That sum of $4654 as a BSAPP would also assume a low floor would be left for the discretionary use of LOB funds, but a BSAPP near $4654, *coupled with relevant weightings increased upward in*

percentage, could fairly mark, when coupled with a floor and fail-safe, a bottom threshold level in our view of a range of reasonableness of constitutional funding adequacy as set against the *Rose factors*.

As our charting notes, a BSAPP of $4492 in 2009 was worth $4807 in 2012 dollars or an increase of approximately 7.01% above 2009 and is now worth $4980 in 2014 dollars or a further increase of approximately 3.6%. However, common sense would dictate that the trauma of underfunding since 2009 brought a more critical eye to school district expenditures and some aspects of business as usual. Hence, the full impact of inflation may have been muted. In fact, reference to Plaintiffs' exhibits evidencing the ramifications of funding cuts by school districts during this period would reflect that some non-classroom or non-student oriented cuts, facially at least, reflect good business sense. Further, as previously noted, the ratio of use of the school district's general funds and their LOBs as applied against the average of the cost estimates

has stayed relatively consistent notwithstanding inflation.

However, if the LOB, as a financial resource, is to be to some substantial degree maintained for locally determined purposes, then a BSAPP funding threshold in the range of $4980 or above in 2014 dollars could likely be needed just as a matter of having available dollars in an LOB for those purely local choices. A BSAPP sum of $4980, as shown by our demonstrative chart, would provide more funds for local choice than the approximate probable usage in FY2009 of 66% of LOB funds for expenditures that can *now* be seen as actually necessary to support a constitutionally adequate education in light of the *Rose factors*, rather than merely "enhancements" as previously characterized. We cite again Plaintiffs' Exhibit 288 as an example of LOB usage for many such critical programs and staffing.

However, as we have noted, and by reference to our charting, at whatever BSAPP, a vagary between districts would exist in funds remaining in an LOB usable for

principally local enhancements above the fiscal capacity needed by a school district to pursue educational opportunities for its students in light of the *Rose factors*. This vagary cannot simply be corrected by a change in the BSAPP as it could overpay some school districts statewide and, like the examples with the Plaintiff school districts, does not level the playing field for the needs evidenced in all cases. It evidences a risk of inherent inequity if not properly tuned. Hence, at whatever BSAPP, attention to an upward increase in weightings needs to be considered, both as to fulfilling relevant needs that flow from such subgroupings and as a cost containment measure in lieu of a too broadly funded BSAPP for others. Such selective increases in weightings could well substitute for a greater increase in the BSAPP, which can be, as shown, not a one size fits all funding mechanism. Further, as noted, and similarly, whatever level is preserved in an LOB for strictly local use needs to be uniform in percentage while remaining equal in

purchasing power to the tax effort in order to avoid issues of inequity in funding and opportunity as well as in the use of the LOB funds.

We caution here we are not directing an exact BSAPP figure nor are we directing any exact method to any funding, but rather only noting parameters which should be considered in formulation to avoid unconstitutional results. As it is, we have no other reference from which to speak but the existing Kansas school finance formula. Whether, in fact, the LOB itself as a concept is to be maintained or what its parameters would be is one principally for the legislature. Rather, again, by reference to the adjusted overall study projections of the *core expenditure per pupil costs*, it is the necessity of an assured total of funding *for core educational expenditures* that needs to be met from whatever source that is our focus and is the focus of Art. 6, § 6(b) of our Constitution. It is best evidenced in this case by a per pupil dollar expenditure range for core expenditures that needs to

be met without reference to the nomenclature of how it would be met. We have only provided the examples. As such, the best guide to the appropriate funding to assure a constitutionally adequate education in light of the *Rose factors*, above any discretionary funding elected to remain in an LOB, is reflected by the per pupil expenditures needed for core expenditures as reflected in the cost studies as adjusted by us. In our charting, this is reflected for the Plaintiff school districts, as well as statewide, by columns E, F, and G or columns O, P, and Q, where shown as inflation adjusted for 2014.

Our approach to funding considerations is fortified by evidence of the unqualified invasion and overrun of LOB generated funds and local reserves during the shortfall in funds beginning in February 2009 and the layoff of staff and programs shown by the evidence to be instrumental to student success and an adequately balanced, *Rose factors*, K-12 education. Since 2009, these programs and staffing could only have been

restored from funds representing an increase in the student body count overall and any associated weightings. While we used the FY2012 "Legal Max's" "Total Adjusted Enrollment" figures in our analysis for constructing our discussions and charting here and in our prior *Opinion* (Plaintiffs' Exhibit 12), reference to the FY2015 "Legal Max", which we judicially notice, shows "Total Adjusted Enrollment" for FY2015 to now be 460,926.7 or a gain of 5944 new students. (*See* FY2015 "Legal Max" at Col. 4(c)). The category noted as "Subtotal weighted FTEs, excluding special education" (*Id.* Column 17(a)) reflects 683,497.2 or an increase, as weighted, of 11,528.2 students. Given the level of existing funding, these new funds generated based on an increase in students would have had to have been cannalibized when measured by the per pupil expenditures that go to providing a *Rose factors* education. Simply, no other identifiable source of funds has been identified or proffered that would have

made up for these shortfalls and inflation has just dug the hole deeper.

As we have found, if a school district's LOB is to be relied upon as a constitutionally acceptable pillar of funding, a statutory fail-safe and an equitable and enforceable floor to the credit sought by the State for heretofore "local funds" should be seen as necessary of establishment to protect against local funding inadequacy or local resistance by those who might see through what appears to be the mirage that currently stands under the nomenclature of local effort, local choice, or local control. The diversion of local funds to substitute for statewide resources at some point would seemingly seem to substitute a state conservatorship for local choice and control.

We find that as the financing system now stands, one cannot classify the school financing structure as reliably constitutionally sound because the legislature has tied its constitutional duty to the unenforceable precept, yet parochial illusion, of local control and

local funding choices as one linchpin for the assurance of constitutionally adequate funding. However, that delegation of constitutional duty to discretionary choice is both unlawful under Art. 6, § 6(b) and substantially threatens the common good of all Kansas children wherever they may reside in Kansas.

Further, *current* dollar funding inadequacy has been established beyond any doubt notwithstanding the use of those LOB resources. As our *All USDs* chart in *Appendix A* evidences, a bottom range of reasonableness is reflected to be somewhere near $4654 per pupil, *but only when that BSAPP is coupled with increases in weightings,* the LOB is intended to be consumed substantially in full to meet the *Rose factors,* and a fail-safe exists that would kick in that would backstop any shortfall. If that approach is chosen, then substantially all choice of expenditure purpose for an LOB has been surrendered to the State.

At a BSAPP of $4980, only about one-half of the LOB funds *statewide* would remain for what before stood as

local efforts and sacrifice to improve their local system beyond merely adequate. Nevertheless, the vagary between school districts in the amount of traditional use LOB funds left may vary and expose an inequity. As we have noted, and as can be ascertained from our charting in *Appendix A* at *All USDs, Columns A-J*, if *all* the funds to provide a *Rose factors* education at a BSAPP of $4980 were to come from local districts general funds as generated by a BSAPP and its weightings, *exclusive of special education*, and the LOBs were fully preserved as originally envisioned, the *increase in the funding obligation from statewide resources* would then range from $491 per unweighted pupil to $1692 per unweighted pupil with the average being $1092 per unweighted pupil. If not, then this range of amounts otherwise would be left to be drawn instead from LOB funds, including as supported by supplemental state aid, yet, as the current formula stands, the lack of an assurance of adequate funding from LOB sources, being unenforceable as to result, and

without a fail-safe and an equitable floor, cannot stand as constitutionally acceptable support for a constitutionally adequate education in light of the *Rose factors*.

Nevertheless, whether, and how, that overall obligation is to be shared or imposed is a matter for the legislature after consulting with their constituents. However, imperative to that legislative choice to rely on the LOBS, if that be the choice, then, beyond any floor or fail-safe needed, there is also a necessity for an expenditure mandate to the use of funds at least equal to the one accompanying supplemental state aid payments. This would, in turn, make the latter mandatory, rather than discretionary as we previously found. See K.S.A. 72-6434(e)(1) and (f). Further, it is a choice that the State, *as the ultimately responsible party by our Kansas Constitution*, would need to be committed to enforce. It would be a choice that could also carry other litigation risks for the State or the school districts.

By example, if the LOB funds remaining were too low or too restricted, other objections may come to fore, *e.g., Patrella v. Brownback,* 980 F.Supp.2d, 1293 (D. Kan. 2014); *U.S.D. 229 v. State,* 256 Kan. 232 (1994); and *U.S.D. 380 v. McMillen,* 252 Kan. 451 (1993). However, what that line is, if that course is chosen, is not ours at this time nor should it ever be in the first instance. Of course, a, perhaps, more difficult choice, yet the most straight forward and transparent choice, would be for the State to fully fund the formula from the front end rather than approach it from the rear. While subtlety accompanied this backdoor financing approach in the past, that choice would now become transparent.

