

Friday, June 17

- Additional Public Comment on Potential School Funding Changes in Response to the May 27, 2016, *Gannon* Order or Potential Constitutional Amendments

# Educational Management Consultants

## “Managing Cost Effective Learning Systems”

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### Testimony Before the Joint Committee on Judiciary Recommended School Funding Changes Re: *Gannon* By – Dr. Walt Chappell, President June 17, 2016

The May 27<sup>th</sup>, 2016 ruling by the Kansas Supreme Court (KSC) comes as no surprise. Since the 1992 formula was adopted, there has never been equity between school districts.

In their ruling, the KSC provides little guidance to the Legislature for what they would find to be an acceptable funding strategy. In both the 2014 and 2016 Gannon decisions, they did not specify a dollar amount. However, on page 14, they make it clear in the following statement that it must include **equal taxing effort**. Here is their legal standard:

#### Equity Standard

“In *Gannon I* we clarified the equity standard of Article 6, § 6(b) by stating: **“School districts must have reasonably equal access to substantially similar educational opportunity through similar tax effort.”** 298 Kan. at 1175. We have never required precise standards for equity compliance or applied a zero tolerance test. But we have **“rejected legislation that increased or exacerbated inequities among districts . . . .”** *Gannon v. State*, 303 Kan. 682, 709, 368 P.3d 1024 (2016) (*Gannon II*); see *Gannon v. State*, 298 Kan. 1107, 1110, 319 P.3d 1196 (2014) (*Gannon I*).”

This is the same standard of equity provided by Judge Terry Bullock in 2004 and the KSC in Montoy. However, rather than going back to the extremely expensive and never achievable method of trying to make the LOB strategy work with large sums of extra funding for low-wealth districts—**may I suggest a much more rational and fair way of providing “equity” which should meet the constitutional test without cutting funding for schools or other state programs.**

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- 1) During the Special Session, please pass a bill which makes it clear that **the LOB from the old formula was repealed** when the Block Grants were adopted.
- 2) Then, **set a minimum mill levy on property for each district in the state.** Property taxes for K-12 instruction will be collected by the State along with sales and income tax receipts.
- 3) To assure an equal educational opportunity for each Kansas K-12 student, funds from these three sources of revenue should be appropriated to local districts based on the documented learning needs of the students enrolled in each school and the instructional resources required to teach them.
- 4) Since the KSC is focused on **similar tax effort**, by having each property tax payer in each school district pay at the same tax rate, there will be “equity” throughout Kansas to fund schools—regardless of the assessed value of their property.

- 5) By using school-base budgeting to redistribute the taxes coming into the State from all three sources of revenue, the Legislature will be able to document equal and adequate funding in each school. The endless cycle of law suits demanding more money will stop and each K-12 student will be provided an equal educational opportunity.
- 6) In your response, assure the KSC that a new school finance formula will be developed and passed into law during the 2017 Session.
- 7) Also, make it clear, that already included in the Block Grants are the +/- \$200 million per year in Low-Enrollment weighting from the old formula plus At Risk funds which primarily go to school districts with low property values.
- 8) If additional funds need to be appropriated to take care of the LOB concerns of the Court in the Gannon case, the calculation should be made by (a) identifying which school districts have lower than average assessed property values. Then (b) itemize how much additional money these “poor” districts have already received in the Block Grants from Low Enrollment and At Risk funding. Finally, (c) subtract the additional amount of tax dollars these “poor” districts have already received from the \$39 million in the latest KSDE run using the old formula.
- 9) Document the extra money previously appropriated and dispersed to these “poor” districts to show to the KSC that little or no additional funds are required. Submitting accounting evidence that the Legislature has done its job by providing more money to these “poor” districts will hopefully make it clear that not only are the Block Grants constitutional but they have equalized the funding needed to educate K-12 students in those low-wealth districts.
- 10) In addition to calculating the difference between what has already been paid to low-wealth districts and any imbalance in the LOB, it is finally time to realign school district boundaries. Most of these tiny districts are financially unsustainable and will never have an equal tax base to support their schools.

The dissimilar ability to raise local revenue is due to the limited property values within the 265 small school districts with less than 1,600 students. These tiny school districts are a carryover from the days of the one-room school house when only the property owners surrounding that building paid the cost to teach their children.

By reducing the number of school districts and redrawing district boundaries to include more equal assessed property value plus provide equal educational opportunities for the students attending schools within the new boundaries, the Legislature will eliminate the inequities which two attorneys keep trying to use to justify suing the State for more money. In addition, by realigning district boundaries, over \$500 million per year in duplicate administrative and non-instructional costs will be saved to teach Kansas kids.

This is the time for the Legislature to use its Constitutional authority under Article 6, Section 1, to “organize” K-12 education. Then, it is up to the State Board to use its “general supervision” responsibility to implement the laws and organizational structure which the Legislature enacts!

- 11) Finally, please amend K.S.A. 72-64b01. General fund money to finance litigation, prohibited. to remove any other sources of taxpayer money to sue the state for more money. During the 2005 Special Session, the Legislature passed SB3 to prohibit school districts from using General Fund tax dollars to sue the State. However, LOB funds are the loophole used to pay the Gannon plaintiff’s legal fees.

Since 1998, the amount spent by K-12 districts has doubled. \$3 billion more per year in federal, state and local dollars are now being spent to educate the same number of Kansas students but still—only 1 in 3 is

proficient in reading, math, science, history or geography. And, only 30% who take the ACT score 21 or higher to qualify for admission to most universities. **Clearly, more money spent is NOT improving student achievement!!**

So, by simply eliminating the 1992 formula's LOB effort to equalize funding between districts, the 2016 Legislature can finally "get off the merry-go-round" of endless court battles and adopt a "similar tax effort". Once the new school-based finance formula is developed and a computer model provided to the Legislature, you will be able assure the Courts, parents and taxpayers that both equal and adequate funding is being appropriated by the Legislature. The new formula—with built-in cost controls—will be able to hold down costs, assure that most tax dollars are being spent in the classroom and improve student performance in all schools.

I wish you all the best as you pass legislation to keep our schools open, satisfy the Constitutional requirements of the KSC and balance the SGF budget. Let me know what questions you have and how I may be of service.