

August 17, 2011

Secretary Arne Duncan
U.S Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary Duncan,

Please accept this letter and supporting documents as the official request of the State of Kansas for a waiver of state maintenance of financial support under 34 CFR 300.163(c), waivers for exceptional or uncontrollable circumstances, in the amount of \$34,193,605 for State Fiscal Year 2011 (SFY 11).

Kansas submitted an initial waiver request for SFY 10 on May 22, 2009 which was updated as the SFY 10 budget appropriations were changed by the usual legislative process. Kansas worked directly with the U.S. Department of Education (Department) staff to understand the appropriation figures needed to amend the waiver which was resubmitted on June 30, 2010. The Department approved a partial waiver for SFY 10 on October 25, 2010.

In SFY 11, Kansas continued to face daunting financial challenges which were deliberated within the state budget process prior to and throughout the legislative session. Kansas held long, protracted discussions about the entire state budget, the impact of not meeting the federal requirement of maintenance of financial support as well as other areas of need such as meeting our obligations to fund benefits in the Kansas Public Employees Retirement System, Medicaid services, and other Health and Human Services program entitlements.

Despite continued pressure on State General Fund resources, Kansas was able to **increase** the appropriation for special education services for SFY 11 by \$21,829,572. The Legislature appropriated, and I, as Governor, approved an additional \$38,312,787 for special education state aid for SFY 12. This will bring the appropriation back to the 2008-09 level. Despite the challenges in balancing the demands for resources, Kansas is committed to meeting the needs of its school children.

The Kansas State Level of Financial Support (SLFS), Part B IDEA Guidance and Worksheet (Enclosure A) outlines the finalized state appropriations and calculations for SFY 11. In order to calculate the state's level of financial support, Kansas State Department of Education (KSDE) staff consisting of various teams within the agency, solicited other state agencies and gathered information regarding all financial support for students with disabilities ages 3-21 in Kansas. KSDE included in its calculation funds used in SFY 11 to administer and supervise the special education and related services for children with disabilities, but deducted state special education funds that supported either gifted services as mandated in Kansas or any funds reimbursed to districts for providing IDEA Part C services.

As shown by the Kansas State Level Financial Support for IDEA Part B Special Education Calculations Worksheet (Enclosure A), a significant gain in appropriations was made from the 2009-2010 levels. As Governor, in cooperation with the Kansas Legislature, a tremendous effort was made throughout the entire legislative budget process to increase special education funding for SFY 11.

Below is a chart comparing the State's level of financial support for special education from the State General Fund for fiscal years 09 through 11. As the chart below shows, the percentage of reduction to the state level of financial support is less than the percentage of reduction to the total State General Fund. Further, Enclosure B details the final State General Fund appropriations for SFY 11 by state agency.

As of June 30, 2011	State General Fund Total	State Level of Financial Support
SFY 09	\$6,163,802,845	\$433,384,169
SFY 10	\$5,408,055,522	\$377,891,462
SFY 11	\$5,674,830,874	\$399,190,564
Amount of Reduction SFY 09 to SFY 11	\$ 488,971,971	\$34,193,605
Percentage Reduction – SFY 09 to SFY11	7.93%	7.89%

To fully understand how this reduction might impact students, it is important to not only look at those three years, but to also look at the preceding five years, when state support for special education was increased over \$177 million or 70.6% from 2004-05 to 2008-09. This increased special education funding was significantly above the percentage of increase in total State General Fund expenditures over that same period of time. The following chart compares the annual appropriations allocated for special education and related services to appropriations allocated to the total State General Fund, SFY 05 through SFY 12.

