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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

Opinion of the Supreme Court in *Gannon v. State (Gannon V)*

Issued October 2, 2017

EXECUTIVE SUMMARY

October 2, 2017

Gannon v. State (Gannon V) was issued on October 2, 2017. In *Gannon V*, the Kansas Supreme Court (Court) held that the Kansas School Equity and Enhancement Act (KSEEA), enacted in 2017 Senate Bill 19 (SB 19), fails to satisfy both adequacy and equity components of Article 6 of the Constitution of the State of Kansas.¹ Article 6 requires the Legislature "make suitable provision for finance of the educational interests of the state."² Both adequacy and equity components must be satisfied for a constitutional school finance formula.³ The Court stayed its ruling until June 30, 2018, but set April 30, 2018, as the date for which briefs addressing legislative remedies are due to the Court.⁴ The Court reiterated the State has the burden to show that the school district financing system is "reasonably calculated to have all Kansas public education students meet or exceed the standards set out in *Rose*," and provides districts "reasonably equal access to substantially similar educational opportunity through similar tax effort."⁵

ADEQUACY

- While upholding the general structure of KSEEA,⁶ the Court found that, as implemented, KSEEA was not constitutionally adequate.⁷
- The "successful schools model" relied upon by the Legislature failed to persuade the Court that the overall funding and the BASE aid amount provided by KSEEA would satisfy the constitutional test for adequacy.⁸
- The Court held that local option budget (LOB) funds cannot be combined with BASE aid funds to create an "effective base" because LOB funds do not provide the same benefit to every school district.⁹

¹ *Gannon V* at 4.

² Kan. Const. Art. 6 §6(b).

³ In *Gannon II* and *III*, the Court in 2016 heard and ruled on the equity component.

⁴ *Id.* at 80.

⁵ *Id.* at 78. Quoted text was first stated in *Gannon v. State (Gannon I)*, 298 Kan. 1107, 1170, 1175 (2014).

⁶ *Id.* at 18.

⁷ *Id.* at 32.

⁸ *Id.*

- The Court was also unpersuaded by the targeted funding for at-risk and kindergarten under SB 19 citing the State's failure to show the total amount of such funding, and how such funding would satisfy the constitutional test for adequacy.¹⁰

EQUITY

- The Court clarified "that wealth-based disparities are unreasonable if the remedial legislation increases or exacerbates inequities among districts."¹¹
- The expanded uses of capital outlay funds under SB 19 exacerbates inequities by allowing the use of capital outlay funds for expenditures that have traditionally been paid for from general operating funds.¹² The Court found the ability of districts to take advantage of this was tied to the property wealth of a district.¹³
- The reinstatement of the protest petition for LOB authority violates the equity requirement because it only applies to districts seeking to increase LOB authority, not districts that currently have reached maximum LOB authority.¹⁴
- The requirement under SB 19 that the school district use its preceding year's LOB percentage for computing equalization state aid is inequitable in that "it widens the gap between property-poor and property-wealthy districts."¹⁵
- Finally, the 10% minimum for at-risk funding is an inequitable "wealth-based standard" that provides additional funding to districts with a "proportionately high number of students" who do not qualify for free lunch.¹⁶

REMEDY

The Court stayed its mandate on the constitutionality of KSEEA until June 30, 2018, to give the Legislature "time and opportunity to reach constitutional compliance."¹⁷ However, the Court also set a briefing schedule for arguing the merits of school finance legislation passed in 2018. That briefing schedule begins April 30, 2018.¹⁸

⁹ *Id.* at 41.

¹⁰ *Id.* at 49.

¹¹ *Id.* at 52.

¹² *Id.* at 62.

¹³ *Id.*

¹⁴ *Id.* at 69.

¹⁵ *Id.* at 72.

¹⁶ *Id.* at 75.

¹⁷ *Id.* at 78.

¹⁸ *Id.* at 80.