

Opinion of the Kansas Supreme Court in *Gannon v. State (Gannon VI)*
Issued June 25, 2018
EXECUTIVE SUMMARY

June 26, 2018

The sixth decision by the Kansas Supreme Court (Court) in *Gannon v. State (Gannon VI)* was issued on June 25, 2018. In *Gannon VI*, the Court held that remedial legislation passed by the Legislature in 2018 Senate Bill 423 (SB 423) and 2018 Senate Bill 61 (SB 61) failed to meet the adequacy requirement of Article 6 §6(b).¹ Though, the Court identified that the State can achieve constitutional adequacy by "timely making financial adjustments" to the remediation plan that was chosen by the State and by "completing that plan."² The Court also held that the State cured the equity violations identified in *Gannon V* and that no other equity violations had been created through the passage of SB 423 and SB 61.³ The Court retained jurisdiction and stayed its ruling until June 30, 2019, but set April 15, 2019, as the date for which briefs addressing legislative remedies are due to the Court.⁴

ADEQUACY

- The Court found that the State's plan, cited as the "*Montoy* safe harbor" plan, fails to comply with the adequacy requirement of Article 6 but "with some financial adjustments" and by "completing that plan" the State can bring the K-12 system into compliance with the adequacy requirement.⁵
- The Court disagreed with the State's calculation of a baseline amount of \$522 million to be phased in over five years finding that such amount "is still short of reaching the State's

¹ *Gannon v. State*, No. 113,267 at 36 (Kan. Sup. Ct. June 25, 2018) (*Gannon VI*).

² *Id.* at 28-29.

³ *Id.* at 36.

⁴ *Id.* at 38.

⁵ *Id.* at 28-29. (The "*Montoy* safe harbor" plan was derived from the funding formula that was enacted after *Montoy IV* when the *Montoy* series of cases was dismissed by the Court. Essentially, the plan utilized the SY 2009-2010 school finance formula and then adjusted such funding amount for inflation through SY 2016-2017. Through SB 423 and SB 61, this calculated amount (\$522.2 million) was then added over a period of five years to arrive at the "*Montoy* safe harbor" funding level in SY 2022-2023.)

Montoy safe harbor for that timeframe" because inflation adjustments were not factored in to such baseline amount for SY 2017-2018 and 2018-2019.⁶

- The Court found that, once the State's calculated baseline amount is appropriately adjusted for inflation, further adjustments for inflation are needed until the new baseline amount is "paid in full over time – as the State's chosen remediation plan provides."⁷

EQUITY

- The State "has shown that its proposed remedy, under the present circumstances, establishes that the K-2 public education financing system provided by the Legislature ... meets Article 6's equity requirement."⁸
- The Court held that SB 423 remedied the equity violation identified in *Gannon V* regarding the LOB protest petition because such legislation removed the provisions that created the inequity.⁹
- The Court held that there was no equity violation through the imposition of a mandatory 15% LOB upon all districts.¹⁰
- The Court also held that requiring districts to transfer amounts from their LOB funds to their at-risk and bilingual funds did not create an equity violation because there was no basis to conclude that the requirement "causes a lack of reasonably equal access to substantially similar educational opportunity."¹¹

REMEDY

The Court stayed its mandate regarding adequacy until June 30, 2019, noting that the KSEEA will remain in temporary effect.¹² The Court established a briefing schedule for arguments concerning any remedial school finance legislation passed in 2019. Such briefing schedule begins April 15, 2019.¹³

⁶ *Id.* at 24-25.

⁷ *Id.* at 25

⁸ *Id.* at 36.

⁹ *Id.* at 30-32.

¹⁰ *Id.* at 33

¹¹ *Id.* at 35.

¹² *Id.* at 38.

¹³ *Id.*