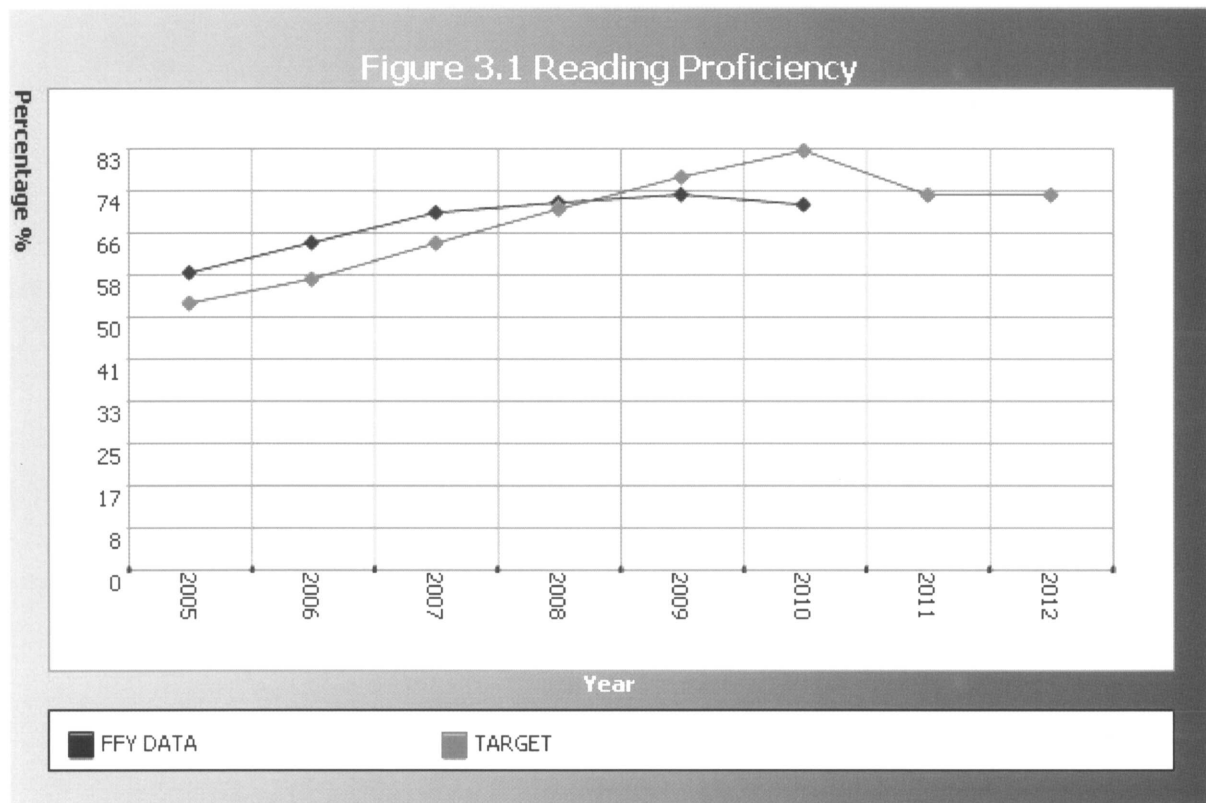
Fiscal Year	State Special Education Appropriation	Special Education Cumulative Percentage Increase	State General Fund Appropriation	State General Fund Cumulative Percentage Increase
2004-05	\$250,744,332		4,724,913,515	
2005-06	\$292,471,391	16.6%	5,166,970,941	9%
2006-07	\$334,003,604	33.2%	5,632,858,030	16%
2007-08	\$403,273,815	60.8%	6,138,866,753	23%
2008-09	\$427,753,137	70.6%	6,163,802,845	23%
2009-10	\$367,575,271	46.6%	5,408,035,522	14.5%
2010-11	\$389,404,843	55.3%	5,674,830,874	20.1%
2011-12	\$427,717,630	70.6%	6,054,839,699	28.1%

With the steady annual increase of state funding for special education services between 2004 and 2008 school years in Kansas, LEAs took steps to reserve adequate cash balances to be

