

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

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June 14, 2016

2016 SPECIAL SESSION BACKGROUND

On June 8, 2016, Governor Sam Brownback issued a formal proclamation calling the Legislature into special session at 8 a.m., Thursday, June 23, 2016, to respond to the Kansas Supreme Court's most recent opinion in *Gannon v. State (Gannon III)*, which was issued May 27, 2016. Article 1, Section 5 of the *Kansas Constitution* allows the governor to call the legislature into special session by proclamation on "extraordinary occasions." The Governor's proclamation stated the opinion has created an extraordinary occasion.

The House and Senate Judiciary Committees will meet together on Thursday, June 16, and, if needed, Friday, June 17, to review options for addressing the Kansas Supreme Court's proposed remedies on issues of school finance and make any related recommendations to the Legislature on June 23.

The case currently is on appeal to the Kansas Supreme Court (Case No. 113,267), after a three-judge panel in Shawnee County (Case No. 2010-CV-1569) found 2015 House Sub. for SB 7 (SB 7), also known as the Classroom Learning Assuring Student Success (CLASS) Act, was unconstitutional in violation of Article 6, Section 6(b) of the *Kansas Constitution*. In *Gannon II*, the Kansas Supreme Court affirmed the three-judge panel's holding that SB 7 failed to cure inequities in the school finance system, continued its 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. Subsequently, the 2016 Legislature enacted Senate Sub. for HB 2655 (HB 2655).

In *Gannon III*, the Kansas Supreme Court found that although HB 2655 did remedy constitutional infirmities related to Capital Outlay State Aid, the Local Option Budget (LOB) State Aid funding mechanism was unconstitutional, and the use of "hold harmless" funds and the Extraordinary Need Fund (ENF) was insufficient to mitigate LOB inequities. Using a two-part test, the Court found the unconstitutional provisions of HB 2655 could not be severed from the CLASS Act, and without a valid school finance system, Kansas schools cannot operate. The Court continued its earlier stay of its own mandate, however, as well as the three-judge panel's order, until June 30, 2016, giving the Legislature more time "to craft a constitutionally suitable solution and minimize the threat of disruptions in funding for education."

Detailed summaries of the *Gannon* opinions are available at: http://www.kslegresearch.org/KLRD-web/Publications/Education/memo_general_gannoniii.pdf; a time line of the case's procedural history is available at: http://www.kslegresearch.org/KLRD-web/Publications/Education/Gannon_Timeline.pdf; and an outline of the procedural history, including legislative action, is available on the following pages.

Gannon Procedural History

- **November 2010.** Plaintiff school districts filed suit alleging the Legislature had failed to adequately fund K-12 education.
- **June 2012.** A three-judge panel (Panel) conducted a trial in Shawnee County District Court.
- **January 10, 2013.** The Panel ruled the amount of funding appropriated from the State General Fund (SGF) was constitutionally inadequate under Section 6, Article 6 of the *Kansas Constitution*; nonappropriation of capital outlay equalization state aid resulted in an unconstitutional, wealth-based distribution of capital outlay funds; and the proration of LOB State Aid created unconstitutional, wealth-based disparities among districts.
- **October 8, 2013.** The Kansas Supreme Court heard oral arguments on appeal of the Panel's opinion.
- **March 7, 2014.** In *Gannon I*, the Kansas Supreme Court upheld the Panel's ruling regarding equity, but held the Panel did not apply the correct standard for adequacy and remanded the case on that issue with instructions to apply the standard articulated in *Rose v. Council for Better Educ., Inc.*, 790 S.W.2d 186 (Ky. 1989).
- **2014 Legislative Session.** Senate Sub. for HB 2506 appropriated an additional \$109.3 million for LOB State Aid and made a revenue transfer of \$25.2 million to the Capital Outlay Fund.
- **June 2014.** The Panel found the Legislature was in substantial compliance with respect to equity, but declined to dismiss the equity portion of the case.
- **December 30, 2014.** The Panel found the Legislature's financing system for grades K-12 was not reasonably calculated to have all Kansas public education students meet or exceed the *Rose* factors.
- **2015 Legislative Session.** SB 7, the CLASS Act, made block grant appropriations for K-12 education for fiscal years (FY) 2016 and 2017; repealed the existing school finance formula, the School District Finance and Quality Performance Act, and created the CLASS Act; established the ENF; amended the method for calculating LOB State Aid based on quintiles below the 81.2 percentile of school districts' assessed valuation per pupil (AVPP); and amended the method for calculating Capital Outlay State Aid using a formula providing 75 percent for the district with the lowest AVPP and decreasing by 1 percent for each \$1,000 incremental increase in AVPP.
- **June 26, 2015.** The Panel found funding in SB 7 was constitutionally inadequate and not in compliance with equity principles and reopened equity compliance issues.