Accordingly, paraphrasing the textual premise of the Kansas Supreme Court's Remand Order, we find the Kansas public education financing system provided by the legislature for grades K-12 - through structure and implementation - is *not* presently reasonably calculated to have all Kansas public education students meet or

exceed the *Rose factors*. As we have analyzed, it is inadequate from any rational perspective of the evidence presented or proffered to us.

For obvious reasons, we would caution that this case not be summarily concluded, *i.e.*, be dismissed, until the appropriate and necessary judgments have been made by the legislature and some time passes thereafter which would be used to gauge the effects of the judgments made that would assure a constitutional commitment to constitutionally acceptable funding has been reached. Only then could the long pattern of faltered compliance with Art. 6, § 6(b) of the Kansas Constitution not again work harm to any K-12 students. If constitutionally conforming action is taken by the legislature, its tenets should be reduced to a binding enforceable judgment. Nevertheless, we understand the self-imposed fiscal dilemma now facing the State of Kansas, both with or without this *Opinion*. Since the obligations here declared emanate from our Kansas Constitution, avoidance is not an option. However, the

affirmative path to compliance and its duration may well rest in sincerity, practicality, and reasonable accommodation. A renewed effort at mediation focused on a remedy would seem appropriate, yet, at the parties choice. We do not perceive we have authority through this remand to enter but a declaratory judgment and findings. We only declare the omissions or defects identified by the evidence under the auspices of the mandate. Accordingly, a declaratory judgment is entered as stated aforesaid in this *Memorandum Opinion*. However, this Court stands always ready on proper application to act to enforce our Kansas Constitution.

Lastly, in concluding, we highly commend the efforts of all attorneys who presented their respective positions professionally and competently on the issues in this important case and we appreciate the patience accorded us in the completion of our task.

By the agreement of the Panel, IT IS SO ORDERED,

this 30TH day of December, 2014.

Franklin R. Theis
Judge of the District Court,
Panel Member and Presiding Judge

Robert J. Fleming
Judge of the District Court,
Panel Member

Jack L. Burr
District Court Judge Retired,
Panel Member

cc: Alan Rupe
Jessica L. Skladzien
John S. Robb
Arthur Chalmers
Gaye B. Tibbets
Jerry D. Hawkins
Rachel E. Lomas
Stephen R. McAllister
Jeffrey A. Chanay
M.J. Willoughby
Derek Schmidt

SEAL of the DISTRICT COURT
JANUARY 29, 1861
SHAWNEE CO., KANSAS

STATE OF KANSAS, COUNTY OF SHAWNEE, S.S.
I hereby certify the above and foregoing to be a true and correct copy, the original of which is filed and entered of record in the court
Dated February 12, 2015
CLERK of the DISTRICT COURT
By Ashley Michaelis
DEPUTY

By the agreement of the Panel, IT IS SO ORDERED, this _____ day of _____, 2014.

Franklin R. Theis

Judge of the District Court,

Panel Member and Presiding Judge

Robert J. Fleming

Judge of the District Court,

Panel Member

Jack L. Burr

District Court Judge Retired,

Panel Member

c: Alan Rupe

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Rachel E. Lomas

Stephen R. McAllister

Jeffrey A. Chanay

M.J. Willoughby

Derek Schmidt

By the agreement of the Panel, IT IS SO ORDERED, this

_____ day of _____, 2014.

Franklin R. Theis
Judge of the District Court,
Panel Member and Presiding Judge

Robert J. Fleming
Judge of the District Court,
Panel Member

Jack L. Burr
District Court Judge Retired,
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APPENDIX A

The following charts attempt to separately reflect the overall school districts statewide general funds total and each individual Plaintiff school district's general fund - U.S.D. 259, Wichita; U.S.D. 308, Hutchinson; U.S.D. 443, Dodge City; and U.S.D. 500, Kansas City, Kansas - all exclusive of special education, the approximate LOB applicable to each entity charted given a certain dollar level of a BSAPP, the value per pupil of these funds, a comparison of the per pupil costs taken from the Augenblick & Myers and Legislative Post Audit Studies with those values, and ending dollar balances in such funds or the lack thereof if such cost estimates were met at the BSAPP levels profiled.

While the charts should be mostly self-explanatory, the study estimates need further explanation. The estimates from the cost studies in the noted columns were conformed by us as best as possible to reflect equal component measures. See our original trial court

Gannon opinion at pps. 98 - 108. The Augenblick & Myers study estimates were constructed as done in that earlier opinion.

The Legislative post audit study estimates also follow our original *Gannon* opinion footnotes, however, here, the LPA estimates have been individualized for the noted school district charts and for the statewide - all USDs - composite of school districts chart. Here, the beginning basis for the LPA study estimates was taken from *Appendix F* of that study (Plaintiffs' Exhibit 199, pps. C68-C77) and appropriately inflation adjusted from 2003-04 dollars (*Id.*, p. C77).

Further, for reasons explained in the *Opinion* of which this Appendix is a part, federal funds are *not* deducted in the LPA estimates as they were by the LPA or as we assented to in our original *Gannon* opinion. Further, although we had deducted expense attributed to capital outlay in our earlier *Opinion*, as did the LPA, it was not deducted here from the inflation adjusted estimates shown in 2012 dollars since no capital outlay

was paid in that period and school district's general funds, as a practical matter, and as we found, substituted therefore, if at all.

However, since capital outlay was reinstated for FY2015, capital outlay is appropriately deducted based on an exhibit proffered by both parties, which is the Dale Dennis's Memorandum of April 17, 2014, with an attachment showing the effects of Senate Substitute for HB2506, which included a reference to "Proposed Capital Outlay Aid". *See Plaintiffs' Motion for Judgment on the Existing Record* at Exhibit B; *Plaintiff's Supplemental Response to Show Cause Order* at Exhibit 507; and the *State's Proposed Findings of Fact and Conclusions of Law* at Ex. 1501.

The capital outlay amount to be deducted from the estimates was arrived at by dividing the capital outlay entitlements shown for each noted school district and then for the school districts statewide by the school district or statewide, as appropriate, 2014 per pupil "total adjusted enrollment" as shown in the "FY2015

Legal Max", which we also judicially notice. These adjustments for capital outlay are reflected in the 2014 inflation adjusted estimates under the BSAPP comparisons for $4654 and $4980. Because the other comparisons stated in 2012 dollars do not reflect a capital outlay adjustment, there is some distortion on what would have otherwise occurred with the inflation adjustments with the LPA comparisons. Further, as to all comparisons, rounding of the numbers may have produced some imprecision.

	H	I	J	K	L	M	N	O	P	Q	R
d - e $)	Difference + or - Actual General Fund Per Pupil vs. A&M Projection Per Pupil $ (D-E)	Difference + or (-) Actual General Fund Per Pupil vs. LPA Projection Per Pupil $ (D-F)	Difference + or - Actual General Fund vs. A&M/LPA Projection Average Per Pupil $ (D-G)	LOB $	LOB Per Pupil $	General Fund and LOB Combined $	General Fund & LOB Per Pupil $	A&M Projection Per Pupil $	LPA Projection Per Pupil $	A&M and LPA Projections Averaged Per Pupil $	Difference + or (-) Actual General Fund and LOB Combined Per Pupil vs. A&M Projection Per Pupil $ (N-O)
	(-) 3159	(-) 2053	(-) 2606	967,519,099 (Plaintiff's Exh. 12)	2126	3,522,236,455	7741	8774	7668	8221	(-) 1033
	(-) 2101	(-) 995	(-) 1548	969,208,721 From Plaintiff's Exh. 253, p. 8, Col. D)	2130	4,005,132,097	8803	8774	7668	8221	(+) 29
	(-) 2177	(-) 976	(-) 1577	1,004,158,387	2207	4,149,557,160	9120	9090	7889	8490	(+) 30
	(-) 1634	(-) 528	(-) 1081	1,037,150,252	2280	4,285,921,857	9420	8774	7668	8221	(+) 646
	(-) 1692	(-) 491	(-) 1092	1,074,549,890	2362	4,440,441,117	9760	9090	7889	8490	(+) 670
	(-) 1815	(-) 872	(-) 1344	917,235,442	2039	3,752,787,610	8343	8199	7176	7648	(+)144

