



**House K - 12 Education Budget Committee
H. B. 2347 School District Finance and Student Success Act**

Testimony submitted by Schools For Fair Funding
Bill Brady

February 20, 2017

Chairman Campbell, Members of the Committee:

Schools For Fair Funding is a coalition of 40 Kansas school districts comprised of 135,241 students, or 30% of the students in Kansas. Thank you for the opportunity to present our views on HB 2324.

Schools For Fair funding testifying opposed to this bill due to the issues outlined herein.

In judging the constitutionality of any school finance bill, the Kansas Constitution is the guidestar. The Kansas Supreme Court has further defined just what our Constitution requires to guide us. Most recently, in the *Gannon* case, the Court has provided the most detailed articulation of the requirements. There are two components a bill must provide to pass constitutional muster: It must provide for adequacy and equity.

“To determine compliance with the adequacy requirement in Article 6 of the Kansas Constitution, Kansas courts apply the test from *Rose v. Council for Better Educ., Inc.*, 790 S.W.2d 186 (Ky. 1989), which establishes minimal standards for providing adequate education. More specifically, the **adequacy requirement 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...**”

“To determine compliance with the equity requirement in Article 6 of the Kansas Constitution... **school districts must have reasonably equal access to substantially similar educational opportunity through similar tax effort.**”

HB 2324 must pass these two tests to meet constitutional requirements.

Purpose to finance instruction and exclude other necessary expenses. Section 2 of the bill declares that it is the purpose of the act to finance “instruction” and to exclude “central office administration, capital improvement construction, reconstruction or remodeling, facility maintenance and repair, food service procurement and preparation, or the provision of extracurricular activities.” The Constitution, through Article 6, requires that the state provide public education. This bill attempts to de-fund certain aspects of public education that are necessary for public education to carry out its mission. Extra curricular activities may be de-funded, but they are an integral part of providing public education.

Average daily regular full time equivalent enrollment. Section 3 of the bill moves to average daily enrollment rather than a September 20 student count date to determine funding. There were no KSDE runs available to evaluate the effect of this change.

Enrollment state aid per pupil. Section 5 of the bill establishes classes of enrollment state aid per pupil based upon district size. There were no KSDE runs showing the effect of this change so that their adequacy could be evaluated.

Low income state aid. Section 7 of the bill establishes low income state aid by using census poverty percentage times \$3099 per pupil. This level of funding is approximately 1.765 times current at-risk funding per pupil based upon free lunch counts. The statewide average conversion for free lunch to census poverty as a measure requires a 2.85 multiple. There are no KSDE runs showing the effect of this bill, but it would appear to massively reduce current at-risk funding. Testimony on a prior bill indicated that a 2.0 factor would have removed \$63M to \$73M from current levels of funding. This bill would appear to reduce that funding more than that. This change to census based weight removes funding from the exact students that have been shown to NOT be performing to standards. This does not provide substantially similar opportunity to at risk kids. This violates the equity test.

Bilingual state aid. Section 8 of the bill provides that bilingual aid be paid at the rate of \$425 per student. Current law provides that this aid be paid on contact hours times 20% times \$3852. There are no KSDE runs on this bill showing the effect of the change. For a full time bilingual student with 6 contact hours, the bill would reduce funding from \$770 per student to \$425 per student. This most likely does not provide the needed resources to educate this population.

Additional state aid. Section 9 of the bill establishes a new category of state aid. There are no KSDE runs showing the effect of this provision making it difficult to evaluate. It is noted that speculative savings from implementation of a statewide school employee health plan, implementation of efficiencies in food service, deductions for exclusion of extracurricular activities and exclusion of one-third of a districts July 1, 2014, balance in excess of 15% are deducted from this new form of aid. Using a three year old deemed-excess balance seems illogical. It is impossible to evaluate the effect of this new aid without more data.

Success grants. Section 14 of the bill establishes a system to identify students who were deemed successful and mandate direct payments to only certain classes of employees within a school district legislatively deemed responsible for the success. Legislatively attempting to determine who might be responsible for student success and directly compensating those employees seems to violate Article 6, Section 5 mandating that schools be managed by local boards of education.

35 mill state levy. Section 15 of the bill increases the current 20 mill statewide levy to 35 mills.

Extra curricular activities. Section 19 of the bill prohibits schools from spending general state aid on extracurricular activities. Extra curricular activities are an integral part of providing public education and meeting the constitutional standards set forth in Rose. Additionally, this bill sets a “fund them from any other source you find” policy which will violate the equity test. More wealthy districts will be able to find funding for their students extracurricular activities while less wealthy districts will not.

Food service. Section 20 of the bill prohibits spending general state aid on food service or related activities. Federal law requires that schools provide certain food service and provides a portion of the funding. Prohibiting schools from spending general state aid on food service may put schools in violation of federal law.

Consolidation of school districts. Section 22 requires the state board to study and report on consolidation of school districts into 1700 to 2100 size districts for more efficiency.

Capital outlay state aid. Section 27 of the bill establishes a new formula for calculation of capital outlay state equalization aid. It moves to house valuation and income tax measurement. There are no KSDE runs to show the effect of this provision. There is no way to know if this meets the equity test.

Capital improvement state aid. This is bond and interest state aid for construction. The bill discriminates and violates the equity test by imposing stringent requirements on the types of buildings that may be constructed only for less wealthy districts.

Vouchers. Section 39 of the bill provides for a new system of funneling funding from public schools to “non-governmental entities” that provide education services. It directly deducts (Section 44c) from a school district’s funding as students who reside in that district participate. This violates Article 6, Section 6c providing that no religious sect shall control any part of the public education funds. Additionally, as a deduction of public school funding at a time when funding has been found to be inadequate also violates the adequacy test.

Savings bounty. Section 51 of the bill pays anyone who submits an idea for a cost savings that is implemented a 10% bounty on the savings.

Article 6 lawsuit appeals. Section 58 of the bill moves appeals of Article 6 lawsuits from the Supreme Court to the Court of Appeals, En Banc. This will increase the time and cost of these

lawsuits significantly.

Statewide healthcare not subject to negotiations. Section 65 of the bill removes from teacher labor negotiations the negotiation of healthcare benefits.

Judicial lottery. Section 67 of the bill provides that in Article 6 lawsuits over school funding the three judge panel shall be formed by a lottery of all district judges in the state. This most likely violates Article 3 of the Constitution of judicial independence and may impose extreme hardships on random judicial districts based upon current staffing levels and caseloads. One-judge districts could easily be left without judicial officers for extended periods of time.

Bid law. Section 73 requires that all construction bidding have at least three bids before proceeding. This is impractical and may deny construction services to underserved portions of the state.

Voucher scholarship program. Section 88 expands the current tax funded scholarship program to more schools and eligible students. Section 91 expands the tax credits from corporate income to include personal income tax also. No cost estimate is known. It also automatically increases the statutory \$10M limit to the program under certain circumstances

Capital improvements state aid (Bond and interest.) Section 95 includes a new formula for calculation of bond and interest state aid. No KSDE runs are available of the effect of this provision.