

School Counselor Legislative Report

Prepared for the Kansas Counseling Association and its members

February 12, 2016

By Bernie Koch, Lobbyist

Court to Kansas Legislature: Fix school finance or schools will close

The Kansas Supreme Court has ruled last year's block grant funding for K-12 schools in Kansas unconstitutional.

The decision, released Thursday morning, says the Kansas Legislature has until June 30 to fix the problem or Kansas public schools will be unable to operate after that date.

The court says the block grant legislation violates Article 6 of the Kansas Constitution and that it violates the equity provisions concerning state money for capital outlay and local option budgets.

No dollar amount is suggested. Rather, it's about fairness in funding.

The Justices left the decision on how to make the distribution of funds to lawmakers. They could do that by returning to portions of the old school finance formula, changing the block grant law, or writing a new formula that is constitutional. Each of those options will likely cost more money.

Four school districts challenged the block grant bill: Wichita, Hutchinson, Kansas City, and Dodge City.

Here are some direct quotes from the decision:

“The evidence supports the Plaintiffs' position. It shows the amended formula when fully funded provides less capital outlay state aid than the previous one would have provided had it been fully funded—i.e., that the amended formula is structurally less equitable. As a result of the amended formula, every district entitled to capital outlay state aid suffered a loss when the legislature reversed its plan to fully fund the previous formula—and 28 districts lost their entire entitlement. In contrast, the wealthier districts that did not qualify for the aid obviously lost nothing.”

“We also stay the issuance of today's mandate to give the legislature a second, and substantial, opportunity to craft a constitutionally suitable solution and minimize the threat of disruptions in funding for education. This stay is consistent with much of the history of school finance litigation in this state.”

“With this backdrop established, we repeat that during this additional time accorded the 2016 legislature, constitutional infirmities ‘can be cured in a variety of ways—at the choice of the legislature.’”

“In short, if by the close of fiscal year 2016, ending June 30, the State is unable to satisfactorily demonstrate to this court that the legislature has complied with the will of the people as expressed

in Article 6 of their constitution through additional remedial legislation or otherwise, then a lifting of the stay of today's mandate will mean no constitutionally valid school finance system exists through which funds for fiscal year 2017 can lawfully be raised, distributed, or spent."

"Without a constitutionally equitable school finance system, the schools in Kansas will be unable to operate beyond June 30. And because an unconstitutional system is invalid, efforts to implement it can be enjoined."

"Accordingly, the legislature's chosen path during the 2016 session will ultimately determine whether Kansas students will be treated fairly and the schoolhouse doors will be open to them in August for the beginning of the 2016-2017 school year. The legislature's choices will also dictate whether we may proceed to the final stage of this litigation, i.e., the sooner the legislature establishes a constitutional funding system, the sooner this case can be dismissed."

The opinion also included several passages that seemed designed to defend the Supreme Court against the inevitable attacks by Governor Brownback and others that this is an "activist court."

The court discussed some of the writings of founding father Alexander Hamilton about the separation of powers. Here's a sampling of comments in the opinion after that discussion:

"So the judiciary clearly has the power to review a law and potentially declare it unconstitutional. But this power is not limited solely to review. It also includes the inherent power to enforce our holdings."

"Our order should not be misinterpreted as expressing a desire by this court to become a regular supervisor of Kansas' school funding system."

"But our order is a manifestation of Hamilton's conclusion that "the courts were designed to be an intermediate body between the people and the legislature." Federalist Paper No. 78. Consequently, while we do not desire to become a supervisor of the school finance system, neither do we abandon our duty to the people of Kansas under their constitution to review the legislature's enactments and to ensure its compliance with its own duty under Article 6."

Here is a link to the 80 page opinion.

<http://www.kscourts.org/Cases-and-Opinions/opinions/SupCt/2016/20160211/113267.pdf>

This is just one part of the school finance question before the Kansas Supreme Court, the equity (or fairness) portion.

The court is also considering the question of whether funding is enough. Those arguments are scheduled for a hearing before the court in March.

One reaction came swiftly. The House Judiciary Committee has scheduled a hearing Tuesday on a constitutional amendment to change the membership of the Supreme Court Nominating Commission. The change gives the Governor and legislative leadership control over the appointment of a majority of members of the commission.

