

Testimony before Senate Education Committee
SB 353 – relating to allocation of K-12 funding
Mike O’Neal – Kansas policy Institute
Oral testimony in support

Feb. 17, 2020

Madam Chairman and members of the Committee

Thank you for the opportunity to appear in support of SB 353. As you can see, the bill is simple and straightforward. The bill amends the current statute dealing with the development and passage of local school district budgets by the locally elected school boards.

Over the past several years of school finance litigation, much attention has been paid to Article 6, Sec. 6 of the Kansas Constitution. That section sets forth the duty of the Legislature to make suitable provision for the finance of the educational interests of the state. The Kansas Supreme Court has interpreted that provision as embracing the concept of “adequacy” of funding. Specifically, the Court has defined “adequacy” as a requirement that the finance system “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. 72-1127”.

The *Gannon* Court noted that “[w]hile the wisdom of the legislature’s policy choices in allocating financial resources is not relevant to this analysis, the panel can consider how these choices impact the State’s ability to meet the *Rose* factors.”

Clearly, the Court has acknowledged that it is not only the Legislature’s duty to provide a funding system that meets the adequacy test, it has the power to determine the allocation of that funding. Here is where power and reality diverge. The Legislature is loath to directly allocate district funds toward the objects of educational pursuits. They leave it up to the local districts to decide. But here is where the legal disconnect occurs. While the Legislature determines the structure of the finance system for schools, it does not implement that system of finance by determining the allocation of resources. Yet the Court has ruled that implementation is the Legislature’s responsibility.

Today we find ourselves in one of the few sessions in the last two decades where the Court is not involved with the Appropriations process. Your funding system has been found to be adequate and constitutional. Great, right? But how many of us really think the current funding practices at the local level are being successful in getting all of our Kansas students academically proficient and meeting our statutory goals? Performance outcomes are relatively flat; certainly they are unacceptably flat. What’s the solution? Have the Legislature take over the role of determining how appropriated funds are allocated to get the job done?

The answer lies in the same Article 6 of the Kansas Constitution, but instead of Section 6, it's Section 5, which reads: "Local public schools under the general supervision of the state board of education shall be maintained, developed and operated by locally elected boards..." This is frankly, an often-overlooked provision but a vitally important one. Locally elected school boards, by law, run our schools; not the local school administration and certainly not the Kansas Department of Education.

This brings us to the underlying statute being amended here. Under current law, the local school boards annually are required to conduct an assessment of the educational needs of each attendance center in the district. Those assessments inform the budget that the board ultimately approves for the school year. What do those needs assessments consist of? We know, at a minimum, they involve the questions that the KSDE has suggested and which appear on their website. (See attached). This version was the latest version I could find. Current law requires such needs assessments be conducted before a budget is approved. Presumably, the resulting budgets are a product of the answers to those needs assessments questions. Please note that the attached needs assessment document states that "Personnel – such as teachers (including Title 1 teachers), principals, counselors, and support staff- should be involved in determining the needs of the building and district." A good question to ask is whether this is, in fact, happening in every district.

What other guidance is available to assist in the development of a budget that should meet the needs of our students and the teachers who teach them? I have often referred lawmakers to the KSDE's own *Kansas Accounting Handbook for Unified School Districts*. The latest version is dated March of 2018. Account Code 1000 is *Instruction*. Here's what the *Accounting Handbook* says about Instruction:

"Although all other functions are important, this function acts as the most important part of the education program, the very foundation on which everything else is built. If this function fails to perform at the needed level, the whole educational program is doomed to failure regardless of how well the other functions perform. Instruction not only includes the regular face to face classroom teaching but also such things as lab sessions, independent work, and educational field trips." (pg. 71)

This strong statement concerning the importance of the instruction portion of the budget, coupled with the local board's existing constitutional and statutory directives, should result in budgets that are built from the classroom up, not the administration building down. Account code 1000 (*Instruction*) should be the first building block of the budget foundation, informed by a *bona fide* needs assessment for every attendance center. Yet, we see time and time again that it is the classroom and instruction that get short-changed. And, sadly, performance outcomes reflect this phenomenon.

In the Special Session of 2005 the Legislature, in response to a Court order requiring the appropriation of additional funds for schools, took steps to establish a state policy that at least

65% of funds should be expended for instruction. The schools had historically fallen short of that goal and, sadly, have fallen far short of that goal in every year since. To put this into perspective, had the school districts collectively met those goals in the intervening years, over **\$8.6 Billion** that was appropriated by the Legislature and ultimately spent by the districts, would have reached the classrooms. The money was, in fact, not spent there. As the *Accounting Handbook* states, if the Instruction function fails to perform at the needed level, the whole educational system is “doomed to failure”.

How do we get boards to assume their proper role in developing budgets that meet the needs of our students and the expectations of the Court in terms of adequacy? SB 353 is a commonsense answer. Proficiency and attainment of our statutory educational goals by all students should be the overriding consideration. Graduation does not necessarily equate to proficiency or attainment of educational goals. The new language in SB 353 should not be necessary, but it is. No future budget should ever be approved by the locally elected boards unless they ensure that the allocation of resources is “reasonably calculated such that all students may achieve the goals set forth in K.S.A. 72-3218(c).” It is the board, not the administration, that makes that reasonable calculation. The boards are constitutionally and statutorily responsible for ensuring the district budget they approve is calculated to get students to where they meet or exceed our educational goals set for in state law.