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**Opinion of the District Court in *Gannon v. State*
Issued June 26, 2015**

EXECUTIVE SUMMARY

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PROCEDURAL HISTORY

On June 26, 2015, the Shawnee County District Court three-judge panel (Panel) issued its opinion and order upon plaintiffs' motion to alter judgment regarding equity and plaintiffs' motion for declaratory judgment regarding the constitutionality of House Substitute for Senate Bill 7 (SB 7). On June 29, 2015, the State of Kansas filed a motion to stay the operation and enforcement of the Panel's opinion and order. On June 30, 2015, the plaintiffs filed a response arguing against the State's motion to stay, the Secretary of Administration filed a motion to stay, and the State filed a reply in support of its motion to stay. Later, on June 30, 2015, **the Kansas Supreme Court granted the State's motion to stay** the operation and enforcement of the Panel's opinion and order. In granting such motion to stay, the Supreme Court stated that it "recognizes the need for swift resolution of the equity portion of this case" and that the parties should expect an order setting an oral argument date and an expedited briefing schedule.¹

ANALYSIS

In its opinion issued June 26, 2015, the Panel examined whether SB 7 provided constitutionally adequate funding reasonably calculated to have every student meet or exceed the *Rose* factors. The Panel also examined whether the amendments made in SB 7 to capital outlay state aid and supplemental general state aid (local option budget equalization) were constitutionally equitable by providing reasonably equal access to substantially similar educational opportunity through similar tax effort. The Panel held that "2015 House Substitute for SB 7 violates Art. 6 §6(b) of the Kansas Constitution, both in regard to its adequacy of funding and in its change of, and in its embedding of, inequities in the provision of capital outlay

¹ Order, *Gannon v. State*, No. 113,267 (Kan. June 30, 2015).

state aid and supplemental general state aid.”² The Panel then issued several orders to address such conclusions.

The following are key points of analysis the Panel used to support its conclusion that the levels of funding provided for K-12 public education in SB 7 are constitutionally inadequate and inequitable:

Generally

- As the Panel found in its December 30, 2014 opinion, “The adequacy of K-12 funding through FY 2015 was wholly constitutionally inadequate” and SB 7 froze such funding amounts for FY 2016 and FY 2017. Thus, SB 7 “also stands, unquestionably, and unequivocally, as constitutionally inadequate in its funding.”³
- Funding levels are inequitable because of the formulaic changes to capital outlay state aid and supplemental general state aid in SB 7 and because the bill does not account for any changes in “the number and demographics of the K-12 student population going forward, except in ‘extraordinary circumstances.’”⁴

Capital Outlay State Aid

- By altering the formula, the amount of the entitlement for eligible districts has been reduced and even eliminated, yet property wealthier district will remain unscathed. Also, any subsequent higher levy authorized by a district will not be equalized.⁵
- “The legislature has, rather, by not restricting the authority of wealthier districts to keep and use the full revenues of such a levy, merely reduced, not cured, the wealth-based disparity found...unconstitutional in *Gannon*.”⁶

Supplemental General State Aid (Local Option Budget Equalization)

- SB 7 “reduces local option budget equalization funds that were to be due for FY 2015 and then freezes that FY 2015 state aid amount for FY 2016 and FY 2017.”⁷
- “The new formula’s reductions are not applied equally across the board in terms of the percentage of reduction...and still leaves a constitutionally unacceptable wealth-based disparity between USDs” who need such aid and those that do not.⁸
- “The condition created overall—and particularly its retroactive and carryover features—[represents] a clear failure to accord ‘school districts reasonably equal access to substantially similar educational opportunity through similar tax effort’.”⁹

² *Gannon v. State*, No. 2010-CV-001569, at 6 (Shawnee Co. Dist. Ct. June 26, 2015).

³ *Id.* at 54-55.

⁴ *Id.* at 56.

⁵ *Id.* at 33-34.

⁶ *Id.* at 35.

⁷ *Id.* at 36.

⁸ *Id.* at 48.

⁹ *Id.* at 49.

ORDERS

The Panel issued the following orders:

Temporary Restraining Order

- Requires “any distribution of general state aid to any unified school district be based on the weighted student count in the current school year in which a distribution is to be made pursuant to §6 and §7 of House Substitute for Senate Bill 7, not merely the total money available that is based on the weighted or unweighted student count in school year 2014-15 (FY2015).”¹⁰
- Requires any distribution of funds to school districts be based on an unspecified weighted student count.

Capital Outlay State Aid

- The entirety of the changes made by the 2015 legislature with regard to capital outlay state aid are stricken, the effect of which reinstates and fully funds capital outlay state aid as it was prior to January 1, 2015, for FY 2015, FY 2016 and FY 2017.¹¹
- The Kansas state board of education is directed to certify immediately and before July 1, 2015, any balance of capital outlay state aid due for FY 2015 and entitlements of each school district. The respective executive officials shall honor such certifications and encumbrances and make such transfer and payments.¹²

Supplemental General State Aid (Local Option Budget Equalization)

- The formulaic changes made by the 2015 legislature with regard to supplemental general state aid have been declared null and void, which effectively reinstates supplemental general state aid as it was prior to January 1, 2015.¹³
- The Kansas state board of education is enjoined to distribute any unpaid FY 2015 supplemental general state aid to any school district owed such aid. Payments will be made from FY 2016 revenues available for supplemental general state aid and be credited to FY 2015, as soon as possible on or after July 1, 2015.¹⁴ Supplemental general state aid is to be fully funded as it would have been prior to January 1, 2015, for FY 2015, FY 2016 and FY 2017.

Alternative Order

- The Panel outlined and stayed an alternative order, which would be lifted if any remedies or orders outlined fail in implementation or are not otherwise accommodated. Such alternative order would strike certain provisions of SB 7 and subsequent related

¹⁰ *Id.* at 57-58.

¹¹ *Id.* at 65-67.

¹² *Id.* at 69.

¹³ *Id.* at 75.

¹⁴ *Id.* at 75-76.

legislation and would require any remaining undistributed funds to be distributed pursuant to the school district finance and quality performance act (K.S.A. 72-6405 et seq.) and K.S.A. 72-8801 et seq., as they existed on January 1, 2015.¹⁵

In a separate document, the Office of Revisor of Statutes summarizes: (1) The subsequent motions filed with the Kansas Supreme Court after the Panel's opinion was issued, and (2) the Supreme Court's order granting the State's motion to stay.

A comprehensive legal analysis of the Panel's opinion and order is forthcoming from the Office of Revisor of Statutes.

¹⁵ *Id.* at 79-83.