

IN THE SUPREME COURT OF THE STATE OF KANSAS

LUKE GANNON, *et al.*,

Plaintiffs/Appellees,

v.

THE STATE OF KANSAS, *et al.*,

Defendants/Appellants.

Case No. 15-113,267-S

JOINT STIPULATION OF CONSTITUTIONALLY EQUITABLE COMPLIANCE

In response to this Court's May 27, 2016, Opinion, the Legislature on June 24, 2016, passed Special Session 2016 Substitute for House Bill 2001 ("HB 2001") by votes of 116 to 6 in the House of Representatives and 38 to 1 in the Senate. A copy of HB 2001 is attached as Exhibit A. The Governor signed HB 2001 on June 27, 2016. The effective date of HB 2001 is July 1, 2016.


HB 2001 revives the School District Finance and Quality Performance Act formula for supplemental general state aid ("LOB aid") and fully funds that formula for fiscal year 2017. HB 2001, § 2(a).

The parties stipulate and agree that by reviving and fully funding the prior LOB aid formula this Court approved in *Gannon v. State*, 298 Kan. 1107, 1198-99, 319 P.3d 1196 (2014) (*Gannon I*)—and confirmed in *Gannon v. State*, No. 15-113,267-S, ___ Kan. ___, 368 P.3d 1024, slip op. at 73 (Feb. 11, 2016) (*Gannon II*)—HB 2001 fully complies with the Court's decisions regarding equity in LOB aid and therefore currently satisfies the equity component of Article 6, § 6 of the Kansas Constitution. The parties further stipulate and agree that by adopting HB 2655, the State has also currently satisfied the equity component of Article 6, § 6 with

respect to capital outlay aid, as this Court recognized in *Gannon v. State*, No. 15-113,267-S, _____ Kan. ____, slip op. at 15-17 (May 27, 2016) (*Gannon III*). These stipulations resolve the current equity issues on appeal. Therefore, the State and Plaintiff Districts jointly request that the Court enter an order acknowledging that the Legislature has currently satisfied the Court's orders in *Gannon I*, *Gannon II*, and *Gannon III* regarding equity, that Kansas schools are currently funded in compliance with the equity requirements of Article 6, § 6, and therefore that no remedy is necessary or appropriate at this time. The parties await oral argument to address the adequacy portion of the lawsuit.

Respectfully submitted,

OFFICE OF ATTORNEY GENERAL
DEREK SCHMIDT

By: 

Derek Schmidt, #17781
Attorney General of Kansas
Jeffrey A. Chanay, #12056
Chief Deputy Attorney General
Stephen R. McAllister, #15845
Solicitor General of Kansas
M. J. Willoughby, #14059
Assistant Attorney General
Dwight R. Carswell, #25111
Assistant Solicitor General
Bryan C. Clark, #24717
Assistant Solicitor General

Memorial Bldg., 2nd Floor
120 SW 10th Avenue
Topeka, Kansas 66612-1597
Tel: (785) 296-2215
Fax: (785) 291-3767
Email: jeff.chanay@ag.ks.gov
stevermac@fastmail.fm
mj.willoughby@ag.ks.gov

By: 

Alan L. Rupe, #08914
Jessica L. Skladzien, #24178
Mark A. Kanaga, #25711
LEWIS BRISBOIS BISGAARD &
SMITH LLP
1605 North Waterfront Parkway, Suite 150
Wichita, KS 67206-6634
(316) 609-7900 (Telephone)
(316) 630-8021 (Facsimile)
Alan.Rupe@lewisbrisbois.com

and

John S. Robb, #09844
SOMERS, ROBB & ROBB
110 East Broadway
Newton, KS 67114
(316) 283-4650 (Telephone)
(316) 283-5049 (Facsimile)
JohnRobb@robblaw.com

Attorneys for Plaintiffs

dwight.carswell@ag.ks.gov
bryan.clark@ag.ks.gov

and

Arthur S. Chalmers, #11088
Gaye B. Tibbets, #13240
Jerry D. Hawkins, #18222
Rachel E. Lomas, #23767

