

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

68-West-Statehouse, 300 SW 10th Ave.
Topeka, Kansas 66612-1504
(785) 296-3181 • FAX (785) 296-3824

kslegres@klrd.ks.gov

<http://www.kslegislature.org/klrd>

November 7, 2016

SCHOOL FINANCE OVERVIEW

This memorandum summarizes the history of school finance in Kansas, including organization and governance of school districts, legislation governing school finance, current funding, and recent school finance litigation. Other education resources can be found at <http://www.kslegresearch.org/KLRD-web/Education.html>.

History of School Districts in Kansas

Early in its statehood, Kansas had separate school districts for elementary schools and high schools, resulting in more than 9,000 districts by the turn of the 20th century. In the 1940s and 1950s, the Legislature relied on county reorganization committees to merge elementary and high school districts. By 1958, Kansas had approximately 2,800 districts, with 237 districts operating high schools and elementary schools. Legislation enacted in 1963 divided the state into planning units, which recommended districts with either an enrollment of at least 400 students in grades 1–12 or at least 200 square miles and an assessed valuation of at least \$2.0 million. This effort eliminated elementary-only districts. Legal challenges accompanied unification efforts; however, by 1969, Kansas had 311 districts. Kansas currently has 286 districts.

Constitutional and Structural Changes in Education Governance

The first State Board of Education (the State Board) was created in 1873 and consisted of an elected State Superintendent and the four state college and university presidents; however, it did not have policy-making authority. Local boards held primary power over the State's education structure, even after enactment of a compulsory attendance law in 1874, requiring children ages 8 through 14 to attend school. In 1915, the Legislature established the State Department of Education, consisting of the State Board and State Superintendent of Public Instruction, as well as county superintendents. A 1957 survey of the Kansas education system, from kindergarten through higher education, led to restructuring, including:

- Statutes dividing responsibilities of the State Board and State Superintendent;
- Degree standards for all teachers; and
- A constitutional amendment providing for an elected State Board with jurisdiction over elementary, secondary, and vocational education, as well as junior colleges, and authority to appoint a State Commissioner of Education.

The 1966 amendment to Article 6 of the *Kansas Constitution* took effect in January 1969 and transferred responsibilities formerly exercised by the State Superintendent to an elected, ten-member State Board. The State Board also received authority to appoint a Commissioner of Education to serve at the Board's pleasure. Kansas Supreme Court rulings in 1973 and 1979 affirmed the State Board's authority over many of its rules, regulations, and policies, as well as use of school accreditation and certification of teachers, to equalize and promote the quality of Kansas education. Proposed constitutional amendments to limit the State Board's authority or change its composition failed in statewide elections in 1974, 1986, and 1990.

Historic School Finance Legislation

Prior to passage of the School Foundation Act in 1965, school funding was provided by at least a dozen local and state funding sources. The Act included a basic allotment of \$760 per pupil with an adjustment based on teachers' education and experience and a multiplier based on a district's pupil-to-teacher ratio relative to the state average. Annual increases in district budgets were limited to four percent. The Act was challenged due to funding disparities between districts with well-trained and experienced teachers compared to districts with less-experienced teachers; large, urban districts and small, rural districts with fewer pupils per teacher; and rich and poor districts in wealthy counties. The 1973 Legislature passed the School District Equalization Act, which replaced the pupil-to-teacher ratio with base budgets based on districts' sizes and limited annual budget growth based on median spending of similarly-sized districts. It was later amended in response to legal claims it was unconstitutional due to unequal benefits provided to school districts and unequal *ad valorem* tax burdens.

The Shawnee County District Court case *Mock v. Kansas and the School District Finance Act* consolidated 42 districts' legal challenges brought in the late 1980s and into 1991. District Court Judge Terry Bullock issued a pre-ruling order requiring the State to provide a "rational education justification" for differences in education funding. Governor Finney responded by convening a task force charged with recommending a new school finance formula (Executive Order 91-147). When the 1992 Regular Legislative Session did not produce a new formula, Judge Bullock warned failure to comply with his earlier ruling by June 1 would result in school closure in the fall. The School District Finance and Quality Performance Act (SDFQPA) was passed during the 1992 Veto Session and included the following:

- A statewide uniform property tax of 32 mills (scheduled to increase to 35 mills in tax year 1994) and a base state aid per pupil (BSAPP) of \$3,600. The statewide levy decreased to 20 mills in 1998 and continues at that rate.
- Weightings and adjustments to fund additional costs incurred to accommodate differences in districts and student populations, for example, the at-risk weighting, bilingual weighting, and low-enrollment weighting.
- A Local Option Budget (LOB) allowing districts to levy mills above the uniform 32 mills, as much as 25 percent of a district's base budget, as well as state-funded equalization aid.

Until its repeal in 2015, the SDFQPA was often discussed and amended. The 1992 legislation created the Kansas Committee on School District Finance and Quality Performance, which recommended a provision for districts experiencing enrollment declines, a "new school facility" weighting for buildings acquired or constructed because of increased enrollment, and

allowing current weightings to work before amending them. The 2000 Governor’s Vision 21st Century initiative on K-12 Education reviewed education finance options and recommended increasing the BSAPP to \$4,000 and the at-risk weighting, amending the definition of “at-risk” to include truant students and those not making progress toward graduation, and equalizing the capital outlay mill levy. The following table examines selected components of the SDFQPA. For more information, see the “School Finance History” document available at <http://www.kslegresearch.org/KLRD-web/Education.html>.