The measure is HCR 5013.

Lawmakers debate the budget

The Supreme Court decision came in the middle of legislative deliberations about the budgets for this year and next, which are becoming a yearly difficult balancing act. The bill passed 68 to 56.

It is SB 161.

The House of Representatives budget leaves only about \$6 million in the state's checking account at the end of the current budget year (Fiscal Year 2016). The court decision will certainly eat that up and more, making the job of lawmakers more difficult.

The bill eliminates a deficit brought on by lower than expected tax revenues.

One of the provisions is strongly opposed by teacher and education groups.

As explained in a Wichita Eagle story:

"The House bill would enable the governor to delay a payment to the Kansas Public Employees Retirement System at the end of the 2016 fiscal year in June as a way to cushion the ending balance and prevent cuts to state agencies.

"That could add up to \$100 million to the state's 2016 ending balance, depending on whether the governor decides to delay the entire June payment to KPERS."

Governor Brownback could delay the payment, but would have to repay the money by September 30, plus 8% interest.

Bill would eliminate common core, prohibit data collection

A bill designed to eliminate the Common Core curriculum would have far reaching affects on education. It was just introduced Thursday by several representatives and is similar to a bill introduced last year that prohibits the use of any standards related to Common Core or developed by any consortium or any other organization:

It appears this bill bans AP, IB, SAT, and ACT because all are aligned to common core standards.

The bill also includes a requirement for prior written consent from every parent before any data can be collected on a student.

To quote from the bill:

"Prior written consent' means that a parent or legal guardian's signature is required on a written document that notifies the parent or legal guardian what data will be collected, how the data will be collected, how the data will be used, what person or entity the data will be shared with and the dates over which the disclosed data will be used."

Here's a link to the bill. No hearing has been scheduled. It's bound to be controversial.

http://kslegislature.org/li/b2015_16/measures/documents/hb2676_00_0000.pdf

Bill to cut gifted program funding is dropped

The sponsor of a bill to remove funding for gifted student programs from special education has backed off.

The bill was requested by Representative Sue Boldra (R-Hays) and had just been formally introduced on Monday. The Chairman of the House Education Committee, Representative Ron Highland (R-Wamego) made the announcement Tuesday and said there will be no hearing on the measure, House bill 2630.

A similar bill introduced last year did not advance. Whenever similar legislation has been introduced in the past, it has resulted in a firestorm of protest from students, parents, and educators.

Busy week for bill introductions as deadline looms

There were a lot of bills introduced in the House and Senate this week because of two major deadlines. Wednesday was the deadline for individual legislators to introduce bills. Friday (today) is the deadline for most committees to introduce bills.

There are “exempt” committees that can introduce legislation at any time, but the avalanche of legislation being introduced will slow after this week.

Find your legislator

Want to contact your legislator to let them know what you think of any issue?

Here’s a quick and easy way to do it. Just go to:

http://openstates.org/find_your_legislator/

Enter your full address, click on the magnifying glass icon. A map of your legislative district and the names and pictures of your state senator and representative will appear.

Click on their name to get contact information.

Bill tracker

Below is a listing of the bills we are tracking for the educator members of the Kansas Counseling Association. You can click on the bill number for more information. It will take you to the Kansas Legislature’s web site, where you can read information on the bill.

Many bills will have a Supplemental Note or Fiscal Note. Click on SN or FN to get information in layman’s terms.

Many of the bills are carried over from the 2015 Kansas Legislature.



Bill Number and Sponsor	Bill Subject	Current Status	Last Action
SB 2 Jacob LaTurner, R-13th	Authorizing school districts to offer multi-year contracts to teachers	In Senate Education	01/28/2015 - Senate Possible Action in Education: Tuesday, 2/3/2015, 1:30 PM, Rm 144-S
Sub for SB 60 Senate Federal and State Affairs Committee	Authorizing participation by less than full-time students in activities regulated by Kansas state high school activities association	In House Education	03/13/2015 - House Scheduled Hearing in Education: Tuesday, 3/17, 1:30 PM, Rm 112-N
SB 67 Senate Federal and State Affairs Committee	Development and establishment of K-12 curriculum standards	In Senate Education	01/23/2015 - Senate Referred to Education
SB 136 Senate Education Committee	Amending the professional negotiations act	In House Education	03/05/2015 - House Referred to Education
SB 137 Senate Education Committee	Education; amendments to the school district finance and quality performance act; the virtual school act; the student data privacy act; and the tax credit for low income student scholarship program act	In Senate Ways and Means	02/04/2015 - Senate Referred to Ways and Means
SB 168 Senate Select Committee on KPERS	Issuing a \$1 billion of pension obligation bonds to finance a portion of the unfunded actuarial liability of KPERS	In House Pensions and Benefits	03/05/2015 - House Referred to Pensions and Benefits