A&M and LPA Projec-tions Averaged Per Pupil $ (E+F÷2)	Difference + or - Actual General Fund Per Pupil vs. A&M Projection Per Pupil $ (D-E)	Difference + or (-) Actual General Fund Per Pupil vs. LPA Projection Per Pupil $ (D-F)	Difference + or - Actual General Fund vs. A&M/LPA Projection Average Per Pupil $ (D-G)	LOB $	LOB Per Pupil $	General Fund and LOB Combined $	General Fund & LOB Per Pupil $	A&M Pro-jection Per Pupil $	LPA Projec-tion Per Pupil $	A&M and LPA Projec-tions Averaged Per Pupil $ (O+P÷2)	Difference + or (-) Actual General Fund and LOB Combined Per Pupil vs. A&M Projection Per Pupil $ (N-O)
8918	(-) 2779	(-) 3181	(-) 2980	96,249,466 (Plaintiff's Exh. 12)	2100	368,403,379	8038	8717	9119	8918	(-) 679
8918	(-) 1661	(-) 2013	(-) 1862	98,071,821 From Plaintiff's Exh. 253, Col. D)	2140	421,448,645	9196	8717	9119	8918	(+) 479
9253	(-) 1720	(-) 2063	(-) 1942	101,608,291	2217	436,687,526	9528	9031	9374	9253	(+) 497
8918	(-) 1166	(-) 1568	(-) 1357	104,946,656	2290	451,034,999	9841	8717	9119	8918	(+) 1124
9253	(-) 1208	(-) 1551	(-) 1430	108,731,032	2372	467,299,321	10,196	9031	9374	9253	(+) 1165

r	A&M and LPA Projec-tions Averaged Per Pupil $ (E+F÷2)	Difference + or - Actual General Fund Per Pupil vs. A&M Projection Per Pupil $ (D-E)	Difference + or (-) Actual General Fund Per Pupil vs. LPA Projection Per Pupil $ (D-F)	Difference + or - Actual General Fund vs. A&M/LPA Projection Average Per Pupil $ (D-G)	LOB $	LOB Per Pupil $	General Fund and LOB Combined $	General Fund & LOB Per Pupil $	A&M Pro-jection Per Pupil $	LPA Projec-tion Per Pupil $	A&M and LPA Projec-tions Averaged Per Pupil $ (O+P÷2)	Diffe or (- Actua Gener and I Combi Pupil A&M Proje Per I (N-O)
	8099	(-) 3402	(-) 2351	(-) 2877	8,773,919 (Plaintiff's Exh. 12)	1824	33,937,140	7046	8624	7573	8099	(-
	8099	(-) 2418	(-) 1367	(-) 1893	8,920,822 From Plaintiff's Exh. 253, p. 8, Col. D)	1855	38,764,369	8061	8624	7573	8099	(-
	8372	(-) 2505	(-) 1379	(-) 1942	9,242,507	1922	40,162,212	8351	8935	7809	8372	(
	8099	(-) 1983	(-) 932	(-) 1458	9,546,172	1985	41,481,752	8626	8624	7573	8099	
	8372	(-) 2055	(-) 929	(-) 1492	9,890,407	2057	42,977,584	8937	8935	7809	8372	

A&M and LPA Projections Averaged Per Pupil $ (E+F÷2)	Difference + or - Actual General Fund Per Pupil vs. A&M Projection Per Pupil $ (D-E)	Difference + or (-) Actual General Fund Per Pupil vs. LPA Projection Per Pupil $ (D-F)	Difference + or - Actual General Fund vs. A&M/LPA Projection Average Per Pupil $ (D-G)	LOB $	LOB Per Pupil $	General Fund and LOB Combined $	General Fund & LOB Per Pupil $	A&M Projection Per Pupil $	LPA Projection Per Pupil $	A&M and LPA Projections Averaged Per Pupil $ (O+P÷2)	Difference + or (- Actual General Fund an LOB Combine Per Pup vs. A&M Project Per Pup $ (N-O)
8958	(-) 2468	(-) 2759	(-) 2614	14,675,900 (Plaintiff's Exh. 12)	2418	53,176,249	8762	8812	9103	8958	(-) 50
8958	(-) 1273	(-) 1564	(-) 1419	14,895,541 From Plaintiff's Exh. 253, Col. D)	2455	60,647,816	9994	8812	9103	8958	(+) 118
9251	(-) 1319	(-) 1561	(-) 1440	15,432,674	2543	62,834,776	10354	9130	9372	9251	(+) 122
8958	(-) 744	(-) 1035	(-) 890	15,939,718	2627	64,899,225	10694	8812	9103	8958	(+) 188
9251	(-) 771	(-) 1013	(-) 892	16,514,504	2721	67,239,199	11080	9130	9372	9251	(+) 195

and ec- s age r l $ ÷2)	Difference + or - Actual General Fund Per Pupil vs. A&M Projection Per Pupil $ (D-E)	Difference + or (-) Actual General Fund Per Pupil vs. LPA Projection Per Pupil $ (D-F)	Difference + or - Actual General Fund vs. A&M/LPA Projection Average Per Pupil $ (D-G)	LOB $	LOB Per Pupil $	General Fund and LOB Combined $	General Fund & LOB Per Pupil $	A&M Pro- jec- tion Per Pupil $	LPA Projec- tion Per Pupil $	A&M and LPA Projec- tions Averaged Per Pupil $ (O+P÷2)	Difference + or (-) Actual General Fund and LOB Combined Per Pupil vs. A&M Projection Per Pupil $ (N-O)
16	(-) 2489	(-) 3969	(-) 3229	45,495,582 (Plaintiff's Exh. 12)	2410	162,281,133	8597	8676	10,156	9416	(-) 79
16	(-) 1324	(-) 2804	(-) 2064	46,450,692 From Plaintiff's Exh. 253, Col. D)	2461	185,233,969	9813	8676	10,156	9416	(+) 1137
90	(-) 1372	(-) 2773	(-) 2073	48,125,704	2549	191,913,506	10167	8989	10,390	9690	(+) 1178
16	(-) 811	(-) 2291	(-) 1551	49,706,886	2633	198,170,716	10,498	8676	10,156	9416	(+) 1822
90	(-) 841	(-) 2242	(-) 1542	51,526,456	2730	205,343,892	10,878	8989	10,390	9690	(+) 1889

APPENDIX B

APPENDIX B

PLAINTIFFS' EX. 254

KSDE000045

1/12/20			Col 1	Col 2	
USD#	County Name	USD Name	2009-10 FTE Enroll (inc Mil. T/VIRT)	2010-11 FTE Position Reductions	Programs Under Consideration for Reducing or Eliminating -- 2010-11
101	Neosho	Erie	506.5	30.00	Baseball, softball, golf, cross country, forensics, debate, chess, HS choir/band, HS speech/debate, vocational agriculture, wood shop, foreign language, business program, preschool, transportation, custodial services, food service,clerical, library services, counseling services, music
102	Gray	Cimarron-Ensign	658.7	10.00	Transportation, compressed school week, summer school, Terra Nova testing, athletics, nurses, Spanish, paraprofessionals, professional development food service, reduced mailings, preschool, inservice, health insurance, textbooks, maintenance, elective programs, extracurricular activities, gifted services, summer school, paraprofessionals, utilities
103	Cheyenne	Cheylin	136.5	3.00	Combine elementary classrooms, industrial education, vocational agriculture, art, paraprofessionals, after school and summer school programs
105	Rawlins	Rawlins County	312.2	6.00	Industrial arts, vocational agriculture, music, math, science, social studies, foreign language, library services, athletics, paraprofessionals,
106	Ness	Western Plains	164.0	5.00	maintenance, custodial, food service, PE, technology
107	Jewell	Rock Hills	293.5	0.00	K-5 music and art, 9-12 industrial arts, after school, summer and preschool programs
108	Washington	Washington County	396.5	5.00	Not applicable
109	Republic	Republic County	473.0	8.00	track, golf
110	Phillips	Thunder Ridge	235.5	0.00	Vocational agriculture, math, English, social studies, music
111	Doniphan	Doniphan West	376.5	0.00	NA
200	Greeley	Greeley County	214.0	5.00	Covered by consolidation law
202	Wyandotte	Turner	3,785.7	30.00	Parents as teachers, transportation, communications, health insurance, video productions, marketing, middle school teaming, varsity athletics, Freshmen athletics, middle level athletics
203	Wyandotte	Piper	1,635.0	26.00	Full-day kindergarten, pre-kindergarten, library services, K-8 counseling, K-8 art and music, extended day learning services/tutoring, summer school, limit bus service to only 2.5 miles or more, limit and eliminate participation in activities, eliminate some activities, increase elementary class size above 30, increase HS classes to 38-40 students
204	Wyandotte	Bonner Springs	2,366.5	20.00	Nurses, media center personnel (cut secondary librarians), some counselors, increasing class size, fifth grade band, decrease sports and increase fees significantly, contract service for cleaning
205	Butler	Bluestem	535.5	5.00	HS career and technical education, HS English and social studies electives, establish multi-grade classrooms, middle school electives, nurses,
206	Butler	Remington-Whitewater	524.5	3.50	school resource officer, elementary counselor, fifth day of school week, music, elementary school aides
207	Leavenworth	Ft. Leavenworth	2,037.5	14.50	Nurses, library services, remedial programs, athletics, activities, paraprofessionals
208	Trego	WaKeeney	411.2	10.50	Coaches, food service fees, textbooks, transportation, junior high athletics, professional development, instructional materials
209	Stevens	Moscow	187.8	5.50	FACS, vocational business, science, driver's education, music, art, library services, parents as teachers, preschool, paraprofessionals
210	Stevens	Hugoton	983.9	4.00	Shop, art, business, baseball, cross country
211	Norton	Norton	689.3	6.00	All summer school, after school tutoring, summer school music, parents as teachers, some athletic offerings
212	Norton	Northern Valley	196.5	4.00	Reduction in staff
213	Norton	West Solomon	38.0	15.00	Vocational agriculture, vocal
214	Grant	Ulysses	1,615.7	10.00	Disorganizing effective July 1, 2010
215	Kearny	Lakin	628.5	5.00	Parents as teachers, measuring progress, Career Learning Academy, coupons, socials, athletics, field trips, textbooks
216	Kearny	Deerfield	246.9	8.00	Summer school, non-varsity athletics, transportation
217	Morton	Rolla	199.0	3.00	Art, business, library services, counseling services, increase elementary class sizes, participation fees for athletic and academic events,
218	Morton	Elkhart	643.1	9.00	professional development, student trips, activities
219	Clark	Minneola	262.0	8.00	Music, athletics, at-risk, scholar's bowl, forensics, activities, field trips
220	Clark	Ashland	222.0	5.60	Parents as teachers, three-year-old program, four-year-old program, transportation, golf, wrestling, cross country
223	Washington	Barnes	329.8	5.00	Transportation, sports, activities, paraprofessionals art, after school and summer programs
224	Washington	Clifton-Clyde	280.5	5.00	Elective classes, woods, agriculture, art, music
225	Meade	Fowler	162.0	2.50	School schedule, summer school, field trips, transportation, athletics
					Elementary band/vocal music, librarian/library services/media, industrial arts (woodworking, metals/welding, CAD), physical education