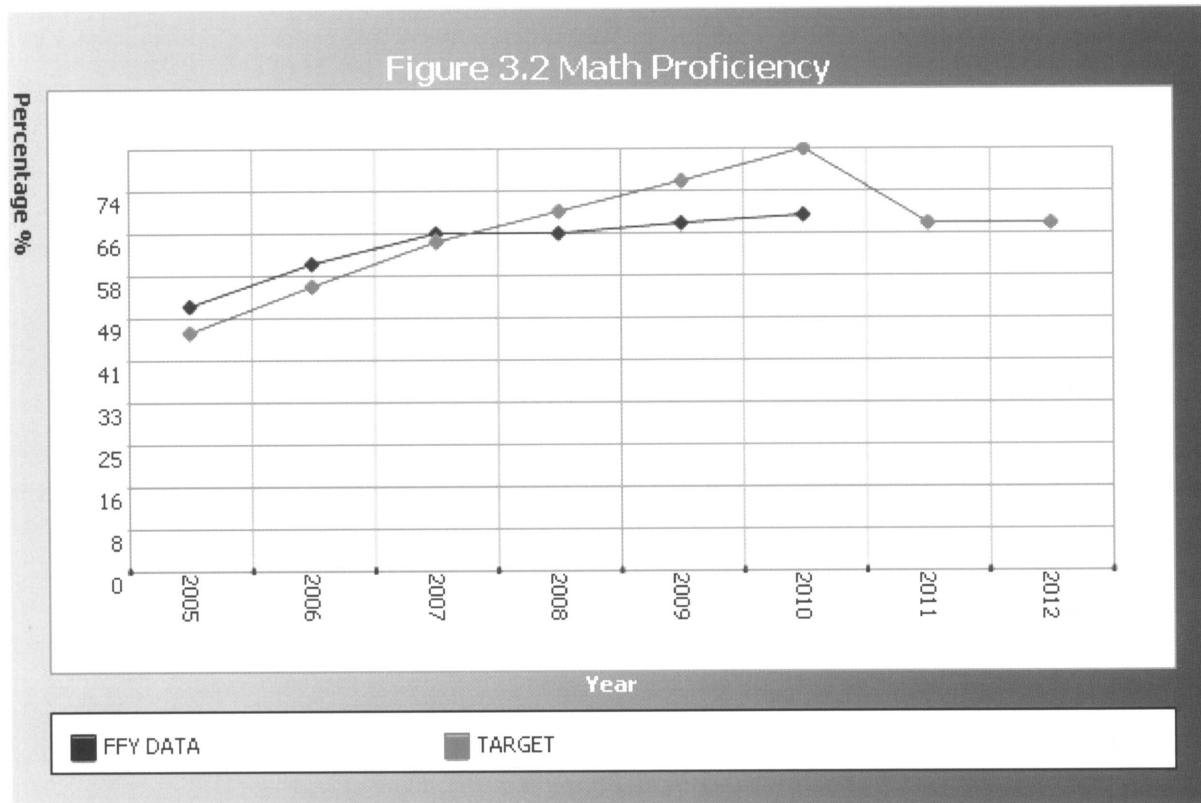
accessed in times of economic hardship. These resources proved to be valuable in enabling LEAs to maintain the services and staff needed to provide a free, appropriate public education (FAPE) for students with disabilities during the exceptional economic situation Kansas has faced these past two years.

The American Recovery and Reinvestment Act (ARRA) funds were available to districts at the time, mitigating the impact of the reduction of special education state aid. ARRA federal funds, together with state aid, resulted in a 3.85% increase in funding available for special education and related services in SFY 11 compared to SFY 09.

Overall, public education in Kansas accounts for 66% of the total expenditures from the State General Fund. Elementary and secondary education accounts for 53% of the total expenditures while higher education accounts for the remaining 13%. The dedication of Kansas educators to ensure the academic success of all students has yielded gains in the academic performance of students with disabilities and narrowed the achievement gap between students with disabilities and those students without. The data charts to follow indicate the progress students with disabilities have made on the Kansas State Assessments in Reading and Math.



* The chart above includes preliminary data for FFY 10.



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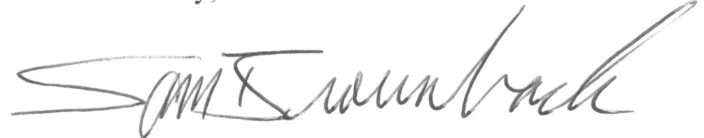
Within the Kansas State Department of Education, state level budget reductions were not applied to the Special Education Services Team in order to ensure adequate staffing and resources continue to be available for monitoring school districts for compliance with IDEA and to provide required technical assistance, training, and support to schools. KSDE has fully integrated fiscal accountability into its general supervision system, the Kansas Integrated Accountability System (KIAS). KSDE has provided technical assistance to LEAs on the requirements of 34 C.F.R. §300.202(a)(3) and 34 C.F.R. §300.203 which stipulate LEAs must supplement and not supplant state and local funds in using IDEA Part B federal funds and maintain local effort. Technical assistance on fiscal accountability is provided in a variety of ways, specifically on meeting local maintenance of effort, and also including dissemination of guidance documents, conference calls, individual LEA meetings with KSDE staff, and email communications.

Based on the results of the Kansas Special Education State Performance Plan (SPP) and Annual Performance Report (APR), the most recent Level of Determination (LOD) made by the Office of Special Education Programs (OSEP) in June 2011 for the State of Kansas was "Meets Requirements" for the fourth consecutive year. Further, OSEP conducted a verification visit in November 2010, the results of which were outlined in the January 25, 2011 Kansas OSEP Verification Visit Letter and Enclosure. Of particular note, page 9 of the letter details the results of the focused monitoring review which was conducted to determine whether the State was, in fact, continuing to make FAPE available to children with disabilities. Despite the severe state financial hardships, Kansas educators continue to ensure a free appropriate public education and improved results for all students with disabilities.