Sub for SB 171 Senate Ethics and Elections Committee	Municipal elections; nonpartisan; fall odd-numbered years	In House Taxation	03/25/2015 - House Withdrawn from calendar; referred to Taxation
SB 175 Senate Ways and Means Committee	Exercise of religious freedom by postsecondary education student associations	On General Orders in House	04/02/2015 - House Committee Report recommending bill be passed by Federal and State Affairs
SB 176 Senate Ways and Means Committee	Limiting negotiations under the professional negotiations act	In Senate Education	02/18/2015 - Senate Scheduled Hearing in Education: Monday, 2/23, 1:30 PM, Rm 144-S
SB 179 Senate Ways and Means Committee	Limiting negotiations under the public employer-employee relations act	In Senate Commerce	03/18/2015 - Senate Scheduled Final Action in Commerce: Thursday, 3/19, 8:30 AM, Rm 548-S
SB 193 Senate Ways and Means Committee	Requiring a degree prospectus for postsecondary degree programs	In House Education	05/06/2015 - House Scheduled Discussion and Possible Action in Education: Thursday, 5/7, 12:30 PM, Rm 112-N
SB 194 Senate Corrections and Juvenile Justice Committee	Creating the Kansas public school security act	In Senate Corrections and Juvenile Justice	02/18/2015 - Senate Scheduled Hearing in Corrections and Juvenile Justice: Monday, 2/23, 9:30 AM, Rm 118-N
SB 273 Senate Ways and	Creating the classroom learning assuring student success act; making and concerning appropriations for fiscal years ending June 30,	In Senate Ways and Means	03/06/2015 - Senate Scheduled Hearing in Ways and Means: Tuesday, 3/10, 9:00 AM,

Means Committee	2015, June 30, 2016, and June 30, 2017, for the department of education		Rm 582-N
SB 294	Creating the education finance act of 2015; making and concerning appropriations for fiscal year ending June 30, 2016, for the department of education	In Senate Education In Senate Ways and Means	03/24/2015 - Senate Scheduled Hearing (cont.) in Education: Wednesday, 3/25, 12:00 PM, Rm 582-N
SB 299	Providing working after retirement requirements for certain KPERS retirants who return to work with covered employers including benefit and contribution provisions while extending current sunset for teachers to July 1, 2016	In Senate Select Committee on KPERS	04/21/2015 - Senate Scheduled Action in Select Committee on KPERS: Wednesday, 4/29, 1:00 PM, Rm 118-N
SB 300	Education; amendments regarding virtual school state aid, supplemental general state aid, capital outlay state aid and capital improvement state aid	In Senate Ways and Means	05/04/2015 - Senate Scheduled Hearing in Ways and Means: Wednesday, 5/6, 1:30 PM, Rm 548-S
SB 302	Statewide excise tax levy of \$3 per acre on the ownership of real property for the purpose of school finance	In Senate Assessment and Taxation	05/01/2015 - Senate Referred to Assessment and Taxation
SB 323	Creating the Jason Flatt act; requiring suicide prevention training for school district personnel	In Senate Education	02/04/2016 - Senate Scheduled Possible Action in Education: Thursday, 2/11, 1:30 PM, Rm 144-S
SB 342	Creating the student online personal protection act	In Senate Education	02/08/2016 - Senate Scheduled Possible Action in Education: Wednesday, 2/10;