	1/12/20		Col 1	Col 2	
USD#	County Name	USD Name	2009-10 FTE Enroll (inc MILT/VIRT)	2010-11 FTE Position Reductions	Programs Under Consideration for Reducing or Eliminating – 2010-11
226	Meade	Meade	477.4	4.70	Summer school, increase class sizes, all-day kindergarten, textbooks, library services, technology, instructional materials, clerical, travel,
227	Hodgeman	Jetmore	264.5	8.00	increase textbook and food service fees, athletics, shorten school year, professional development
228	Hodgeman	Hanston	74.5	0.00	Music, FACS, woods, art, athletic events
					forensics
229	Johnson	Blue Valley	20,320.8	170.00	increase class size, HS and middle school athletic/activity programs, middle school exploratory programs (art, speech, drama, computer tech,
230	Johnson	Spring Hill	2,833.5	10.00	foreign language, FACS, music, etc.), HS elective classes, elementary school specials (art, music, PE, foreign language, computer tech, etc.),
231	Johnson	Gardner-Edgerton	4,567.5	60.00	counseling services, nurses, media center, custodial, maintenance, safety and security services
					increase class sizes
232	Johnson	DeSoto	6,217.0	50.00	Textbooks, professional development, technology, capital outlay
					increase class size, extracurricular activities, low enrollment electives at HS and middle school, advanced placement, transportation
233	Johnson	Olathe	25,542.1	187.00	Youth Friends program, clerical, supplies and instructional materials, energy costs, increase student fees
					increase class size, after school programs, library services, counseling services, nurses, maintenance, professional development, textbook
234	Bourbon	Ft. Scott	1,882.3	20.00	purchases, extracurricular activities
					increase class size, transportation, student and food service fees, custodial, field/activity trips, security, textbooks, parents as teachers, science,
235	Bourbon	Uniontown	438.5	6.00	utilities/energy, curriculum/instructional materials, athletics,
237	Smith	Smith Center	433.0	3.00	At-risk intervention program, band/vocal music, building trades, wood technology, FACS, paraprofessionals, counseling services
239	Osage	North Osage Co.	620.5	8.00	Parents as teachers, cheerleading, cross country, golf, all-day kindergarten, driver's education
240	Osage	Twin Valley	607.5	5.50	Art, FACS, summer school, at-risk, driver's education
241	Wallace	Wallace	200.0	3.80	Business, FACS, English, industrial arts, elementary class size, transportation, custodial
242	Wallace	Weskan	103.0	4.50	Counseling services, music, custodial, food service
					Industrial arts, music, art, athletics, scholar's bowl, forensics
243	Coffey	Lebo-Waverly	526.0	10.00	Before and after school, field trips, library services, driver's education, FACS, JV ball games, cheerleading (middle and HS), athletics, staff
244	Coffey	Burlington	823.0	10.00	development, all-day kindergarten, vocal, parents as teachers, preschool, college classes
245	Coffey	LeRoy-Gridley	246.5	4.00	Before and after school programs, alternative learning program, summer school, field trips, transportation, textbooks, curriculum materials,
246	Crawford	Northeast	561.5	10.00	student mentor program, athletics/activities, utilities, professional development, driver's education
247	Crawford	Cherokee	657.0	10.00	FACS, vocational agriculture, preschool, increase class size
					Instrumental music, WIN, scholar's bowl, forensics, credit recovery, partial vocational programs, junior high electives
248	Crawford	Girard	1,007.0	24.00	Choral music, alternative school, FACS, elementary band, elective science, elective math, debate, forensics, increase elementary class size
249	Crawford	Frontenac	850.0	8.00	Driver's education, enrollment and lunch fees, food service, instructional and other materials, extracurricular activities, athletics, capital projects, vehicles, instructional support, professional development, field trips, district publications, summer school, after school programs technology, paraprofessionals, clerical
250	Crawford	Pittsburg	2,710.1	20.00	All-day kindergarten, counseling services, after school and summer programs, HS health sciences, extracurricular activities, increase class size,
251	Lyon	North Lyon Co.	506.6	14.00	nurses, tutoring programs, paraprofessionals, at-risk, vocational programs, fine arts
252	Lyon	Southern Lyon Co.	495.8	7.00	Close attendance center
					FACS, business, industrial technology, art, library services, counseling services, extracurricular activities, after school and summer school programs, driver's education
253	Lyon	Emporia	4,337.9	41.63	library services, building technology, activity bus routes, safe and drug free schools program and implement more agressive energy management program.
254	Barber	Barber Co.	455.0	5.00	
255	Barber	South Barber Co.	277.5	2.00	All-day kindergarten, FACS
256	Allen	Marmaton Valley	338.5	8.00	Wood shop/industrial arts, music JH sports, dance, cheerleading, FACS, business, after school and summer school, library, tutorial program, sub varsity sports, cross country, girls' golf, baseball/softball, MAP testing, virtual prescriptive learning lab, Greenbush Science Center trips, increase class sizes

	1/12/20		Col 1	Col 2	
USD#	County Name	USD Name	2009-10 FTE Enroll (Inc MGLT/VIRT)	2010-11 FTE Position Reductions	Programs Under Consideration for Reducing or Eliminating – 2010-11
257	Allen	Iola	1,303.7	19.00	Building trades, alternative education, technology lab, photography, creative writing, driver's education, elementary art and music, PE, counseling services, increase class size
258	Allen	Humboldt	528.0	8.00	Reading, paraprofessionals, custodial, extracurricular activities
259	Sedgwick	Wichita	46,444.3	320.00	Close alternative schools, four-day school week, paraprofessionals, custodial, security, maintenance, athletics, fine arts, after school programs, library services, transportation, elementary art, C-team athletics, transportation, pay to play, number of instructional days, parents as teachers, increase class size, field trips, all-day kindergarten, custodial, maintenance, four-day school week, tutoring programs, instructional supplies, summer school, clerical, community use of facilities, professional development, technology, district publications, emergency phone program, block scheduling, paraprofessionals
260	Sedgwick	Derby	6,330.7	60.00	Schools, school resource services, summer school and remedial/enrichment programs, after school tutoring, seventh grade athletics, athletics/activities, music, leadership academies, professional development transportation foreign language, textbooks, special education resource rooms
261	Sedgwick	Haysville	4,780.6	75.00	
262	Sedgwick	Valley Center	2,553.7	30.00	Funding for technology, professional development, summer school, driver's education, athletics and activities, partnership with Wichita-based Communities in Schools program, reduce four-year-old at-risk sections, at-risk services, maintenance, transportation, food service, custodial
263	Sedgwick	Mulvane	1,855.0	15.00	Parents as teachers, all-day kindergarten, four-year-old at-risk, FIS at-risk, technology
264	Sedgwick	Clearwater	1,275.4	15.00	Foreign language, shop, art, drama
265	Sedgwick	Goddard	4,911.2	36.00	Counseling services, media services, technology, clerical, nurses, maintenance/custodial, transportation, food service, athletics, student activities, paraprofessionals
266	Sedgwick	Maize	6,381.7	75.00	All elective programs
267	Sedgwick	Renwick	1,945.7	18.00	Music, junior varsity athletics, golf, HS bowling, middle school athletics, HS cross country and wrestling, advanced placement programs, all-day kindergarten, reading/math specialists, paraprofessionals, Odyssey of the Mind program, Robotics program, Science Olympiad program, yearbook, library media services, music, art, foreign languages, computer applications
268	Sedgwick	Cheney	784.9	5.00	Parents as teachers, preschool, athletics, foreign language, all-day kindergarten, counseling services, fine arts
269	Rooks	Palco	147.5	5.50	Vocational agriculture, custodial, clerical, combine attendance centers
270	Rooks	Plainville	368.2	0.00	Parents as teachers, summer school, softball/baseball, cross country, tennis, communications technology, vocational agriculture, library services, counseling services, art
271	Rooks	Stockton	288.0	10.00	Every program that is not mandated will be considered including the arts, vocational programs
272	Mitchell	Waconda	357.3	5.00	All-day kindergarten, HS elective classes, counseling services
273	Mitchell	Beloit	746.9	0.00	Covered by consolidation law
274	Logan	Oakley	413.4	5.00	Nurses, K-8 art, elementary music, vocational programs, wood working, elementary PE, scholar's bowl, forensics, cross country, golf
275	Logan	Triplains	82.5	14.00	Reductions would be catastrophic and likely close district
281	Graham	Graham County	372.5	7.00	All-day kindergarten, counseling services, health insurance for paraprofessionals, elective programs (HS), elementary PE and music, increase elementary class size, athletic squads, scholar's bowl, science competitions, field trips
282	Elk	West Elk	337.2	7.00	Custodial, food service, clerical, library services, math, business
283	Elk	Elk Valley	190.6	1.00	Physical education, some para/aid positions
284	Chase	Chase County	405.1	5.20	Textbooks, custodial, maintenance, extend school day, four-day school week, transportation, HS track, softball, baseball, wrestling, middle school track and wrestling
285	Chautauqua	Cedar Vale	144.0	0.00	All-day kindergarten, athletics, combine elementary classes, clerical, counseling services
286	Chautauqua	Chautauqua	367.5	5.00	After school and summer school programs, professional development, extracurricular activity trips for students
287	Franklin	West Franklin	700.5	4.50	Increase elementary class size, student support services, athletics, secondary elective courses
288	Franklin	Central Heights	532.0	7.00	Summer school, athletics, preschool, wrestling, golf, debate, parents as teachers
289	Franklin	Wellsville	846.0	13.00	Elementary music, art, PE, all-day kindergarten, vocational HS and middle school electives, middle school athletics, sub-varsity athletics, non-athletic activities