HITE, FANNING & HONEYMAN, LLP
100 North Broadway, Suite 950
Wichita, Kansas 67202
Tel: (316) 265-7741
Fax: (316) 267-7803
E-mail: chalmers@hitefanning.com
tibbets@hitefanning.com
hawkins@hitefanning.com
lomas@hitefanning.com

Attorneys for the State of Kansas

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of June 2016, the above joint stipulation was electronically filed with the Clerk of the Court using the Court's electronic filing system, which will send a notice of electronic filing to registered participants, and copies were electronically mailed to:

Philip R. Michael
Daniel J. Carroll
Kansas Department of Administration
1000 SW Jackson, Suite 500
Topeka, KS 66612
philip.michael@da.ks.gov
dan.carroll@da.ks.gov

Attorneys for Secretary of Administration Sarah Shipman

Steve Phillips
Assistant Attorney General
120 S.W. 10th, 2nd Floor
Topeka, KS 66612
steve.phillips@ag.ks.gov

Attorney for State Treasurer Ron Estes

Tristan L. Duncan
Zach Chaffee-McClure
2555 Grand Blvd.
Kansas City, MO 64108
zmcclure@shb.com
tlduncant@shb.com

Attorneys for U.S.D. 512

/s/ Dwight R. Carswell
Dwight R. Carswell

Special Session of 2016
Substitute for HOUSE BILL No. 2001

AN ACT making and concerning appropriations for the fiscal years ending June 30, 2017, and June 30, 2018, for certain agencies; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) For the fiscal years ending June 30, 2017, and June 30, 2018, appropriations are hereby made, restrictions and limitations are hereby imposed, and transfers, capital improvement projects, fees, receipts, disbursements and acts incidental to the foregoing are hereby directed or authorized as provided in this act.

(b) The appropriations made by this act shall not be subject to the provisions of K.S.A. 46-155, and amendments thereto.

Sec. 2.

DEPARTMENT OF EDUCATION

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2017, the following:

Supplemental general state aid..... \$99,408,027

Provided, That notwithstanding the provisions of section 3 of 2016 Senate Substitute for House Bill No. 2655, and amendments thereto, expenditures shall be made by the above agency from the supplemental general state aid account of the department of education for fiscal year 2017, for the purpose of providing supplemental general state aid to each school district that has adopted a local option budget in accordance with K.S.A. 2015 Supp. 72-6471, and amendments thereto, as follows: *Provided further*, That for each school district, the state board of education shall: (1) Determine the amount of the assessed valuation per pupil in the preceding school year of each school district in the state; (2) rank the districts from low to high on the basis of the amounts of assessed valuation per pupil determined under (1); (3) identify the amount of the assessed valuation per pupil located at the 81.2 percentile of the amounts ranked under (2); (4) divide the assessed valuation per pupil of the district in the preceding school year by the amount identified under (3); and (5) if the quotient obtained under (4) is less than one, subtract the quotient obtained under (4) from one, and multiply such difference by the amount of the local option budget of the school district: *And provided further*, That the resulting product is the amount of supplemental general state aid the above agency shall distribute to such school district: *And provided further*, That if the quotient obtained under (4) equals or exceeds one, the above agency shall not distribute supplemental general state aid in any amount to such school district: *And provided further*, That payments of supplemental general state aid shall be distributed to school districts on the dates prescribed by the state board of education: *And provided further*, That the state board of education shall certify to the director of accounts and reports the amount of supplemental general state aid that is to be distributed to each school district, and the director of accounts and reports shall draw a warrant on the state treasurer payable to the treasurer of the school district, and upon receipt of the warrant, the treasurer of the school district shall credit the amount thereof to the supplemental general fund of the school district to be used for the purposes of such fund: *And provided further*, That if any amount of supplemental general state aid that is due to be paid during the month of June of fiscal year 2017 is not paid on or before June 30 of fiscal year 2017, then such payment shall be paid on or after the ensuing July 1, as soon as moneys are available therefor, and any payment of supplemental general state aid that is due to be paid during the month of June of fiscal year 2017 and that is paid to school districts on or after the ensuing July 1 shall be recorded and accounted for by school districts as a receipt for the school year ending on the preceding June 30.