Committee			Thursday, 2/11, 1:30 PM, Rm 144-S
SB 348 Tom Hawk, D-22nd	Prohibitions on carrying concealed handguns in postsecondary educational institution buildings	In Senate Federal and State Affairs	01/22/2016 - Senate Referred to Federal and State Affairs
SB 356 Senate Education Committee	Creating the school district bond project review board	In Senate Education	02/08/2016 - Senate Scheduled Possible Action in Education: Thursday, 2/11, 1:30 PM, Rm 144-S
SB 388 Senate Assessment and Taxation Committee	Requiring the state board of regents to adopt a policy on awarding credit hours based on CLEP test results	In Senate Education	02/08/2016 - Senate Scheduled Possible Action in Education: Wednesday, 2/10; Thursday, 2/11, 1:30 PM, Rm 144-S
SB 444 Senate Assessment and Taxation Committee	Creating a language assessment program for children who are deaf or hard of hearing	Introduced	02/11/2016 - Senate Introduced
HB 2027 House Education Committee	Requiring school district and state department of education audits; creating the efficient operation of schools task force	In House Education	01/16/2015 - House Referred to Education
HB 2028 House Education Committee	Creating the Kansas education standards study commission	In House Education	02/06/2015 - House Scheduled Discussion and Possible Action in Education: Tuesday, 2/10/2015, 1:30 PM, Rm 112-N

HB 2034 House Education Committee	School district; reducing negotiable terms and conditions in the professional negotiations act	Stricken from House calendar	03/04/2015 - House Stricken from Calendar, House Rule 1507
HB 2035 House Education Committee	Amending the tax credit for low income students scholarship program act	In House Education	01/20/2015 - House Referred to Education
HB 2078 House Veterans, Military and Homeland Security Committee	Requiring school districts to adopt school safety and security policies and plans	In House Education	02/11/2015 - House Scheduled Discussion and Possible Action in Education: Monday, 2/16, 1:30 PM, Rm 112-N
HB 2099 House Education Committee	Authorizing school districts to administer certain surveys and questionnaires under the student data privacy act	In House Education	02/06/2015 - House Scheduled Hearing in Education: Friday, 2/13/2015, 1:30 PM, Rm 112-N
HB 2199 House Education Committee	School districts; human sexuality education; policies and procedures	In House Education	01/21/2016 - House Withdrawn from Appropriations; rereferred to Education
HB 2207 House Education Committee	Development and implementation of ethnic studies in schools	In House Education	02/10/2016 - House Withdrawn from Appropriations; rereferred to Education
HB 2220 Brandon Whipple, D-96th	Teachers' contracts; due process	In House Education	02/04/2015 - House Referred to Education

HB 2232 House Federal and State Affairs Committee	Personal financial literacy course as a requirement for high school graduation	In House Education	02/11/2015 - House Scheduled Discussion and Possible Action in Education: Monday, 2/16, 1:30 PM, Rm 112-N
HB 2253 House Pensions and Benefits Committee	Extending special employment after retirement provisions under KPERS for certain retirants who are teachers	On General Orders in House	03/24/2015 - House Committee Report recommending bill be passed as amended by Pensions and Benefits
HB 2262 House Federal and State Affairs Committee	Providing a compliance deadline and penalties for non-compliance with the student data privacy act	In House Education	03/04/2015 - House Scheduled Discussion and Possible Action in Education: Thursday, 3/12, 1:30 PM, Rm 112-N
HB 2266 House Appropriations Committee	Requiring postsecondary education institutions to adopt a policy on sexual assault, domestic violence, dating violence and stalking	In House Education	03/04/2015 - House Scheduled Discussion and Possible Action in Education: Monday, 3/9, 1:30 PM, Rm 112-N
HB 2292 House Federal and State Affairs Committee	Development and establishment of K-12 curriculum standards	In House Education	03/18/2015 - House Scheduled Discussion and Possible Action in Education: Friday, 3/20, 10:30 AM, Rm 112-N
HB 2325 House Commerce, Labor and Economic Development	Enacting the public employee bargaining transparency act	In House Commerce, Labor and Economic Development	02/04/2016 - House Scheduled Discussion and Possible Action in Commerce, Labor and Economic Development: Tuesday, 2/9,

