

KANSAS OFFICE of
REVISOR of STATUTES

LEGISLATURE of THE STATE of KANSAS
Legislative Attorneys transforming ideas into legislation.

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

**Summary of Subsequent Motions in Response to
the District Court Panel’s June 26, 2015 *Gannon v. State*
Opinion and the Order of the Kansas Supreme Court
Granting the State’s Motion to Stay**

Gordon L. Self, Revisor of Statutes
Tamera Lawrence and Nick Myers, Assistant Revisors of Statutes

July 1, 2015

On June 26, 2015, the Shawnee County District Court three-judge panel (Panel) issued an opinion and order in *Gannon v. State*. Such opinion and order included: (1) A temporary restraining order, which required distribution of funds to school districts be based on a weighted student count; and (2) payment and reinstatement of capital outlay state aid and supplemental general state aid as each existed prior to January 1, 2015. Subsequent procedural motions were filed by the State of Kansas, the plaintiffs, and the secretary of administration in response to the Panel’s opinion and order. On June 30, 2015, the Kansas Supreme Court granted the State’s motion to stay.

STATE’S MOTION TO STAY

On June 29, 2015, the State filed a motion to stay requesting the Supreme Court “grant an immediate stay that suspends all of the Panel’s order and maintains the real *status quo* until the Court can review the Panel’s decision and issue its own mandate in this case.”¹ The State argued the temporary restraining order is legally flawed² and a stay is warranted to prevent the following:

- A violation of separation of powers as the Panel’s order usurped the legislature’s authority to legislate and appropriate.³
- Reduction in 2016-17 funding for K-12 operational costs.⁴
- Reduction in funding to some districts.⁵
- Instability for school districts’ FY 2016 budgeting.⁶
- Loss of all K-12 funding if both the SDFQPA and CLASS are invalidated due to the Panel’s opinion in conjunction with the non-severability clauses of both acts.⁷

¹ Motion of the State of Kansas for Stay of Operation and Enforcement of the Panel’s Judgment at 18, *Gannon v. State*, 298 Kan. 1107 (March 2014).

² *Id.* at 11.

³ *Id.* at 12.

⁴ *Id.* at 13.

⁵ *Id.* at 14.

⁶ *Id.* at 15.

⁷ *Id.* at 15-16.

PLAINTIFFS' RESPONSE

On June 30, 2015, the plaintiffs filed a response to the State's motion to stay requesting the Court deny the State's motion to stay. The plaintiffs stated the *status quo* is the SDFQPA, not SB 7, as the state alleged, and granting the stay would "subject Kansas school children to the ongoing effects of an unconstitutional funding scheme."⁸ The plaintiffs argued the stay should be denied for the following reasons:

- The State's motion to stay failed to meet the legal elements required of a stay.⁹
- The stay will significantly harm the plaintiffs, all Kansas school districts, all Kansas school children, and will be adverse to public interest.¹⁰
- The State's appeal does not rest on a strong legal position.¹¹
- The State will suffer no harm in the absence of the stay.¹²

SECRETARY OF ADMINISTRATION'S MOTION TO STAY

On June 30, 2015, the secretary of administration filed a motion to stay the operation and enforcement of the Panel's opinion and order "to maintain the status quo while this Court reviews and considers the Panel's unprecedented ruling."¹³

STATE'S REPLY

On June 30, 2015, the State filed a reply in support of its motion to stay the operation and enforcement of the Panel's opinion and order.¹⁴ The State argued:

- The Panel's temporary restraining order is the subject of the requested stay.¹⁵
- The State complied with *Gannon's* equity test.¹⁶
- Plaintiffs ignore the damage and unintended consequences of the Panel's temporary restraining order if it is not stayed.¹⁷

KANSAS SUPREME COURT ORDER

The Kansas Supreme Court held the State satisfied the basic requirements for relief and granted the motion to stay until such Court issues a further order or mandate.¹⁸ The Court stated that it "recognized the need for swift resolution of the equity portion of this case" and the parties should expect an order setting an oral argument date and expedited briefing schedule.¹⁹

⁸ Response to Motion of the State of Kansas for Stay of Operation and Enforcement of the Panel's Judgment at 2, *Gannon v. State*, 298 Kan. 1107 (March 2014).

⁹ *Id.* at 2-3.

¹⁰ *Id.* at 3.

¹¹ *Id.* at 4-7.

¹² *Id.* at 7-8.

¹³ Motion of Jim Clark, Secretary of the Kansas Department of Administration, for Stay of Operation and Enforcement of the Panel's Judgment at 2, *Gannon v. State*, 298 Kan. 1107 (March 2014).

¹⁴ Reply in Support of Motion for Stay of Operation and Enforcement of the Panel's Judgment, *Gannon v. State*, 298 Kan. 1107 (March 2014).

¹⁵ *Id.* at 1.

¹⁶ *Id.* at 1-3.

¹⁷ *Id.* at 3.

¹⁸ Order, *Gannon v. State*, No. 113, 267 (June 30, 2015).

¹⁹ *Id.*