(b) On July 1, 2016, of the \$2,759,751,285 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 54(c) of 2016 House Substitute for Senate Bill No. 161 from the state general fund in the block grants to USDs account (652-00-1000-0500), the sum of \$2,800,000 is hereby lapsed.

(c) Notwithstanding the provisions of K.S.A. 2015 Supp. 72-3715, and amendments thereto, in addition to the other purposes for which expenditures may be made by the above agency from the block grants to USDs account of the department of education for fiscal year 2017, by

section 54(c) of 2016 House Substitute for Senate Bill No. 161, expenditures from the block grants to USDs account of the department of education that are directly attributable to virtual school state aid shall be distributed as follows: *Provided*, That for each school district, the state board of education shall: (1) Determine the number of pupils enrolled in virtual school on a full-time basis, excluding those pupils who are over 18 years of age, and multiply the total number of such pupils by \$5,000; (2) determine the full-time equivalent enrollment of pupils enrolled in virtual school on a part-time basis, excluding those pupils who are over 18 years of age, and multiply the total full-time equivalent enrollment of such pupils by \$1,700; (3) for pupils enrolled in a virtual school who are over 18 years of age, determine the number of one-hour credit courses such pupils have passed and multiply the total number of such courses by \$933; and (4) add the amounts calculated under (1) through (3): *Provided further*, That the resulting sum is the total amount of virtual school state aid for such school district for fiscal year 2017.

(d) On July 1, 2016, the \$61,792,947 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 1(a) of 2016 Senate Substitute for House Bill No. 2655 from the state general fund in the school district equalization state aid account, is hereby lapsed: *Provided*, That the state board of education shall not make any disbursements of school district equalization state aid to any school district pursuant to section 5 of 2016 Senate Substitute for House Bill No. 2655 during fiscal year 2017.

(e) The provisions of section 1(d), (e) and (f) of 2016 Senate Substitute for House Bill No. 2655 are hereby declared to be null and void and shall have no force and effect.

(f) On July 1, 2016, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 3(b) of chapter 4 of the 2015 Session Laws of Kansas on the school district extraordinary need fund of the department of education is hereby decreased from \$17,521,425 to \$13,000,000: *Provided, however*, That if, during the fiscal year ending June 30, 2017, any transfer of moneys by the director of accounts and reports from the school district extraordinary need fund of the department of education is made pursuant to subsection (g), then the expenditure limitation established by section 3(b) of chapter 4 of the 2015 Session Laws of Kansas on the school district extraordinary need fund of the department of education is hereby decreased from \$13,000,000 to \$13,000,000 minus the amount of moneys certified by the state board of education to be transferred pursuant to subsection (g).

(g) On July 1, 2016, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$8,000,000 from the state general fund to the school district extraordinary need fund of the department of education: *Provided, however*, That if sufficient moneys are not available in the supplemental general state aid account of the state general fund to fully fund the provisions of subsection (a), then the state board of education shall certify the amount of moneys of such insufficient funds to the director of accounts and reports: *And provided*, That upon receipt of any such certification, the director of accounts and reports shall transfer the amount of such insufficient funds certified from the school district extraordinary need fund of the department of education to the supplemental general state aid account of the state general fund: *And provided however*, That if the amount of the demand transfer from the state general fund to the school district capital outlay state aid fund of the department of education pursuant to section 4(c) of 2016 Senate Substitute for House Bill No. 2655, and amendments thereto, exceeds \$50,780,296, then the state board of education shall certify the amount of moneys equal to the difference between \$50,780,296 and the amount of such demand transfer to the director of accounts and reports: *And provided*, That upon receipt of any such certification, the director of accounts and reports shall transfer the amount of such difference certified from the school district extraordinary need fund of the department of education to the school district capital outlay state aid fund of the department of education: *And provided, however*, That if the proceeds of the sale or merger of the Kansas bioscience authority pursuant to section 4 of this act are less than \$38,000,000, then the director of the budget shall certify the amount of moneys equal to the difference between the amount of the proceeds and \$38,000,000 to the state board of education:

And provided, That the state board of education shall send such certification to the director of accounts and reports: *And provided further*, That upon receipt of any such certification, the director of accounts and reports shall transfer the amount of such difference certified from the school district extraordinary need fund of the department of education to the state general fund: *And provided further*, That, at the same time as the state board of education transmits each such certification to the director of accounts and reports, the state board of education shall transmit a copy of such certification to the director of legislative research.