Kansas appreciates the U.S. Department of Education consideration of this Maintenance of State Financial Support Waiver Request for SFY 11. Our state is determined to meet the needs of all Kansas students and we believe that is your goal as well.

If additional information or supporting documentation is needed for approval of this request, please contact Jon Hummel, Director of Operations in my office. His phone number is (785) 368-8339 and e-mail address is jon.hummel@ks.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Brownback". The signature is fluid and cursive, with a large initial "S" and "B".

Sam Brownback
Governor of Kansas

Enclosure A

Kansas State Level Financial Support for IDEA Part B Special Education Calculations Worksheet

	Fiscal Year		
	2009	2010	2011
Special Education Categorical Aid Appropriation	427,753,137	367,575,271	389,404,843
Minus Gifted and Infant Toddler FTE	(19,864,820)	(13,376,690)	(13,984,806)
Subtotal:	407,888,317	354,198,581	375,420,037
KSDE Special Education Services State Support	385,601	374,209	439,728
Kansas School for the Blind State Appropriation	5,769,542	5,447,559	5,530,223
Kansas School for the Deaf State Appropriation	8,796,913	8,792,432	8,833,103
Deaf Blind State Appropriation	110,000	110,000	110,000
Social Rehabilitation Services	1,609,479	1,468,681	1,219,473
Kansas Department of Health and Environment	-	-	-
Kansas Health Policy Authority	8,824,317	7,500,000	7,638,000
Other Sources of State Aid to be Included	-	-	-
Kansas State Level Maintenance of Effort	433,384,169	377,891,462	399,190,564
Difference from 2009		(55,492,707)	(34,193,605)
% Difference from 2009		-12.8%	-7.89%
Statewide State General Fund Comparison			
Total State General Fund Appropriation	6,163,802,845	5,408,055,522	5,674,830,874
Difference from 2009		-755,747,323	(488,971,971)
% Difference from 2009		-12.3%	-7.93%

Enclosure B

Schedule 2.2--Expenditures from the State General Fund by Agency

	FY 2011 Governor's Recommendation	Governor's Allotments & Amendments	Legislative Changes	Governor's Veto	FY 2011 Approved Budget
General Government					
Department of Administration	69,488,285	--	--	--	69,488,285
Kansas Human Rights Commission	1,440,212	--	--	--	1,440,212
Board of Indigents Defense Services	21,865,935	--	--	--	21,865,935
Kansas Public Employees Retirement System	3,213,748	--	--	--	3,213,748
Department of Commerce	--	--	--	--	--
Department of Revenue	16,196,926	--	--	--	16,196,926
Court of Tax Appeals	1,308,004	--	--	--	1,308,004
Governmental Ethics Commission	420,616	--	--	--	420,616
Office of the Governor	6,796,266	--	--	--	6,796,266
Office of the Lieutenant Governor	192,353	--	--	--	192,353
Attorney General	2,717,204	--	--	--	2,717,204
Legislative Coordinating Council	735,126	--	--	--	735,126
Legislature	16,538,251	--	--	--	16,538,251
Legislative Research Department	3,831,507	--	--	--	3,831,507
Legislative Division of Post Audit	2,448,314	--	--	--	2,448,314
Revisor of Statutes	3,329,034	--	--	--	3,329,034
Judiciary	101,251,259	--	--	--	101,251,259
Total--General Government	\$ 251,773,040	\$ --	\$ --	\$ --	\$ 251,773,040
Human Services					
Social & Rehabilitation Services	579,275,477	(2,300,000)	--	--	576,975,477
Kansas Neurological Institute	10,707,006	--	--	--	10,707,006
Larned State Hospital	43,155,120	--	--	--	43,155,120
Osawatomie State Hospital	14,701,695	--	--	--	14,701,695
Parsons State Hospital & Training Center	10,300,393	--	(63,618)	--	10,236,775
Rainbow Mental Health Facility	4,548,471	--	--	--	4,548,471
Subtotal--SRS	\$ 662,688,162	\$ (2,300,000)	\$ (63,618)	\$ --	\$ 660,324,544
Kansas Health Policy Authority	414,672,305	--	--	--	414,672,305
Department on Aging	161,699,701	--	--	--	161,699,701
Health & Environment--Health	23,141,879	--	200,000	--	23,341,879
Department of Labor	441,578	--	--	--	441,578
Commission on Veterans Affairs	8,330,406	--	--	--	8,330,406
Kansas Guardianship Program	1,158,265	--	--	--	1,158,265
Total--Human Services	\$ 1,272,132,296	\$ (2,300,000)	\$ 136,382	\$ --	\$ 1,269,968,678
Education					
Department of Education	3,019,278,324	--	(47,485,035)	--	2,971,793,289
School for the Blind	5,560,732	--	(30,509)	--	5,530,223
School for the Deaf	8,896,953	--	(63,850)	--	8,833,103
Subtotal--Department of Education	\$ 3,033,736,009	\$ --	\$ (47,579,394)	\$ --	\$ 2,986,156,615
Board of Regents	175,638,249	--	(2,677,771)	--	172,960,478
Emporia State University	31,535,322	--	--	--	31,535,322
Fort Hays State University	34,122,340	--	--	--	34,122,340
Kansas State University	104,922,032	--	--	--	104,922,032
Kansas State University--ESARP	49,101,825	--	--	--	49,101,825
KSU--Veterinary Medical Center	10,415,617	--	--	--	10,415,617
Pittsburg State University	34,613,223	--	--	--	34,613,223
University of Kansas	137,782,012	--	--	--	137,782,012
University of Kansas Medical Center	110,581,911	--	--	--	110,581,911
Wichita State University	68,002,127	--	--	--	68,002,127
Subtotal--Regents	\$ 756,714,658	\$ --	\$ (2,677,771)	\$ --	\$ 754,036,887

