

SESSION OF 2017

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE
BILL NO. 2410**

As Passed Without Recommendation by House
Committee on K-12 Education Budget

Brief*

Sub. for HB 2410 would make appropriations for the Department of Education (KSDE) for FY 2018 and FY 2019; enact the Kansas School Equity and Enhancement Act; add sections concerning applied behavioral analysis therapy for students who have been diagnosed with an autism spectrum disorder and a report required to be produced by KSDE; and amend the Tax Credit for Low Income Student Scholarship Program, the Virtual School Act, and statutes related to Capital Improvement State Aid and the use of capital outlay funds.

FY 2018 Appropriations Highlights

The bill would appropriate a total of \$1.984 billion from the State General Fund (SGF) for General State Aid, \$480.9 million for Supplemental General State Aid, and \$436.0 million for Special Education State Aid. The bill would also add \$800,000 for the Mentor Teacher Program, \$1.7 million for professional development, and \$2.0 million for at-risk education for preschool-aged children.

FY 2019 Appropriations Highlights

The bill would appropriate a total of \$2.039 billion from the SGF for General State Aid, \$486.1 million for

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Supplemental General State Aid, and \$448.0 million for Special Education State Aid. The bill would also add \$800,000 for the Mentor Teacher Program, \$1.7 million for professional development, and an additional \$2.0 million for at-risk education for preschool-aged children.

Kansas School Equity and Enhancement Act

The Kansas School Equity and Enhancement Act (Act) would provide for State Foundation Aid (SFA) to be provided to school districts. SFA would be calculated by multiplying the base aid for student excellence (BASE) by the adjusted enrollment of the district and deducting the local foundation aid of the district. The adjusted enrollment of the district would be calculated by adding the weighted enrollments for at-risk students, declining enrollment, high-density at-risk students, bilingual, low enrollment, high enrollment, new school facilities, ancillary school facilities, special education and related services, career technical education, and transportation to the enrollment of the district. The BASE would be set at \$4,006 for school year 2017-2018, \$4,128 for school year 2018-2019, and adjusted according to the Consumer Price Index for all urban consumers for the Midwest region each year thereafter.

The Act would also allow any district to adopt a local foundation budget (LFB) by resolution of the school board. The LFB would be capped at 33.0 percent of the product of the BASE and the adjusted enrollment of the district. In any year in which the BASE is less than \$4,490, the local foundation budget would be capped at 33.0 percent of the product of the \$4,490 and the adjusted enrollment of the district. Any district adopting an LFB in excess of 30.0 percent would be subject to protest petition.

Certain districts would be eligible to adopt a local excellence budget (LEB). The authority for an LEB would be calculated by multiplying the number of non-at-risk students in the district by 0.456 and further multiplying by 133.0

percent of the BASE. From that amount, the enrollment of the district multiplied by 33.0 percent of the BASE for local foundation budgets would be subtracted. The LEB would be capped at 5.0 percent of the district's general fund budget. Expenditures from the LEB would be limited to the provision of educational opportunities that exceed curriculum standards adopted by the Kansas State Board of Education (KSBE).

Finally, the Act would define key terms; charge the KSBE with developing and implementing a school accreditation system and with conducting a cost study of career and technical education programs, give the KSBE authority to adopt rules and regulations to administer the Act, and provide for several performance audits by the Legislative Division of Post Audit (LPA). The provisions of the Act would not be severable.

Enrollment

The enrollment of a school district would be the number of students regularly enrolled at the district on September 20 of the preceding school year. If the enrollment of the district the preceding school year decreased from the prior year, the enrollment would be the enrollment of the district from the second preceding school year. Students enrolled in kindergarten full time would be counted as 1.0 full-time equivalent (FTE) student. Formerly, kindergarten students were counted as 0.5 FTE.

At-Risk Student Weighting

The at-risk weighted enrollment of the district would be determined by multiplying the number of students eligible for free meals under the National School Lunch Act by 0.484. Any school district maintaining kindergarten through 12th grade would be allowed to substitute 10.0 percent of the district's enrollment multiplied by 0.484 for the purposes of this weighting.

Bilingual Weighting

The bilingual weighted enrollment of a district would be the greater of the FTE enrollment based on hours of contact in bilingual education programs multiplied by 0.361 or the number of students enrolled in bilingual programs multiplied by 0.185.