- **June 30, 2015.** The Kansas Supreme Court stayed the Panel's orders; scheduled oral arguments for the equity portion of the opinion; and stayed the adequacy portion of the case pending resolution of the equity portion.
- **November 6, 2015.** The Kansas Supreme Court held oral arguments on equity.
- **February 11, 2016.** In *Gannon II*, the Kansas Supreme Court affirmed the Panel's holding that the CLASS Act failed to cure the inequities affirmed in *Gannon I*; continued its stay of the Panel's order; and stayed the mandate in this opinion to give the Legislature "a second, and substantial, opportunity to craft a constitutionally suitable solution and minimize the threat of disruptions in funding for education."
- **2016 Legislative Session.** HB 2655 reinstated the formula for providing Capital Outlay State Aid in effect prior to SB 7 and adopted the same formula for LOB State Aid for FY 2017; included a hold harmless provision; amended law related to the ENF; provided for School District Equalization State Aid; changed a non-severability provision to a severability provision; amended law related to ancillary school facilities state aid; and made necessary appropriations for the statutory changes in the bill.
- **May 10, 2016.** The Kansas Supreme Court held oral arguments on the equity portion of the case.
- **May 27, 2016.** In *Gannon III*, the Kansas Supreme Court found that while HB 2655 did remedy constitutional infirmities related to Capital Outlay State Aid, the LOB State Aid funding mechanism was unconstitutional, and the unconstitutional provisions of HB 2655 could not be severed from the CLASS Act. The Court continued its earlier stay of its own mandate, as well as the Panel's order, until June 30, 2016, after which date, without a valid school finance system, Kansas schools cannot operate.

For more information, please contact:

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STATE OF KANSAS



PROCLAMATION
BY THE
GOVERNOR

PROCLAMATION CALLING THE LEGISLATURE INTO SPECIAL SESSION
TO ADDRESS SCHOOL FINANCE

TO THE PEOPLE OF THE STATE OF KANSAS, GREETINGS:

WHEREAS, the State of Kansas has outstanding public schools; and

WHEREAS, the State of Kansas has appropriated more than \$4 billion, a record amount of funding, to ensure the high quality of those public schools; and

WHEREAS, the State of Kansas recognizes the importance of high quality public schools in preparing our children to be successful adults; and

WHEREAS, Article 6, Section 6(b) of the Constitution of the State of Kansas provides that the "legislature shall make suitable provision for finance of the educational interests of the state;" and

WHEREAS, the ruling of the Kansas Supreme Court in *Gannon v. State of Kansas* has created an extraordinary occasion pursuant to Article 1, Section 5 of the Constitution of the State of Kansas, in which the Kansas Supreme Court has threatened to cause the closure of all Kansas public schools;

NOW, THEREFORE, I, Sam Brownback, GOVERNOR OF THE STATE OF KANSAS, by the authority vested in me by the Constitution of the State of Kansas, do hereby call the Legislature of the State of Kansas into Special Session to address school finance at the Capitol in Topeka, Kansas, on the 23rd day of June, 2016, at the hour of 8:00 o'clock a.m., to enact legislation to respond to the ruling of the Kansas Supreme Court in *Gannon v. State of Kansas*.

DONE: At the Capitol in
Topeka under the Great Seal
of the State this 8th day of
June, A.D. 2016



BY THE GOVERNOR:

Handwritten signature of Sam Brownback in black ink.

Handwritten signature of Kris W. Kobach in black ink.
Secretary of State

Handwritten signature of Denise Talipfer in black ink.
Assistant Secretary of State