	1/12/20		Col 1	Col 2	
USD#	County Name	USD Name	2009-10 FTE Enroll (inc MILT/VIRT)	2010-11 FTE Position Reductions	Programs Under Consideration for Reducing or Eliminating – 2010-11
290	Franklin	Ottawa	2,444.2	39.00	All-day kindergarten, at-risk academic coaching, bilingual, building aides, transportation, elementary art, librarians,technology, food service,
291	Gove	Grinnell	73.8	2.00	criminal justice, electives, health careers, band/vocal music (middle and HS), language arts, technology, special education
292	Gove	Wheatland	102.0	5.00	Consolidating elementary classes, closing elementary building, contracting students to neighboring districts, discontinuing FACS, reducing
293	Gove	Quinter	266.5	3.94	vocational classes
294	Decatur	Oberlin	358.0	6.00	Art, vocational agriculture, music, library services
297	Cheyenne	St. Francis	286.3	3.00	Art, elementary music and PE, industrial arts
298	Lincoln	Lincoln	340.0	5.00	Music, art, counseling services, computer/business, industrial technology, library services, vocational agriculture, journalism, volleyball,
299	Lincoln	Sylvan Grove	139.5	5.00	football, basketball, wrestling, track, cheerleading
300	Comanche	Comanche County	317.0	0.00	Music, art, some athletics, after school program
303	Ness	Ness City	291.0	3.00	Counseling services, driver's education
305	Saline	Salina	7,050.5	75.00	English, science, food service, custodial, art, music, business, FACS, industrial technology, vocational agriculture
306	Saline	Southeast of Saline	690.8	9.00	Increase class sizes and reduce all programs in the district
307	Saline	Ell-Saline	468.0	6.00	Vocational programs, art, music, PE/health, at-risk programs
308	Reno	Hutchinson	4,661.7	37.00	Library service, art, industrial arts, vocational agriculture, business, science, Plato math and FastForward, after school and summer school programs, athletics, food service, transportation, custodial
309	Reno	Nickerson	1,147.0	10.80	Increase class size, library services, counseling services, FACS, music, art, all-day kindergarten, technology, day care center, school resource services, custodial, clerical, maintenance, nurses, student activities
310	Reno	Fairfield	305.1	5.00	Paraprofessionals, at-risk, library services, counseling services, career and technical education, music, art
311	Reno	Pretty Prairie	258.4	7.35	After school and summer school programs, all-day kindergarten, pre-kindergarten, middle school sports, vocational programs
312	Reno	Haven	1,001.5	15.00	Vocational programs, HS electives, HS and middle school music, yearbook, elementary at-risk reading and math, library services, after school programs, junior varsity athletics (middle and HS), transportation, drama, forensics, scholar's bowl
313	Reno	Buhler	2,145.5	27.00	Library services, wrestling, golf, curriculum and lunch fees, close attendance center, scholar's bowl, elementary art
314	Thomas	Brewster	98.0	2.00	All-day kindergarten, counseling services, library services, nurses, elementary art, HS electives, health insurance
315	Thomas	Colby	919.1	13.00	Industrial arts, FACS
316	Thomas	Golden Plains	204.5	3.00	Music, art, at-risk, special education, career and technical programs, reading, driver's education, counseling services, library services, technology, food service, transportation, maintenance, PE, Thomas County Academy
320	Pottawatomie	Wamego	1,305.0	14.00	Parents as teachers, three-year-old preschool, elementary music and PE, library services, counseling services, vocational
321	Pottawatomie	Kaw Valley	1,124.9	25.00	MAP test, after school programs, custodial field trips, professional development, technology, counseling services, music, robotics, at-risk, library services, instructional materials, food service, athletics, language arts, FACS, vocational agriculture, extracurricular activities, tennis,
322	Pottawatomie	Onaga	318.5	10.00	golf, cheerleaders, foreign language, forensics, student organizations, science, math, English, transportation, maintenance
323	Pottawatomie	Westmoreland	845.1	6.21	Paraprofessionals, custodial, clerical, instructional materials, maintenance, utilities, athletics, at-risk, preschool, all-day kindergarten, vocational, elective courses, increase class size, counseling services
325	Phillips	Phillipsburg	629.1	4.00	Four-day school week, music, art, math
326	Phillips	Logan	180.5	4.00	Transportation, capital outlay, staff development, technology, music, after school and summer school programs, parents as teacher, adjust school year, maintenance, student activities
327	Ellsworth	Ellsworth	625.0	6.50	Vocational woods and agriculture, FACS, middle school reading, health, art, library services, combine elementary classes
328	Ellsworth	Lorraine	424.6	3.00	Maintenance, reduce school week, extracurricular activities, clerical summer programs, art, music, combine elementary grades, pre-kindergarten, three-year-old program, at-risk, transportation, state health insurance
329	Wabaunsee	Alma	473.7	5.50	All-day kindergarten, reading, agriculture, increase class size, library services, athletics, at-risk program, professional development, food service, transportation, instructional supplies
					Preschool, ITV dual credit classes, baseball, cross country
					Counseling services, athletics, vocational programs, elementary humanities