Low Enrollment Weighting

Low enrollment weighting would be available to districts with fewer than 1,622 students enrolled. For such districts, the weighting would be calculated on a linear transition: districts with 100 or fewer students would receive a weighting of approximately 101.4 percent of the enrollment of the district, and that amount would transition to approximately 3.5 percent of the enrollment of the district as the enrollment approaches 1,622 students.

High Enrollment Weighting

High enrollment weighting would be available to districts with more than 1,622 students and would be a weighting of approximately 3.5 percent of enrollment of the district.

High-Density At-Risk Weighting

If the enrollment of a school district is at least 50.0 percent at-risk students, the district would receive high density at-risk weighting equal to 10.5 percent of the at-risk students of the district. If the enrollment of a school district is between 35.0 percent at-risk students and 50.0 percent at-risk students, the district would receive high density at-risk weighting on a linear transition downwards from 10.5 percent of the at-risk students of the district.

Transportation Weighting

The transportation weighting of a school district would be determined by multiplying the formula per-student transportation cost of the district by the number of students who reside at least 2.5 miles from the school building they attend and are provided transportation to the school building by the district. The per-student transportation cost of the district would be determined using the curve of best fit of a density-cost graph of the index of density of all school districts in the state. A five-year grandfather clause would be provided to districts that would receive less funding pursuant to the transportation weighting than they did during the 2016-2017 school year.

Career Technical Education Weighting

The career technical education weighting of a school district would be determined by multiplying the FTE enrollment in approved career technical education programs by 50.0 percent. This weighting would be scheduled to sunset following the 2017-2018 school year and KSDE would be directed to study the costs of the delivery of career technical education programs and report the findings of such study on or before January 15, 2018.

New School Facilities Weighting

The new school facilities weighting of a school district would be determined by multiplying the number of students enrolled in a new school facility by 25.0 percent. A new school facility would be a school facility in its first two years of operation that was financed primarily with bonds approved at an election held on or before July 1, 2015.

Ancillary School Facilities Weighting

A school district would be permitted to apply to BOTA for authority to levy local property taxes for the purpose of financing the costs attributable to commencing the operation of a new school facility that is in excess of the amount that is financed by any other source. The amount to be levied for this weighting would be reduced over a period not to exceed six years. The entirety of this weighting would be financed by local property taxes.

Declining Enrollment Weighting

The declining enrollment weighting would be available to school districts that have lost revenues due to the declining enrollment of the district. The district would be required to apply to the State Board of Tax Appeals (BOTA) for authority to receive this weighting, and the weighting would be capped at 5.0 percent of the general fund budget of the district. For school year 2017-2018, a district could receive declining enrollment weighting equal to one half of the amount the district generated pursuant to the weighting in school year 2007-2008. The declining enrollment weighting would expire at the end of the 2017-2018 school year. The entirety of this weighting would be financed by local property taxes.

Special Education and Related Services Weighting

The special education and related services weighting would be calculated for each district by dividing the amount of special education and related services payments of state aid made to the district by the BASE.

Local Foundation Aid

Local Foundation Aid would include the unencumbered balance of the general fund of a district, certain grants received by district, special education and related services

aid, any tuition for non-resident pupils of a district, and 70.0 percent of the federal impact aid received by a district. These categories were commonly referred to as “local effort” under previous law.

Reauthorization of the 20-Mill Levy

The bill would reauthorize the statewide 20-mill school finance levy for school years 2017-2018 and 2018-2019. The first \$20,000 of assessed valuation of residential properties would continue to be exempt from this levy.

Supplemental General State Aid

Supplemental General State Aid would be paid to any district that has adopted a local foundation budget. The amount of aid a district would be eligible to receive would be determined by multiplying the district's local foundation budget by an equalization factor that equalizes all districts below the 81.2 percentile of assessed valuation per pupil (AVPP) up to that percentile. For school year 2017-2018, the AVPP used would be that of the immediately preceding school year. For school year 2018-2019, the AVPP used would be an average of the AVPPs of the three immediately preceding school years.

Local Excellence State Aid

Local Excellence State Aid would be paid to any eligible district that has adopted a local excellence budget. The amount of aid a district would be eligible to receive would be determined by multiplying the district's local excellence budget by an equalization factor calculated using the assessed valuation per pupil and the average appraised value of a single-family residence in the district; the median district would receive 25.0 percent state aid and districts would receive less as their per pupil valuation and average residential values increased.

Accreditation

The Act would require the KSBE to design and adopt a school district accreditation system based on improvement in performance that reflects the educational goals known as the "Rose capacities," which are codified at KSA 2016 Supp. 72-1127, and is measurable. The Act would also require the KSBE to report to the Governor and Legislature on or before January 15 of each year regarding the school district accreditation system.