Committee			1:30 PM, Rm 346-S
HB 2345	Prohibiting school board members from having a conflict of interest	In House Appropriations	02/26/2015 - House Withdrawn from Education; referred to Appropriations
House Judiciary Committee			
HB 2394	Career technical education incentive draw down	On General Orders in House	03/09/2015 - House Committee Report recommending bill be passed as amended by Education Budget
House Appropriations Committee			
HB 2403	Creating the classroom learning assuring student success act; making and concerning appropriations for fiscal years ending June 30, 2015, June 30, 2016, and June 30, 2017, for the department of education	In House Appropriations	03/09/2015 - House Scheduled Discussion (cont.) in Appropriations: Tuesday, 3/10, 9:00 AM, Rm 112-N
House Appropriations Committee			
HB 2409	Eliminating property tax exemption from statewide school levy for property used for residential purposes to the extent of \$20,000 of its appraised value	In House Taxation	03/17/2015 - House Scheduled Hearing in Taxation: Thursday, 3/19, 3:30 PM, Rm 582-N
House Taxation Committee			
HB 2426	KPERS; definition of compensation for purposes of computing final average salary	In House Appropriations	01/11/2016 - House Withdrawn from Commerce, Labor and Economic Development; referred to Appropriations
House Appropriations Committee			
HB 2457	Amending the tax credit for low income students scholarship program act	On General Orders in House	02/09/2016 - House Committee Report recommending bill be passed as amended by Education
House Federal and State Affairs Committee			

HB 2486 House Education Committee	Creating the school district bond project review board	In House Education	01/27/2016 - House Scheduled Hearing in Education: Monday, 2/1, 1:30 PM, Rm 112-N
HB 2504 House Federal and State Affairs Committee	School district realignment	In House Education	01/27/2016 - House Scheduled Hearing in Education: Wednesday, 2/3, 1:30 PM, Rm 112-N
HB 2526 House Appropriations Committee	Prohibitions on carrying concealed handguns in postsecondary educational institution buildings	In House Federal and State Affairs	01/26/2016 - House Referred to Federal and State Affairs
HB 2531 House Education Committee	Eliminating due process for certain postsecondary teachers	In House Education	02/10/2016 - House Scheduled Discussion and Possible Action in Education: Thursday, 2/18, 1:30 PM, Rm 112-N
HB 2532 House Education Committee	Including financial literacy as an educational capacity	In House Education	02/10/2016 - House Scheduled Discussion and Possible Action in Education: Monday, 2/15, 1:30 PM, Rm 112-N
HB 2533 House Education Committee	Creating the student online personal protection act	In House Education	01/27/2016 - House Referred to Education

Bill Number and Sponsor	Bill Subject	Current Status	Last Action
HB 2534 House Children and Seniors Committee	Amendments to the freedom from unsafe restraint and seclusion act	In House Appropriations	02/10/2016 - House Withdrawn from Children and Seniors; referred to Appropriations
HB 2588 House Education Committee	Requiring encryption of student data	In House Education	02/10/2016 - House Scheduled Discussion and Possible Action in Education: Monday, 2/15, 1:30 PM, Rm 112-N
HB 2596 House Education Budget Committee	Creating the classroom-based funding act	In House Education	02/10/2016 - House Scheduled Hearing in Education: Tuesday, 2/16, 1:30 PM, Rm 112-N
HB 2622 House Education Committee	Board of regents; updating fees and making amendments to the Kansas private and out-of-state postsecondary educational institution act	In House Education	02/05/2016 - House Scheduled Hearing in Education: Wednesday, 2/10, 1:30 PM, Rm 112-N
HB 2630 House Education Committee	Amending the special education for exceptional children act	In House Education	02/09/2016 - House Referred to Education
HB 2653 House Pensions and Benefits Committee	Striking sunset to KPERS school working after retirement exception and extending certain working after retirement exceptions upon submission of an assurance protocol and allowing retirants to return to work for a different participating employer when such employer pays a 30% contribution rate	In House Pensions and Benefits	02/10/2016 - House Referred to Pensions and Benefits

HB 2656 House Pensions and Benefits Committee	Providing a working after retirement exception for KPERS school members who retire at age 62 or later	In House Pensions and Benefits	02/10/2016 - House Referred to Pensions and Benefits
HB 2663 Henry Helgerson, D-83rd	Creating the school district finance and quality performance act of 2016	In House Education	02/11/2016 - House Referred to Education
HB 2676 Joseph Scapa, R-88th	Development and establishment of K-12 curriculum standards	In House Education	02/11/2016 - House Referred to Education

Bernie Koch Government Relations
berniekoch@yahoo.com