

The canon on Gannon

Supreme Court: Legislative solution can restore suitable school funding if it keeps up with inflation

By Mark Tallman, mtallman@kasb.org

In considering some of the responses to the Kansas Supreme Court's most recent Gannon school finance case, let's start with what the court did NOT do.

The court did NOT require the Legislature to increase funding based on its own new education cost study. It did NOT require the Legislature to follow the recommendations of the Kansas State Board of Education. It did NOT impose new, higher academic performance targets.

Instead, it ACCEPTED the Legislature's method of calculating constitutionally suitable funding for K-12 education, which found funding remains \$522 million short. It ACCEPTED all legislative changes to local option budgets for school districts. It ACCEPTED the Legislature's six-year phase-in to bring funding up to its own calculation for a suitable level.

Essentially, the court had just one problem, which would be recognized by anyone in their personal financial life: any amount of money today will be worth less in six years without adjusting for inflation.

The court only asked the Legislature to continue what it used to calculate the \$522 million in the first place: an annual inflationary adjustment.

Let one fact sink in: by the Legislature's own calculation, Kansas school operating funds had fallen more than three-quarters of a billion dollars behind inflation by 2017, without considering any higher standards or performance targets, or any other cost studies. The consequences of this fact are clear.

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**-Mark Tallman
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Kansas school districts had cut more than 2,000 positions since 2009 and teacher salaries had fallen \$4,500 behind inflation. Kansas had fallen from 24th to 31st in total per pupil funding and 37 states increased funding by a higher percentage since 2008. Kansas

teacher salaries had fallen from 38th to 41st and now trail Iowa, Nebraska and Missouri.

Most critically, other states were improving faster than Kansas in graduation rates, college participation and test scores; giving their students an advantage in preparation for postsecondary education and employment.

In 2017, the Legislature added over \$200 million in school aid for the 2017-18 school year. That allowed school districts to begin to recover, adding back nearly 1,000 employees, giving the largest teacher salary increase since 2009, adding new programs aimed at student success and launching a school redesign project. But based on the Legislature's own calculation of suitable funding and inflation, funding remained over \$500 million short. The 2018 Legislature approved a plan to close that gap in five years but did not provide an adjustment for inflation.

The additional funding approved by the 2018 Legislature will allow school districts to "make up" ground lost to past inflation and "catch up" with other states that compete with Kansas schools for teachers and Kansas students for jobs. The court has asked the Legislature to provide an adjustment to "keep up" with future inflation.

Some legislators have said Kansas cannot afford this final step. This should raise an even more important question: why not? How are other states able to provide higher funding per pupil, larger increases in funding, higher teacher salaries and in some cases, better student results?

Just among the other Plains states, Nebraska, Iowa and North Dakota have higher total per pupil funding, higher teacher salaries and rank above Kansas on multiple student outcomes. Missouri increased funding faster, now spends almost as much per pupil and moved ahead of Kansas in teacher salaries. All of these states - and many others - also seem able to provide postsecondary education, transportation and social services as well.

Some voices continue to call for a constitutional amendment to limit the court's role and give more power to the Legislature in determining school funding. In the latest decision, the court was quite deferential to the Legislature, but made clear the Legislature must have some rational basis for determining "suitable" finance in providing for "intellectual, educational, vocational and scientific improvement through a system of public schools," as required by the people of Kansas in their constitution.

The choice for Kansas is clear: comply with the court or allow our public education system to continue to slip behind. 🌈

Kansas education cost study findings

How the courts used them

By Mark Tallman, mtallman@kasb.org

Some legislators, candidates and organizations are complaining that the Kansas Supreme Court, rather than the Legislature, is setting the level of school funding in the state. However, it is important to understand that the court's decisions have relied almost entirely on the evidence in studies requested and paid for by the Legislature itself.

Since 2000, the Kansas Legislature has commissioned and funded three major education cost studies.

Augenblick and Myers

The first was conducted by the consultants Augenblick and Myers and released in 2001. It was commissioned by the Legislature before the Montoy case reached the courts. It used two methods – professional judgment and successful schools model – and said the state needed to add about \$229 million, or 8.1 percent more funding, to reach goals set by the Legislative Educational Planning Committee, the legislative body which oversaw both K-12 and higher education.

With no other study or other evidence of education costs, the district court and Supreme Court accepted the A&M study as credible evidence in finding that the state was not providing constitutionally suitable funding.

Legislative Post Audit

In response, the 2005 Legislature and a special session reached an agreement with the Supreme Court to increase school funding AND commission a new study, this one conducted by the Legislature's own audit and research agency, the Legislative Division of Post Audit.

The second study was released in early 2006, and also used two methods: an "inputs" approach based on the costs of providing state required courses and services, and an "outcomes" approach based on meeting student assessment and graduation rate targets required by the federal No Child Left Behind Act. The study said funding would need to increase between \$316 million

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Cost studies

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and \$399 million to meet the state's educational goals.

Although the study did not find a national consensus among researchers about the link between funding and student achievement, it DID find in KANSAS "a nearly one-to-one correlation" between funding and results.

Based on this study, the Legislature agreed to a three-year plan to increase funding and a fourth year (2010) with an inflation adjustment in the base aid per pupil. The Supreme Court then dismissed the case. However, by 2010 state school aid was being reduced due to the recession and tax cuts and has never fully recovered when adjusted for inflation. This led to the Gannon lawsuit.

Taylor study

Although the 2017 Legislature added about \$300 million to school funding spread over two years, the Supreme Court said the state had not shown clear evidence that amount would provide suitable funding. Last December, the Legislative Coordinating Council hired another consultant, Dr. Lori Taylor, to do a third cost study with the assistance of WestEd, as well as an independent peer review of that study.

The Taylor study was designed to find the cost of achieving student test scores and graduation rates



Seaman High School history class

based on the State Board of Education's federal plan for student achievement, the achievement of the top performing Kansas districts, and improvement that occurred when the system had been constitutionally funded after Montoy. It determined that it would cost an additional \$400 million to raise graduation rates to 95 percent, \$1.7 billion to get 90 percent

of students to grade level on state tests and \$2 billion to get 60 percent of students to "college ready" on state tests.



High school library media center

The study also specifically found a "strong, positive statistically significant correlation between funding and results," and that Kansas school districts were highly efficient, among the best in the nation. The study methods were validated by the independent peer review.

However, the Kansas Legislature decided not to use this much more expensive study as the basis of increased funding, but instead approved a five-year funding plan based on getting back to the 2010 level as determined by the LPA study, adjusted for inflation through 2017. Although the Gannon plaintiffs wanted the Supreme Court to use the new study to order even more funding, the court did not do so. It only said the Legislature must also adjust the five-year phase-in to keep up with inflation from 2017 until it is implemented.

Summary

To summarize, all three education cost studies requested and funded by the Legislature itself have found that K-12 funding was not adequate to meet the state's educational goals for students. Two of the studies specifically found that in Kansas, at least, funding does make a difference in student success. The most recent study also found that Kansas schools

are highly efficient.

In other words, the Kansas courts are not telling the Legislature how much to spend based on an amount judges make up on their own, or even requested by the plaintiffs. They are telling the Legislature it must fund schools based on its own evidence of what it costs to achieve the state's educational goals. 🇺🇸

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