KSDE School District Revenue Report

The bill would require KSDE to develop an annual report for each school district reflecting the total amount of revenues received by each district from federal, state, and local sources each year, with certain categories of revenue being specifically identified.

LPA Performance Audits

The Act would also require LPA to perform several performance audits in the future. Topics of required audits would include transportation funding, at-risk education funding, bilingual education funding, virtual school programs, the cost of providing educational opportunities to every public school student in Kansas to achieve the performance outcome standards adopted by the KSBE; and the best practices of successful schools.

Applied Behavioral Analysis (ABA) Therapy

On and after July 1, 2018, upon the request of a parent or legal guardian, the bill would require school districts to provide ABA therapy for a student diagnosed with an autism spectrum disorder to the extent such therapy is ordered by a licensed physician, licensed psychologist, or licensed specialist clinical social worker, provided there is a licensed

clinician providing such therapy who is located within the territory of the school district. The bill would specify that if a student has an individualized education program (IEP), the provision of such therapy shall not directly conflict with the provisions of the IEP and shall not be required for the provision of free appropriate public education as required by any federal or state law.

For FY 2019, the bill would establish the ABA Therapy State Aid Fund, which would be funded from the State General Fund by multiplying the aggregate enrollment of students for the immediately preceding school year by \$4. A school district would be allowed to submit an application to the KSBE for state aid to be expended for the provision of ABA therapy. The KSBE would then review the applications and approve such applications to the extent moneys are available.

Virtual School State Aid

Virtual School State Aid would be paid to school districts operating virtual schools. \$5,000 per student would be paid for students under the age of 19 enrolled in a virtual school on a full-time basis. \$1,700 would be paid for each FTE student enrolled in a virtual school on a part-time basis. For students who are 19 years of age and older, aid would be paid at a rate of \$709 per credit hour earned, not to exceed six credit hours earned by any one student in any one school year.

Tax Credit for Low Income Students Scholarship (TCLISS) Program Act

On and after July 1, 2018, the bill would amend the definition of “qualified school” within the TCLISS Program Act to mean a non-public school that:

- Does not offer grades 9-12 and is accredited by the KSBE;
- Offers grades 9-12 and has either a postsecondary effective rate that exceeds the trend line for such rate among all school districts and accredited nonpublic schools, or an ACT composite score that exceeds the statewide average; or
- Has been a participating qualified school prior to July 1, 2018.

Any qualified school would still be required to notify the KSBE of its intention to participate in the program and comply with the program's requirements. Additionally, a scholarship granting organization would be required to award at least 50.0 percent of all education scholarships in a school year to eligible students certified by the Department of Children and Families as a member of a family whose household income does not exceed 130.0 percent of the federal poverty level.

Capital Outlay Uses

The bill would allow capital outlay funds to be used to pay utility expenses.

Capital Improvement Changes

For all bond issuances approved at an election on or after July 1, 2017, any district with an enrollment of less than 260 students would not be eligible for Capital Improvement State Aid unless that district received approval from the KSBE prior to holding an election to approve the issuance of bonds.

Background

2015 House Sub. for SB 7 repealed the School District Finance and Quality Performance Act, which had been the

primary mechanism for the financing of schools in Kansas since 1992, and replaced it with the Classroom Learning Assuring Student Success Act, scheduled to sunset June 30, 2017.

HB 2410 was introduced by the House Committee on Appropriations at the request of the Chairperson of the House Committee on K-12 Education Budget. In the House Committee on K-12 Education Budget hearing, testimony was provided by representatives of several school districts and virtual schools, the Alliance for Childhood Education, Game on for Kansas Schools, KASB, Kansas National Education Association, Kansas Parent Teacher Association, Kansas Policy Institute, League of Women Voters, Mainstream Coalition, and the Overland Park Chamber of Commerce.

The House Committee adopted numerous amendments to the bill and created a substitute bill. The House Committee adopted amendments, including those concerning the BASE aid amount; counting kindergarten students as full-time students; the LFB and LEB; the transportation, low enrollment and high enrollment, bilingual, at-risk, new school facilities, and career and technical education weightings; performance audits to be conducted by LPA; and the TCLISS Program.

Relative to *The FY 2018 Governor's Budget Report*, the bill provides an additional \$226.8 million of SGF spending for schools in FY 2018 and an additional \$370.0 million of SGF spending for schools in FY 2019.