	1/12/20		Col 1	Col 2	
			2009-10	2010-11	
USD#	County Name	USD Name	FTE Enroll (Inc MIL T/VIRT)	FTE Position Reductions	Programs Under Consideration for Reducing or Eliminating – 2010-11
330	Wabaunsee	Wabaunsee East	499.5	9.20	Industrial arts, business, graphic arts, agriculture, FACS, foreign language, four-day school week, custodial/maintenance, athletics, textbooks, media services, music, combine elementary classes, paraprofessionals, summer and after school programs, bilingual, clerical, technology, student activities/field trips, classroom budgets
331	Kingman	Kingman	989.9	5.00	Music, technology, business, counseling services, FACS, cross country, golf, tennis, debate
332	Kingman	Cunningham	178.6	6.00	Shop, civil air patrol school based program, business education/accounting
333	Cloud	Concordia	1,068.9	20.00	Vocational, after school programs, technology, library services, math, maintenance, custodial, transportation, field trips, increase class size, extracurricular activities, elective classes, block schedule, school resource services, clerical, increase school day, paraprofessionals
334	Cloud	Southern Cloud	256.5	8.00	Vocational agriculture
335	Jackson	North Jackson	376.5	6.50	Parents as teachers, parent resource, World History, reading, music, counseling services, all-day kindergarten
336	Jackson	Holton	1,057.5	25.00	Athletics, transportation, student insurance, custodial, paraprofessionals, at-risk, counseling services, length of school day, mobile units, medical careers class, Washburn Tech classes
337	Jackson	Mayetta	908.2	17.00	Alternative education courses (9-12), nursing services, clerical, after school athletic routes, staff development, non-varsity athletics, summer school, music, paraprofessionals, library services, math, reading assistance, art, food service
338	Jefferson	Valley Falls	414.3	5.00	K-12 art program, 8-12 FACS program
339	Jefferson	Jefferson County	482.5	7.00	Counseling services, assessment coordinator, preschool, all-day kindergarten, combine classes, athletics/activities
340	Jefferson	Jefferson West	893.9	21.00	Non-varsity athletics, elementary music, PE, art, middle school art and computers, science
341	Jefferson	Oskaloosa	540.1	4.10	Vocational, summer school, PE, reading, art, FACS, early childhood, custodial, transportation, athletics, food service, maintenance, alternative school, technology
342	Jefferson	McLouth	493.1	7.50	Paraprofessionals, clerical, maintenance, summer school, all-day kindergarten, junior varsity athletics, parents as teachers, instructional materials, increase class size, PE, counseling services
343	Jefferson	Perry	956.3	7.00	Food service, transportation, sports, paraprofessionals, reduce building budgets
344	Linn	Pleasanton	323.0	7.00	Eliminate elementary music, librarians, driver education, extracurricular programs, reduce vocational programs and staff development
345	Shawnee	Seaman	3,552.1	25.00	Library services, vocational programs, travel, equipment, field trips, at-risk, professional development, psychology advanced education, paraprofessionals, summer school, A-Reader, A-Math, music, instructional services, transportation
346	Linn	Jayhawk	519.1	8.00	Library services, FACS, welding, metals, woodworking, food service, custodial, maintenance, increase class size, parents as teachers, textbook purchases, preschool, paraprofessionals
347	Edwards	Kinsley-Offerle	357.5	5.00	Increase class size, HS electives, paraprofessionals, health insurance, before and after school tutoring, summer school, adjust school year, Saturday school, textbook/instructional supplies, athletics, maintenance, food service fees
348	Douglas	Baldwin City	1,336.9	12.00	Shorten school week, lengthen school day, close attendance center, transportation, student activities
349	Stafford	Stafford	268.9	4.00	Parents as teachers, one sport, all-day kindergarten, driver's education, one-on-one laptop initiative, vocational programs (marketing and entrepreneurship, health sciences, FACS, FCCLA, agriculture (FFA), building trades)
350	Stafford	St. John-Hudson	328.5	5.00	FACS, elementary music and art, nurses, library services, all-day kindergarten, cross country, music, summer school, driver's education, counseling services, drama, student organizations
351	Stafford	Macksville	265.0	2.00	FACS, library media, vocational education
352	Sherman	Goodland	900.0	14.00	Athletics/clubs, library services, labs, increase class size, competitions, field trips, professional development
353	Sumner	Wellington	1,663.0	34.00	Vocational programs, math, science
354	Barton	Claflin	211.0	4.00	Industrial arts, preschool, all-day kindergarten, summer school, at-risk programs, athletics, music, art
355	Barton	Ellinwood	407.2	5.00	Elementary and middle school PE, social studies, increase class size, paraprofessionals, industrial arts, vocational business, music, athletics, extracurricular activities, custodial, food service, clerical, nurse, counseling services
356	Sumner	Conway Springs	514.9	7.00	Raise enrollment fees, increase pay to play fees, raise food service prices, transportation, activities programs, community use of facilities, raise textbook/class fees
357	Sumner	Belle Plaine	657.0	7.00	Vocational, music technology, athletics, counseling services, student activities, after school and summer school programs, field trips, at-risk
358	Sumner	Oxford	327.5	10.00	Combine classes, paraprofessionals, technology, professional development, entrepreneurship (HS), after school and summer school programs, athletics

1/12/20			Col 1	Col 2	
USD#	County Name	USD Name	2009-10 FTE Enroll (inc MILT/VIRT)	2010-11 FTE Position Reductions	Programs Under Consideration for Reducing or Eliminating – 2010-11
359	Sumner	Argonia	179.5	3.00	Paraprofessionals, clerical, food service, student insurance, insurance deductibles
360	Sumner	Caldwell	234.0	5.00	Food service, reduce school week, art, industrial technology, music, custodia, science
361	Harper	Anthony-Harper	845.1	12.00	At-risk programs, FACS, increase class size
362	Linn	Prairie View	944.9	13.00	Elementary PE, elementary music, library services, vocational programs, FACS, golf, cross country, freshman sports, sub varsity sports, middle school sports/activities, non-athletic activities
363	Finney	Holcomb	946.0	12.00	Student organizations, counseling services, library services, technology, summer school, textbooks, art, business, vocational agriculture, Saturday school, swimming, increase class size, PE
364	Marshall	Marysville	721.7	8.00	Alternative school, at-risk programs, remedial classes, art, music, athletics (junior high & freshmen), field trips, golf, tennis, softball, baseball, clerical, maintenance, computer replacement
365	Anderson	Garnett	1,100.9	15.00	supplies
366	Woodson	Woodson	398.5	18.00	Preschool, all-day kindergarten, IDL courses/connectivity, driver's education, after school and summer school programs, cross country, golf
367	Miami	Osawatomie	1,137.5	12.00	All-day kindergarten, middle school athletics, nursing, parents as teachers, library services, summer school, summer band
368	Miami	Paola	2,033.1	25.00	Reduce instructional days, elementary art, science, PE, computers, increase elementary class size, close attendance center, all-day kindergarten transportation, student/food service fees, cabinetmaking, culinary arts, music, custodial, maintenance nurses, counseling services, clerical, library services, athletic/activities, community use of facilities
369	Harvey	Burrton	257.2	5.00	Staff reductions
371	Gray	Montezuma	344.8	4.00	Transportation, vocational programs, junior varsity extracurriculars, pre-kindergarten, all-day kindergarten, all elective courses
372	Shawnee	Silver Lake	743.6	10.00	Counseling services, after school and summer programs, elementary art, all-day kindergarten
373	Harvey	Newton	3,408.2	40.00	Building trades program, Virtual Prescriptive Computer tutorial learning program, clerical, elective courses, increase class size, administrative and instructional supplies, paraprofessionals, transportation, athletic/activities, utilities, summer school
374	Haskell	Sublette	479.9	3.00	Elementary paraprofessionals, athletic/academic teams, vocal music, wood shop/welding, district in-service activities
375	Butler	Circle	1,629.7	12.00	Parents as teachers, online programs, field trips (curriculum based instruction), staff development, textbooks, art, journalism, clubs
376	Rice	Sterling	530.5	6.00	K-12 art, Title I, tennis, golf, wrestling
377	Atchison	Atchison County	664.6	6.00	Elementary art, music, preschool, middle school art, after school tutorial, summer school, parents as teachers, middle school and freshmen athletics
378	Riley	Riley County	684.5	11.00	Custodial services, transportation, technology, athletics, clerical, food service, student and lunch fees, instructional materials, professional development, FACS, elementary art, counseling services, preschool, food service, four-day school week, combine classes, forensics, debate, media courses, music, library services
379	Clay	Clay Center	1,354.5	18.00	Parents as teachers, all-day kindergarten, industrial arts, FACS, business technology, elementary art, music, counseling services, PE, art, library services, athletics, transportation, technology
380	Marshall	Vermillion	527.5	7.50	Vocational, reading recovery programs, summer school, professional development, cheerleaders/dance teams, golf, track and field
381	Ford	Spearville	358.0	5.00	Field trips, music, athletics, student organizations, driver's education, paraprofessionals, scholar's bowl, cheerleading/dressline, elementary vocal, before and after school programs, at-risk, professional development
382	Pratt	Pratt	1,109.4	22.00	Media, FACS, technology, counseling services, nurses, Freshman athletics, middle school art and technology, class attendance center
383	Riley	Manhattan	5,958.3	75.00	Numerous programs
384	Riley	Blue Valley	217.5	4.00	Parents as teachers, reading recovery, one-half of FACS, combine grades 1-4, maintenance and grounds program, (1) bus and (1) bus route, ambulance at home football games
385	Butler	Andover	4,703.3	60.00	Instructional materials, all programs, athletics, student activities, support services
386	Greenwood	Madison-Virgil	230.2	2.50	Student support services, elective classes
387	Wilson	Altoona-Midway	183.5	7.00	Art, vocational agriculture, FACS, music, PE
388	Ellis	Ellis	394.1	6.00	Scholar's bowl, forensics, student organizations, golf, cross country, summer school, driver's education, cheerleading, athletics, at-risk, journalism, student activities
389	Greenwood	Eureka	610.0	8.00	Art, technology, vocal/drama (HS), transportation, all-day kindergarten, increase elementary class sizes

