DATE: February 12, 2024

To: Rep. Kristey Williams and Members of the House Committee on K-12 Education Budget
From: Aaric Davis, Superintendent, USD 337 Royal Valley School District
Re: Oral and Written Opponent to HB 2738

Madame Chairwoman and members of the House Committee on K-12 Education. My name is Aaric Davis, Superintendent at USD #337 Royal Valley, and I would like to communicate briefly about House Bill 2738. During the 2022-2023 school year, the Royal Valley school district spent $1,231,666 on special education services for students with disabilities. These dollars are spent above and beyond that of a student without disabilities. The revenue received from the State of Kansas to compensate for these additional services for students with disabilities was $753,837. The Royal Valley school district also received federal funds for special education in the amount of $100,954 during that school year. The expenses of $1,231,666 minus the state and federal aid of $854,791 left an unfunded gap of $376,875 for our district to cover by transferring additional funds from our district's general fund budget and local option budget. I like to think about what my district could do with an additional $300,000+ if we didn't have to transfer these funds to cover the State shortfall of 92%. It could be used to recruit and retain high quality teachers, it could be used to add additional support staff to help meet the needs of our current school improvement goals, or it could be used to lower local property taxes by reducing the LOB percentage as a <u>local decision</u>.

 HB 2738 is an attempt to change the definitions of how special education state aid is calculated so that the State does not have to meet 92% of excess cost written into KSA 72-3422. The testimony that I am going to provide to you will illustrate why this is a <u>bad bill</u> and the impacts it will have on the education of students in the state of Kansas.

A) The fundamental principle inside of HB 2738 is to include LOB or Local Option Budget funds to be considered a part of special education state aid. This is fundamentally wrong in a couple of ways:

A.1) The local option budget was established to give districts a way to generate additional local funds to enhance their school district, not require districts to use them for special education operating expenses. Note: this fund was established with <u>local control</u> in the forefront of the decision to create the Local Option Budget.

A.2) There are 54 districts in the state of Kansas that do not receive supplemental state aid through their Local Option Budget. There are other districts that do not receive enough aid to cover the current deficit created by not funding 92% of excess costs. <u>If this bill were passed into statute and you apply the LOB state aid according to this formula, the state would essentially be giving increased special education funding to the economically affluent school districts, and reducing or eliminating special education funding for less affluent school districts.</u>

B) In addition to this being fundamentally against the purpose of the local option budget, there are potentially a few flaws in the proposed formula for calculating excess cost itself. I am going to start by stating that the language used in this bill leaves some interpretation up to the individual on what the bill references. For example in some places, the bill uses the term "provision of special education and related services" which I interpret to refer to services specifically provided by an Individual Education Plan (IEP) and would be expenses under Code 30 of the school finance regulations. In some places the bill doesn't clarify which definition of special education costs we are to use. If it is the committee's intent to have the general education expenses for a student with disabilities included in the definition of "provision of special education and related services," I encourage you to make that distinction.

B.1) The proposed individual school district excess cost formula in Section 1 of HB 2738 asks each district to subtract their supplemental state aid from their expenses to get the final excess cost in step 13 of the formula. Royal Valley is one of the highest state aid districts in the state with our assessed valuation per pupil being one of the lowest in the state. According to this formula, I am supposed to start with "provision for special education and related services" expenses in the amount of $1,231,666 (step 10), reduce that by subtracting revenues (as

defined by this bill) and then in the end, subtract additional LOB state aid in the amount of $387,067 from those adjustments. In conclusion, this formula shows that one of the poorest school districts would have an excess cost for special education with a negative amount. I would challenge this committee to defend equity with this formula given my specific district calculation. <u>There are districts in Kansas that have more state aid in their LOB than they do in total special education expenditures, which by this formula, would disqualify them from receiving any special education state aid</u>. I am going to state this one more time, this bill is written so that the poorest districts in the state would be disqualified from receiving special education state aid if the state department of education is expected to use this individual excess cost formula to distribute funds.

B.2) I oppose the changes to KSA 72-3422 in section 2 of the bill to eliminate the deduction of transportation weighting, bilingual weighting, career and technical education weighting, and at-risk weighting from the excess cost calculation. <u>While some special education students may utilize these services, they are not a part of the "provision ofspecial education and related services."</u> Counting these weightings towards special education excess costs will limit opportunities for all students.

B.3) The way HB 2738 currently attempts to use the LOB revenue as a part of state special education aid is flawed. Section 1 asks the districts that receive LOB state aid to subtract it twice in the calculation. Once in step 11 of the formula and another portion again in step 13 of the formula. <u>I would challenge the committee to explain why LOB state aid should be counted twice when figuring the excess costs for school districts?</u>

B.4) I believe there is a typographical error in step 4 of the formula. This formula cannot work if we use the FTE enrollment of children receiving special education and related services <u>enrolled in all districts</u>. This should read "each district."

B.5) The school districts in the state of Kansas have unique characteristics. The Royal Valley school district proudly serves the Prairie Band Potawatomi Nation. We are the only school district in the state that has a stand-alone special education program and belong to the Holton Special Education Cooperative. The reason we have a stand-alone program is to honor the educational sovereignty of the PBPN people and provide early childhood special education services in way that differs from the other cooperative schools. The formula described in HB 2738 does not indicate how my district should calculate excess cost having both programs.

C) The last topic that I would like to bring up to the committee is the legal implications of passing a bill like HB 2738 at both the federal and state levels.

C.1) Asking the 54 districts in Kansas that do not receive local option budget state aid to consider their LOB as a calculation of state aid does not match the definition in KSA 72-5145 5(d). This states clearly that supplemental state aid may be used in determining monies for educational and support services for students. KSA 72-5145 does not state that the locally raised dollars can be considered state aid for the purpose that this bill intends.

C.2) The state of Kansas has a school finance formula that has been deemed equitable by the Kansas Supreme Court in the Montoy and Gannon cases. HB 2738 changes significant portions of KSA 72-3422 that undermine the equity that was established in these previous two court decisions. I believe that the passage of this bill would require the Kansas courts to get involved in the equity of school funding once again.

Summary:
In the past, excess cost has never been applied to individual school districts because its original intent was to be a metric to determine state level funding and it has never had equity to individual districts in mind. This bill is trying to use excess cost as a metric to distribute funds to individual school districts and it will not work because there is no equity built into the excess cost formulas (prior or current). I ask the committee to consider striking all of section 1 of HB

2738 on the grounds that it does not take equity into consideration and will likely end up being challenged through the court system.

In Section 2, using excess cost to determine the amount of state funding the State Department should receive at the state-wide level has been used in the past. However, the changes made to KSA 72-3422 present some fundamental flaws that should be considered such as the purpose and intent of the local option budget, and the future federal ramifications for making changes. The Kansas Legislature has continued to work to add new labels to special education, which increases Special Education expenses. However, this bill is working to limit future State contributions to special education funding which doesn't support recent legislatively mandated expenses. With an expected budget surplus of $3 Billion dollars at the end of this legislative session, I don't understand the purpose for proposing this bill. I will end with this; I have never had a patron come to me and tell me that Royal Valley is receiving too much special education state aid. I would go out on a limb and say that no district has had that happen, so I ask, who has a problem with the state fully funding special education and who is the driving force behind this bill?

Very Respectfully Submitted,

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