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Memorandum Opinion of the District Court in *Gannon v. State*, issued December 30, 2014 Executive Summary

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In its opinion issued March 7, 2014, the Kansas Supreme Court ordered the Shawnee County District Court three-judge panel (Panel) to analyze whether the adequacy component of the Legislature's school finance obligations under Article 6, §6(b) of the Constitution of the State of Kansas had been satisfied. As part of its opinion, the Supreme Court established a test for the adequacy component using the *Rose* standards.[i] On December 30, 2014, the Panel issued its Memorandum Opinion on the adequacy of school finance. The following is a brief summary of the findings and conclusions of that opinion.

The Panel held that "the Kansas public education financing system provided by the legislature for grades K-12 – through structure and implementation – is *not* presently reasonably calculated to have all Kansas public education students meet or exceed the *Rose factors*."[ii] **The Panel issued only a declaratory judgment on the adequacy of school finance. It did not issue any orders with respect to either party.** The Panel retained jurisdiction of the case and may take further action at a later date upon proper request of either party.

The following are key points of analysis in the Panel's opinion that it used to support its conclusion that the current levels of funding of the public school system are constitutionally inadequate:

- The *Rose* standards have been known and their "principles have been implicitly recognized by the Kansas judiciary at every stage . . . beginning in some measure since 1994."[iii] Both the A&M cost study and the LPA cost study relied upon by the Panel were conducted with knowledge and consideration of the *Rose* standards.[iv]
- There are gaps in student performance across student subgroups that continue because of inadequate funding.[v] Additionally, reductions in funding for certain programs, such as parents as teachers and professional development, results in these programs being eliminated in some districts or competing for education dollars intended to be spent elsewhere and overall "the K-12 school system's forward progress is stalled."[vi]
- Based on the cost studies and adjusting those figures for inflation, the current BSAPP amount of $3,852 is constitutionally inadequate.[vii]

- Federal funding is either accommodated in the "local effort" or it is too limited in use and duration to allow a blanket credit for all such federal funds when establishing a BSAPP amount.[viii]
- Separate state aid payments, such as KPERS, capital outlay, and bond and interest funding, cannot be included in any measure of adequacy of the school finance formula as it is *currently structured*.[ix]
- Local option budget funding cannot be used in any measure of adequacy of the school finance formula because it is solely discretionary at the local level. The Legislature's compliance with the obligations of Article 6, §6(b) cannot be delegated to other entities.[x]
- The evidence and testimony, including expert opinion testimony, school district testimony, and evidence regarding the 2010 Commission and the State Board of Education, all supported the conclusion that the finance of the K-12 school system was constitutionally inadequate.[xi]

The Panel's conclusions did not contain any direct orders to either party, but did provide suggestions as to how the current school formula may be altered to bring it into compliance with constitutional requirements. First, the Panel suggested that a BSAPP amount of $4,654 coupled with increases in certain weightings for those students that are more costly to educate could be constitutional, provided the LOB funding scheme was also adjusted to include both a minimum local tax levy and a fail-safe funding mechanism.[xii] Alternatively, the Panel proposed a BSAPP amount of $4,980 could be an adequate level of funding if the LOB remains strictly discretionary.[xiii] The Panel also indicated a renewed effort at mediation between the parties would seem appropriate.[xiv] Ultimately, the Panel retained jurisdiction to review the Legislature's subsequent actions at a later time.

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[i] *Gannon v. State*, 298 Kan. 1107, 1199 (2014).
[ii] *Gannon v. State*, No. 2010CV1569, at 114-115 (Shawnee Co. Dist. Ct. Dec. 30, 2014).
[iii] *Id.* at 11.
[iv] *Id*. at 12-14.
[v] *Id*. at 20.
[vi] *Id.* at 42.
[vii] *Id.* at 51.
[viii] *Id.* at 56.
[ix] *Id.* at 62.
[x] *Id.* at 76-77.
[xi] *Id.* at 91-92.
[xii] *Id.* at 103.
[xiii] *Id.* at 105.
[xiv] *Id.* at 116.