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390	Greenwood	Hamilton	93.5	1.00	At-risk programs, summer school, driver's education, transportation, teaching materials/equipment, extracurricular activities
392	Osborne	Osborne	331.9	4.50	Vocational, art, music, language arts, math, science, social studies, PE, clerical, custodial, transportation, paraprofessionals
393	Dickinson	Solomon	372.0	5.50	Counseling, clerical, academic support programs, maintenance
394	Butler	Rose Hill	1,727.6	32.00	Facility usage, summer school, all-day kindergarten, at-risk, athletics/activities, golf, cheerleading, soccer, baseball/softball, wrestling, football, cross country, student organizations, school resource services, parents as teachers, elementary music, art, technology, MTSS
395	Rush	LaCrosse	294.5	6.00	increase elementary class sizes, French, art, physical education, sports, scholar's bowl, FFA, forensics, band/vocal, ITV foreign language (Spanish), vocational agriculture, field trips, extracurricular activities
396	Butler	Douglass	740.3	15.00	increase class size, employee benefits, library services, athletics/activities, field trips, school fees, paraprofessionals, curriculum materials,
397	Marion	Centre	241.0	4.50	gifted and enhanced education
398	Marion	Peabody-Burns	325.9	6.00	Extracurricular activities, four-year-old at-risk, library services, driver's education, all-day kindergarten, vocational
399	Russell	Paradise	125.4	4.00	All-day kindergarten, preschool, after school programs, credit recovery program, clubs/organizations, driver's education, drama/music, HS,
400	McPherson	Smoky Valley	997.7	10.00	junior varsity, junior high athletics, golf, bowling, cheerleading, cross country, quiz bowl, forensics, yearbook
401	Rice	Chase	139.5	3.00	After school programs for at-risk, enhancement programs, combine elementary classes
402	Butler	Augusta	2,180.5	17.50	All-day kindergarten, at-risk programs, library/media services, vocational, fine arts, field trips
403	Rush	Otis-Bison	177.0	9.00	Summer school and after school programs, athletics, activities, food service transportation, classroom supplies, professional development, utilities, student fees, shorten school year, staff development, combine classes, testing materials, technology
404	Cherokee	Riverton	796.0	7.13	All-day kindergarten, pay-to-play, pay to travel/activity/field trips, block scheduling, art, library services, athletics, technology, social studies,
405	Rice	Lyons	800.7	10.00	foreign language, custodial services, school resource services, nurse services, technology support
406	Douglass	Wathena	411.0	6.00	Reduce FACS and industrial arts programs to half-time, provide Spanish via ITV, counseling services,
407	Russell	Russell	945.5	12.00	Before and after school and summer school programs, alternative education, driver's education, technology, building trades/wood technology, art,
408	Marion	Marion	579.3	7.00	assessment preparation, drug testing, extracurricular activities, recognitions program, Saturday school
409	Atchison	Atchison	1,732.1	12.00	Middle school wrestling and tennis, HS boys' golf
410	Marion	Durham-Hills	587.3	7.00	Elementary art, counseling services, summer school, junior varsity athletics, nurses, alternative school, after school tutoring, increase class size
411	Marion	Goessel	257.5	2.00	All-day kindergarten
412	Sheridan	Hoxie	288.0	2.00	Elective classes
413	Neosho	Chanute	1,818.6	15.00	Extracurricular activities, library services, technology, summer school, interventions for students not meeting AYP, custodial services, food service, clerical, professional development, field trips
415	Brown	Hiawatha	837.4	28.00	Maintenance, counseling services, technology, at-risk, food service, transportation, instructional materials, parents as teachers, elementary art and PE, low enrollment elective programs, special education, field trips, music, athletics
416	Miami	Louisburg	1,676.0	20.00	All-day kindergarten, library services, athletics
417	Morris	Morris County	750.9	8.00	Vocational agriculture, increase class size
418	McPherson	McPherson	2,262.3	31.00	After school and summer programs, field trips/extended learning, transportation, professional development, driver's education
419	McPherson	Canton-Galva	374.0	7.00	Freshman athletics, at-risk, paraprofessionals, parents as teachers, business, reading program, industrial technology, applied technology, nurse, music, PE, middle school wrestling
420	Osage	Osage City	644.2	11.00	Athletics, middle school athletics, increase class size, summer school
421	Osage	Lyndon	427.0	8.00	Alternative learning, FACS, transportation, activity trips, advisory committees, counseling services, technology labs, driver's education, all-day kindergarten, at-risk programs, middle and HS athletics, music, Virtual Prestriptive Learning Lab
422	Brown	Greenleaf	206.0	0.00	All-day kindergarten, library services, counseling services, music, clerical, custodial, increase class size, close elementary attendance center
					Athletics, activities, class sponsorships, clubs and organizations, curriculum work, professional development
					Cross country, MTSS support, track, baseball, softball, graduation recovery program
					Technology, at-risk, all-day kindergarten, driver's education, increase class size, PE, music paraprofessionals, summer school, after school program, athletics/activities, custodial, counseling services, technology
					None--cooperative agreements

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423	McPherson	Moundridge	418.0	7.74	All-day kindergarten, FACS, drafting/woodworking, vocational organizations, cheerleading, drama, scholar's bowl, debate, forensics, middle school athletics/activities
424	Kiowa	Mullinville	223.4	4.00	
426	Republic	Pike Valley	248.0	3.50	FACS, art, vocational agriculture, counseling services
428	Barton	Great Bend	3,049.8	33.00	Increase class size, block scheduling, tutoring program, after school program, field trips, technology, professional development, textbooks
429	Doniphan	Troy	348.5	5.00	Combine elementary classes and increase class sizes
430	Brown	Brown County	617.2	9.00	College classes, remedial programs (FAME, reading, math), after school program, athletics, cheerleading, drill team, music, art, drama, speech, knowledge bowl, summer school, maintenance, transportation
431	Barton	Hoisington	622.5	7.00	Middle and HS electives, fine arts, extracurricular activities, after school and summer school programs
432	Ellis	Victoria	256.0	4.00	All-day kindergarten, preschool, FACS, music, field trips, restructure attendance centers, junior varsity athletics
434	Osage	Santa Fe	1,061.5	20.00	Shorten school year (transportation, paraprofessionals, clerical, nurses, food service, custodial, utilities), transportation, athletics, junior high activities, close attendance center and increase class sizes
435	Dickinson	Abilene	1,534.6	18.10	Parents as teachers, after school programs, character education program, vocational, increase class size, HS and middle school electives
436	Montgomery	Caney	828.6	10.50	Preschool, all-day kindergarten, clerical, custodial, elementary PE and music, HS music, PE, driver's education, paraprofessionals, wood shop/construction, FACS vocational agriculture, art, nurses, library services, computer classes, technology, counseling services, athletics/activities, transportation
437	Shawnee	Auburn Washburn	5,412.0	238.00	Not available at this time
438	Pratt	Skyline	342.5	3.00	Consider coping music programs, library support staff & gifted support staff
439	Harvey	Sedgwick	554.5	0.00	Technology, textbooks
440	Harvey	Halstead	783.6	11.50	All-day kindergarten, media services, counseling, paraprofessionals (at-risk program), athletic cuts and reduce JV activities (eliminate assistant coaches & activity transportation), middle school cross country, increase participation fees, HS language arts, elementary art, elementary vocal music, gifted, maintenance, two-hour HS AD position
441	Nemaha	Sabetha	926.6	9.00	Industrial arts, music, art, custodial, Spanish, reading recovery, community use of facilities, pay to play, field trips, athletics, student activities, professional development, instructional materials, block scheduling, textbooks
442	Nemaha	Nemaha Valley	436.3	4.00	After school and summer school programs, reading, field trips, junior high music, B-team athletics, nurses
443	Ford	Dodge City	5,832.1	60.00	Summer school, professional development, all-day kindergarten, increased class size, maintenance, athletics, activities
444	Rice	Little River	320.0	3.00	Full-day kindergarten, unfunded pre-school, elementary art, music, PE, librarian services
445	Montgomery	Coffeyville	1,816.0	32.00	Reading program, after school programs, preschool, field trips, middle school athletics, social worker program, School Community Connection program, staff development, instructional materials, maintenance
446	Montgomery	Independence	1,840.2	24.50	Summer school, Chinese/Arabic, textbook rotation, transportation, increase class size
447	Montgomery	Cherryvale	887.2	10.00	Extracurricular activities (sponsors, chess, debate, forensics, sports, scholar's bowl), English/language arts, science, social science, fine arts, PE, at-risk programs, after school and summer school programs, tutorial programs, adjust school day, transportation
448	McPherson	Inman	456.0	4.00	Professional development, early intervention programs, elective classes
449	Leavenworth	Easton	699.3	12.00	Art, music, counseling services, parents as teachers, staff development, at-risk programs, increase elementary class sizes, close attendance center, library services, special education, language arts math, advanced placement and college dual-credit classes
450	Shawnee	Shawnee Heights	3,405.2	25.00	Athletics, custodial, driver's education, library services, counseling services, extracurricular activities, increase class size, instructional supplies, maintenance, elementary and middle school elective classes, number of instructional days, non-instructional materials, professional development, clerical, summer school, transportation
451	Nemaha	B & B	186.5	5.00	Combine elementary classrooms, art
452	Stanton	Stanton County	463.0	5.00	Close attendance center
453	Leavenworth	Leavenworth	3,887.0	37.00	Professional development, parents as teachers, athletics
454	Osage	Burlingame	317.0	5.00	Transportation, custodial, clerical, textbooks, instructional supplies, paraprofessionals
456	Osage	Marais Des Cygnes	263.0	6.00	All-day kindergarten, MTSS, reading recovery athletics/student organizations, credit recovery, alternative education, field trips

