



GOVERNOR LAURA KELLY

MESSAGE FROM THE GOVERNOR

REGARDING HOUSE SUBSTITUTE FOR SENATE BILL 113

I first ran to be the “Education Governor” because I was committed to ensuring Kansas students receive the world-class education to which they are entitled. I knew that young Kansans deserved better than crowded classrooms, four-day school weeks, and sliding test scores – and that if we wanted to build a stronger workforce and economy for generations to come, we needed to get back to investing in our students. Over the past five years, I’ve worked with the Legislature to do exactly that: we’ve fully funded our schools every year I’ve been in office, defended against attacks on public schools, and empowered parents and teachers to help our students succeed. Now, it’s clear—Kansas is back on the right track.

We have the opportunity to continue that progress with elements of House Substitute for Senate Bill 113. It extends the high-density at-risk weighting and the 20 mills school statewide property tax levy—both of which are vital to providing adequate funding for Kansas students. SB 113 also provides essential funding for school safety that will allow districts to purchase communications equipment to better coordinate with law enforcement agencies and naloxone to combat the fentanyl crisis affecting too many of our young people. Through the omnibus budget bill, Senate Bill 25, I also was proud to secure new funding for the Mental Health Intervention Team Pilot Program, which provides crucial mental health services to our students.

However, I’m disappointed that this bill fails to provide substantial increases to special education, something that’s critical to the success of every Kansas student. As the state continues not to meet its statutory obligation to fully fund special education, districts must move funding from their general fund budgets to pay for critical services for special education students, in essence limiting their ability to invest in teacher salary increases, create innovative approaches to curriculum, and expand career and technical education opportunities. While I’ll continue to push the federal government to keep its end of the bargain, the Legislature should have done more to increase special education funding in the meantime. When legislators return in 2024, they need to correct their mistake and put Kansas on track to fully fund special education.

The process by which SB 113 was passed also raises concerns. The Legislature continues a pattern of bundling appropriations and policy provisions into one bill, limiting the ability for the public and their elected representatives to weigh in on each individual element of legislation. The appropriations for our public school system belong with the remainder of the state’s budget and should be evaluated through the normal appropriations process. Instead, the Legislature has decided to “logroll” unpopular provisions into this bill—provisions that would not withstand scrutiny or pass muster on their own. The Legislature included provisions in this bill that never received a public hearing, were never worked by a legislative committee, nor passed through even one chamber of the Legislature prior to being included in this bill. This process lacks public

transparency and prevents the collaboration that could prevent unintended consequences of hastily crafted legislation. The Legislature must end its practice of “logrolling” education funding bills that have such critical consequences for our children, families, and the state.

The “logrolling” process resulted in the inclusion of several elements of this bill that would harm public students and schools. The provisions permitting nonpublic school students to participate in public school activities and expanding the low-income tax credit scholarship program are not policies widely supported by Kansans and would not receive the same support if not tied to education funding. The measure that gives the Legislature the first right of refusal to purchase school buildings creates significant constitutional and local control questions and will likely lead to litigation. Of most concern, though, are changes in appropriations caused by altering the school finance distribution to schools in Section 14.

The current school finance formula was approved by the Kansas Supreme Court in the *Gannon* case. Changes to this formula run the risk of noncompliance and jeopardize our track record of constitutionally funding schools. SB 113 specifically changes the method by which school districts must determine their enrollment and thus the amount of funding appropriated by the state. Under current law, school districts may use the enrollment of one of the two preceding years to determine the level of state aid they are subject to receive. This essential element of our finance formula was crafted to ensure that districts with declining enrollment, especially rural districts, can properly account for this decline and make financial plans to ensure their own sustainability. SB 113 changes the formula so that districts must use the current year or the previous year’s enrollment when determining state aid.

For districts experiencing declining enrollment, this change precipitates immediate funding adjustments that districts would be required to make in the upcoming school year rather than over the next few years as is dictated by current law. This provision would be enacted after many school districts have finalized their budget and signed contracts with teachers based on existing appropriations. These districts are already preparing for the budget impacts of declining enrollment, but the decision to rapidly speed up the fiscal effect of declining enrollment leaves districts in an untenable situation where they must significantly cut budgets in a matter of weeks. These districts have been operating in good faith and within the bounds of current law when determining their budgets and enrollment for the upcoming school year. This provision pulls the rug out from underneath rural school districts at the 11th hour. If this provision were enacted, it would bring dangerous and devastating consequences for our rural districts.

I will not allow this to happen to our rural schools, which are essential to the fabric of Kansas. As Governor, I have always been committed to ensuring that our rural schools are properly supported to serve their communities. This provision jeopardizes the vitality of our rural communities and threatens the economic engines of many small towns.

In addition, the current method for determining enrollment was approved by the Kansas Supreme Court in the *Gannon* case; changing one of the primary building blocks of the school finance formula in *Gannon* would raise questions over the state’s compliance with the case.

Therefore, I have chosen to line-item veto Section 14 of SB 113.

Throughout the legislative debate over this bill, SB 113 was categorized as an appropriations bill. During the House debate, a legislator moved to amend the finance formula provisions of the bill, which was ruled a violation of the chamber rules because the net effect of the amendment would have caused a change to the appropriations in the state foundation aid line-item. That appropriation would have very real consequences for our schools, as the finance formula operationally determines the amount of state funds appropriated to school districts through the proper budget line-items.

Therefore, pursuant to Article 2, Section 14(b) of the Constitution of the State of Kansas, I hereby return House Substitute for Senate Bill 113 with my signature approving the bill, except for the items enumerated below.

Appropriations through Changes to the Definition of Enrollment in the Kansas School Equity and Enhancement Act

Sec. 1(c) has been vetoed in its entirety.

The portion of Sec. 2(a) that reads as follows has been line-item vetoed:

State foundation aid (652-00-1000-0820).....\$47,899,069

Sec. 14 has been vetoed in its entirety.

The changes made to the school finance formula in this section will have immediate devastating effects on rural schools because it will prevent them from properly planning for budgetary impacts caused by this change, precipitating funding reductions caused by declining enrollment. Should the Legislature want to make these changes to the finance formula, they should utilize the proper process and consult with affected school districts. This appropriation provision was hastily altered without the ability for districts to weigh in or consult with their elected representatives.

The items line-item vetoed in Sec. 1 and Sec. 2 ensure that our schools remain funded and that the alterations in appropriations caused by the changes to the finance formula are also removed.

The portion of Sec. 21 that reads as follows has been line-item vetoed:

72-5132,

This statutory reference to the appropriation is required to be struck, otherwise the entirety of the finance formula would be repealed from state law. In combination with Sec. 14, this line-item protects existing appropriations and ensures that the current formula remains intact.

THE GOVERNOR'S OFFICE

BY THE GOVERNOR



DATED

May 18, 2023