Enclosure B

Schedule 2.2--Expenditures from the State General Fund by Agency

	FY 2011 Governor's Recommendation	Governor's Allotments & Amendments	Legislative Changes	Governor's Veto	FY 2011 Approved Budget
Kansas Arts Commission	797,980	(16,690)	--	--	781,290
Historical Society	5,370,179	--	--	--	5,370,179
State Library	4,363,021	--	--	--	4,363,021
Total--Education	\$ 3,800,981,847	\$ (16,690)	\$ (50,257,165)	\$ --	\$ 3,750,707,992
Public Safety					
Department of Corrections	102,608,917	--	--	--	102,608,917
El Dorado Correctional Facility	23,913,274	--	--	--	23,913,274
Ellsworth Correctional Facility	12,996,404	--	--	--	12,996,404
Hutchinson Correctional Facility	8,537,375	--	--	--	8,537,375
Lansing Correctional Facility	38,468,744	--	--	--	38,468,744
Larned Correctional Mental Health Facility	9,985,213	--	--	--	9,985,213
Norton Correctional Facility	5,396,338	--	--	--	5,396,338
Topeka Correctional Facility	13,121,989	--	--	--	13,121,989
Winfield Correctional Facility	2,777,088	--	--	--	2,777,088
Subtotal--Corrections	\$ 217,805,342	\$ --	\$ --	\$ --	\$ 217,805,342
Juvenile Justice Authority	48,201,023	--	--	--	48,201,023
Kansas Juvenile Correctional Complex	16,942,661	--	--	--	16,942,661
Larned Juvenile Correctional Facility	8,803,177	--	--	--	8,803,177
Subtotal--Juvenile Justice	\$ 73,946,861	\$ --	\$ --	\$ --	\$ 73,946,861
Adjutant General	18,550,945	--	--	--	18,550,945
Highway Patrol	31,891,689	--	--	--	31,891,689
Kansas Bureau of Investigation	15,356,680	150,000	--	--	15,506,680
Kansas Parole Board	509,237	--	--	--	509,237
Sentencing Commission	7,379,269	--	--	--	7,379,269
Total--Public Safety	\$ 365,440,023	\$ 150,000	\$ --	\$ --	\$ 365,590,023
Agriculture & Natural Resources					
Department of Agriculture	9,306,496	--	--	--	9,306,496
Animal Health Department	779,478	--	--	--	779,478
State Conservation Commission	739,156	--	--	--	739,156
Health & Environment--Environment	7,550,243	--	--	--	7,550,243
Kansas State Fair	1,549,854	--	--	--	1,549,854
Kansas Water Office	1,879,209	--	--	--	1,879,209
Department of Wildlife, Parks & Tourism	5,092,653	--	59,340	--	5,151,993
Total--Agriculture & Natural Resources	\$ 26,897,089	\$ --	\$ 59,340	\$ --	\$ 26,956,429
Transportation					
Department of Administration	16,150,975	--	--	--	16,150,975
Total--Transportation	\$ 16,150,975	\$ --	\$ --	\$ --	\$ 16,150,975
Current Year Savings	(6,316,263)	--	--	--	(6,316,263)
Total Expenditures	\$ 5,727,059,007	\$ (2,166,690)	\$ (50,061,443)	\$ --	\$ 5,674,830,874