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457	Finney	Garden City	6,934.3	55.00	Counseling services, nurses, increase class size, paraprofessionals, school resource services, clerical, maintenance, equipment/supplies
458	Leavenworth	Basehor-Linwood	2,131.5	12.00	Parents as teachers, Youth/Friends, all-day kindergarten, at-risk reading, standards classes, middle school athletics, vocational, elementary art,
459	Ford	Bucklin	244.7	6.00	HS and middle school electives Reduce school year and lengthen school day, social work, textbooks, technology
460	Harvey	Hesston	812.1	8.00	Elementary and middle school art, counseling services, library services, FACS, health services, nurses, middle school athletics, clerical,
461	Wilson	Neodesha	718.2	5.00	vocational, field trips, professional development, all-day kindergarten, technology, junior varsity athletics, business Middle and HS industrial art, wrestling, baseball/softball (middle and HS)
462	Cowley	Central	347.0	6.00	Industrial art, vocational agriculture, K-12 art, FACS, library/media, computer applications/accounting/business, elementary reading and PE
463	Cowley	Udall	344.0	8.00	Agriculture/shop, after school and summer school programs, art, yearbook, athletics, specialized reading programs
464	Leavenworth	Tonganoxie	1,860.8	10.00	Food service, transportation, custodial, paraprofessionals, increase class size
465	Cowley	Winfield	2,259.9	24.00	Alternative high school, counseling services, middle school electives, driver's education, summer school, Project Lead the Way program
466	Scott	Scott County	869.7	15.00	Summer school/activities, drug testing, Success Center, library services, counseling services, elementary art, music, PE, after school program, reduce school year, textbooks, athletics, activity travel, professional development
467	Wichita	Leoti	426.5	6.50	Vocational, library services, all-day kindergarten, baseball, field trips, transportation, clerical, custodial, maintenance, increase class sizes
468	Lane	Healy	94.5	15.00	Music, PE, business
469	Leavenworth	Lansing	2,502.5	21.00	Parents as teachers, English second language, C-team athletics, PE, professional development
470	Cowley	Arkansas City	2,639.1	15.00	Custodial, transportation, clerical, at-risk, after school programs,anti-bullying, health/wellness, professional development, athletics, student activities, textbooks, instructional materials, advanced placement/enrichment programs, technology, health insurance
471	Cowley	Dexter	152.0	3.00	Summer school, driver's education, sharing of teachers, extracurricular activities, athletics, technology, library services
473	Dickinson	Chapman	967.2	2.00	Alternative school, transportation
474	Kiowa	Haviland	141.8	8.00	Cross country, volleyball, football, basketball, track, distance learning, transportation, scholars bowl, raising lunch prices
475	Geary	Junction City	7,507.0	140.00	After school programs, tutoring, field trips, student learning enhancements, maintenance, professional development
476	Gray	Copeland	107.0	2.00	Transportation, all-day kindergarten, pre-kindergarten, junior varsity extracurriculars
477	Gray	Ingalls	229.0	2.00	Industrial arts, four-year-old at-risk, kindergarten, after school and summer school programs
479	Anderson	Crest	224.5	4.00	Golf, middle school sports/choir, high school choir/dance, driver's education, librarian, half-day kindergarten, parents as teachers, middle school teacher
480	Seward	Liberal	4,375.0	75.00	Dual language, school resource officer, Community Learning Center, after school and summer school programs, alternative school, transportation, inservice, science fair, small group learning, instructional coaches, advanced placement classes, local formative testing, preschool
481	Dickinson	Rural Vista	413.0	6.50	Preschool, all-day kindergarten, custodial, clerical, food service, library services, at-risk, technology, transportation, nurses, junior high athletics, number of instructional days, counseling services, after school program, parents as teachers, driver's education
482	Lane	Dighton	244.5	4.00	Increase elementary class sizes, parents as teachers, art, band, FACS
483	Seward	Kismet-Plains	725.0	5.00	All-day kindergarten, after school and summer programs, activity route transportation, driver's education, scholar's bowl, forensics, student insurance, vocational programs, professional development, sub-varsity or middle school athletics, low-enrollment elective disciplines
484	Wilson	Fredonia	732.1	21.00	Reading recovery, at-risk, drama, English, forensics, social studies, library services, cross country, golf, combine elementary classes, maintenance, technology, transportation, textbook/instructional equipment, summer school, elective classes
486	Doniphan	Elwood	303.3	4.00	Elementary art, counseling services, before/after school and summer school programs, alternative school, junior varsity athletics, nurses, increase class size
487	Dickinson	Herington	506.1	9.00	Before/after/summer school programs, media services, music, PE, parents as teachers, summer driver's education, food service, clerical, maintenance, technology, custodial

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488	Marshall	Axtell	295.0	7.00	Combine elementary classes, technology, field trips, textbooks/instructional materials, professional development, junior varsity athletics, compressed schedule
489	Ellis	Hays	2,843.8	24.00	All-day kindergarten, transportation, block scheduling, close attendance centers, health services, health insurance, food service, technology, four-year-old at-risk, community use of facilities, music, non-athletic extracurricular activities, athletics, PE, library services, counseling services, nurses, FAC, business, industrial technology, foreign language, four-day school week, reconfigure school day/year, MAP testing, district
490	Butler	El Dorado	1,994.6	14.00	School resource services, safety education, nurses, driver's education, summer school, instruments, all-day kindergarten, extracurricular activities, athletics, field trips,library services, custodial, elementary art, professional development, clerical, maintenance, technology, community programs
491	Douglas	Eudora	1,453.7	13.90	Close early childhood center, all-day kindergarten, math, science, language arts, social studies, increase class size, culinary arts, health career science, graphic design, printing, middle school reading program, maintenance, middle school activities, reduce school days/add instructional time per day, clerical, custodial, food service
492	Butler	Flinthills	284.5	8.00	Industrial technology (middle and HS), yearbook (middle and HS), business/computer application type courses, HS newspaper, elective PE courses, vocal/instrumental offerings
493	Cherokee	Columbus	1,113.0	12.00	Alternative/dropout recovery, counseling services, after school and summer school programs, driver's education
494	Hamilton	Syracuse	490.5	5.00	Support programs for core classes
495	Pawnee	Ft. Larned	886.0	8.00	All-day kindergarten, library services, art, maintenance, music, athletics, increase class size
496	Pawnee	Pawnee Heights	150.1	0.00	Paraprofessionals, elective programs, at-risk, golf, athletics, close attendance center, four-day school week, combine elementary classes, transportation, instructional supplies, textbooks
497	Douglas	Lawrence	10,668.9	94.00	Library services, counseling services, nurses, technology, instructional support, transportation, maintenance, increase class size, athletics, fine arts, activity programs, closure of attendance centers
498	Marshall	Valley Heights	366.5	10.00	Art, FACS, Spanish, music, athletics, vocational agriculture
499	Cherokee	Galena	736.5	10.00	Driver's education, summer and after school programs, art, athletics, band, choir, foreign language (Chinese or Spanish), FAC, business, industrial arts, multi-media, counseling services
500	Wyandotte	Kansas City	18,941.7	193.00	Music, drama, athletics, student activities, four-day school week, maintenance, custodial, transportation
501	Shawnee	Topeka	13,292.0	195.00	Technology, out-of-state travel, instructional and non-instructional supplies, clerical, KATS/Washburn Tech (vocational), professional development, utilities, school safety, maintenance, insurance, transportation, close attendance centers, custodial, counseling services, social work, block scheduling, pay to play athletics, health services, paraprofessionals, music
502	Edwards	Lewis	109.0	2.00	Staff reductions
503	Labette	Parsons	1,210.7	12.00	Robotics, welding, auto mechanics, CADD, construction, FACS, music, art, counseling services, parents as teachers
504	Labette	Oswego	465.0	8.00	Elementary counseling, instrumental music, FAC, Gen-Y advanced computer studies, industrial technology, art
505	Labette	Chetopa - St. Paul	497.6	8.00	After school and summer school programs, FACS, athletics, extracurricular activities/sports, clerical, paraprofessionals, custodial, food service, counseling services, math, reading, increase class size, library services, textbook purchases, transportation
506	Labette	Labette County	1,607.4	10.00	Substantial reductions were made in 2009-10 affecting social services, nurses, paraprofessionals, technology, maintenance, transportation, utilities, clerical, custodial
507	Haskell	Satanta	339.3	4.00	Counseling services, maintenance, food service, paraprofessionals, student insurance, baseball/softball, transportation
508	Cherokee	Baxter Springs	927.0	3.00	After school and summer school, credit recovery, preschool, vocational through area vocational school, evening tutorial, middle school intramurals, duo credit courses
509	Sumner	South Haven	222.0	2.00	Parents as teachers, preschool, science, paraprofessionals
511	Harper	Attica	139.0	2.00	Parents as teachers, art, activities
512	Johnson	Shawnee Mission	26,559.6	197.00	Non-mandated programs, increase class size
TOTALS			454,261.8	5,097.10	