Components of the SDFQPA and Changes Over Time	
At-Risk and Non-Proficient Weighting	The at-risk weighting, which was based on eligibility for the federal free lunch program, started in 1992 with a 5.0 percent weighting for each eligible pupil. The weighting increased in subsequent years, and the 2006 Legislature passed a three-year incremental increase, increasing the weighting to 45.6 percent for the 2008-2009 school year and each year thereafter. The weighting funded services for at-risk students, including after-school tutoring and special reading and math programs offered during regular school hours. At-risk students were required to meet criteria indicating they may be at risk for not graduating from high school; however, they did not need to be eligible for free lunch to receive these services. The 2006 Legislature added a weighting for districts with high concentrations of students receiving free meals and a “non-proficient” weighting for students not eligible for free lunch but who failed either the state math or reading assessments. The 2014 Legislature eliminated the non-proficient weighting.
Bilingual Education Weighting	The bilingual education weighting was based on the “contact” hours bilingual students spent with a teacher licensed to teach English language learners. Six contact hours represented one full-time bilingual student. The original weighting was 20.0 percent for each full-time bilingual student. The 2005 Legislature increased it to 39.5 percent.
Low Enrollment and High Enrollment Weightings	The low enrollment weighting provided additional funding to districts with low student numbers. The threshold for receiving this weighting changed over time from 1,900 students in a district to 1,622 students in a district. 1995 legislation added a high enrollment or “correlation” weighting for districts with more students than the low enrollment weighting threshold. This weighting started at 0.9031 percent and moved as high as 6.3211 percent for several years. 2005 HB 2247 deleted the correlation weighting.
LOB	The LOB allows local school boards to raise additional funds to supplement a district’s general fund via local property taxes. The state “equalizes” this funding by ranking the districts’ assessed valuation per pupil (AVPP), determining the AVPP at the 81.2 percentile, and providing aid to districts below that point. When enacted, this equalization funding, known as Supplemental General State Aid (LOB State Aid), provided aid up to the AVPP at the 75th percentile. It increased to the 81.2nd percentile in 2005. When first enacted, each district was limited to raising its Local Option Budget up to 25 percent of its general budget. Over time, the limit has increased to 33 percent under certain circumstances.
BSAPP	BSAPP was \$3,600 in the 1992-1993 school year and peaked at \$4,400 in the 2008-2009 school year. BSAPP was \$3,852 prior to the SDFQPA’s repeal.

Current Funding

The 2015 Legislature (2015 House Sub. for SB 7 [SB 7]) replaced the SDFQPA with a block grant of funding for years 2015-2016 and 2016-2017. In 2016, enactment of Senate Sub. for HB 2655 (HB 2655) altered the formula for LOB State Aid for FY 2017 and reinstated the formula for Capital Outlay State Aid in effect prior to SB 7. Later, 2016 Special Session Sub. for HB 2001 (HB 2001) reinstated the previous LOB State Aid formula.

SB 7 established the Extraordinary Need Fund (ENF) and HB 2655 transferred authority over the fund from the State Finance Council to the State Board. In determining a district's need, the State Board must consider any extraordinary increase in enrollment or decrease in assessed valuation for the current year, other unforeseen acts or circumstances substantially impacting a district's general fund budget for the current year, and whether the district has reasonably equal access to substantially similar educational opportunities through similar tax effort. HB 2001 set a \$13.0 million expenditure limit on the ENF and prohibited expenditures in FY 2017 until the sale of the Kansas Bioscience Authority (KBA) is complete. The expenditure limitation for the ENF will be reduced if the sale of the KBA yields less than \$38.0 million.

School Finance Litigation, *Gannon v. State*

The primary legal issues in the *Gannon* litigation are the constitutional equity and adequacy of K-12 public education funding. The Kansas Supreme Court issued its first opinion in the case in March 2014 and provided the following test for equity: "School districts must have reasonably equal access to substantially similar educational opportunity through similar tax effort." Further, the Court stated adequacy would be achieved when the school finance system is reasonably calculated to have all Kansas public education students meet or exceed the capacities set out in *Rose v. Council for Better Educ., Inc.*, 790 S.W.2d 186 (Ky. 1989), including sufficient oral and written communication skills; knowledge of economic, social, and political systems; understanding of governmental processes; self knowledge and knowledge of one's mental and physical wellness; grounding in the arts; training or preparation for advanced training in either academic or vocational fields; and academic or vocational skills that enable favorable competition in academics or the job market. The 2015 Legislature subsequently enacted SB 7.

On remand, a three-judge panel in Shawnee County found SB 7 to be unconstitutional. In *Gannon II*, issued in February 2016, the Kansas Supreme Court affirmed that SB 7 failed to cure inequities in the school finance system, continued the stay of the panel's order, and ordered the State to satisfactorily demonstrate the Legislature has complied with the equity standard by June 30, 2016. The 2016 Legislature enacted HB 2655 in response. *Gannon III*, issued in May 2017, found that although HB 2655 did remedy constitutional infirmities related to Capital Outlay State Aid, the LOB State Aid funding mechanism was unconstitutional, and use of "hold harmless" funds and the ENF was insufficient to mitigate LOB inequities. The Court found the unconstitutional provisions of HB 2655 could not be severed from SB 7, and Kansas schools could not operate without a valid school finance system. The Court continued its earlier stay until June 30, 2016, to minimize the threat of disruptions in education funding. On June 28, the Court found HB 2001 brought the Legislature into compliance and retained jurisdiction over the issue. The Kansas Supreme Court heard oral arguments on adequacy in September 2016 and is expected to release an opinion soon.