(h) During the fiscal year ending June 30, 2017, the total amount of transfers from the school district extraordinary need fund of the department of education pursuant to this section shall not exceed \$13,000,000.

Sec. 3.

KANSAS DEPARTMENT FOR
CHILDREN AND FAMILIES

(a) In addition to the other purposes for which expenditures may be made by the above agency from the temporary assistance to needy families federal fund for fiscal year 2017 by section 111(b) of chapter 104 of the 2015 Session Laws of Kansas, section 50(e) of 2016 House Substitute for Senate Bill No. 161, this act of the 2016 special session or appropriation act of the 2016 or 2017 regular session of the legislature, expenditures shall be made by the above agency from the temporary assistance to needy families federal fund for fiscal year 2017, in an amount not less than \$4,100,000, for the purpose of providing additional funding for programs provided by the department of education: *Provided, however*, That any such programs shall: (1) Comply with requirements of the temporary assistance to needy families block grant; and (2) meet any other programmatic requirements of the federal guidelines for temporary assistance to needy families program.

(b) On July 1, 2016, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$4,100,000 from the children's initiatives fund to the state general fund.

(c) On July 1, 2016, of the \$42,000,000 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 50(d) of 2016 House Substitute for Senate Bill No. 161 from the children's initiatives fund, the sum of \$4,100,000 is hereby lapsed.

(d) When the Kansas department for children and families authorizes an expenditure of moneys from the temporary assistance for needy families federal fund in fiscal year 2017 for additional funding for programs provided by the department of education pursuant to subsection (a), the director of the budget shall direct the director of accounts and reports to create a temporary assistance for needy families federal fund with no limit expenditure authority in the department of education, if such fund does not already exist.

Sec. 4. During fiscal year 2017, if pursuant to K.S.A. 2015 Supp. 74-99b15, as amended by section 6 of 2016 House Bill No. 2632, and amendments thereto, the legislature or the state finance council authorizes the Kansas bioscience authority board to sell the authority or substantially all of the assets of the authority, or to merge the authority with another institution, any proceeds of such sale or merger which are in excess of \$25,000,000, but less than \$38,000,000, shall be deposited in the state treasury to the credit of the state general fund.

Sec. 5. During fiscal year 2017, pursuant to K.S.A. 2015 Supp. 72-6476, as amended by section 9 of 2016 Senate Substitute for House Bill No. 2655, the state board of education shall accept extraordinary need state aid applications and may approve any such applications subject to the provisions of this section: *Provided, however*, That no moneys shall be expended from the school district extraordinary need fund during fiscal year 2017 for any approved application for extraordinary need state aid until the sale or merger of the Kansas bioscience authority is complete pursuant to K.S.A. 2015 Supp. 74-99b15, as amended by section 6 of 2016 House Bill No. 2632, and amendments thereto, as certified by the director of the budget: *And provided further*, That if the proceeds of such sale or merger are not less than \$38,000,000, the state board of education shall authorize the distribution of the approved extraordinary need state aid applications: *And provided, however*, That if the proceeds of such sale or merger are less than \$38,000,000, the state board of education shall

adjust the amount of the previously approved extraordinary need state aid applications and authorize the distribution of such adjusted amount: *And provided, however,* That the provisions of this section shall be subject to the requirements of section 2(g) of this act and the limitations imposed in section 2(h) of this act.

Sec. 6.

DEPARTMENT OF TRANSPORTATION

(a) On July 1, 2016, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 68-416, and amendments thereto, the director of accounts and reports shall transfer \$5,000,000 from the state highway fund of the department of transportation (276-00-4100-0403) to the school district extraordinary need fund of the department of education.

Sec. 7. The provisions of this act are hereby declared to be severable. If any of the provisions of this act, or any application of any of the provisions of this act to any person or circumstance, is held to be invalid or unconstitutional by court order, such invalid provisions shall not affect any other provisions or applications of this act, and such other provisions or applications of this act shall be valid and in force and effect as if enacted without the invalid provisions.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.