

CORRECTED
SESSION OF 2013

**SUPPLEMENTAL NOTE ON SENATE CONCURRENT
RESOLUTION NO. 1608**

As Recommended by Senate Committee on
Judiciary

Brief*

SCR 1608 would submit to the qualified electors of the state an amendment to Article 6, Section 6 of the *Kansas Constitution* concerning education finance. Specifically, the amendment would add the following sentence to subsection (b): “The financing of the educational interests of the state is exclusively a legislative power under article 2 of the constitution of the state of Kansas and as such shall be established solely by the legislature.”

The resolution would also split subsection (b) into two subsections.

If approved by two-thirds of the House and two-thirds of the Senate, the proposed amendment would be submitted to the electors in August 2014, or at a special election if such election is called sooner by concurrent resolution of the Legislature.

Background

The current version of Article 6, Section 6 of the *Kansas Constitution* was adopted by electors in November 1966. Subsection (b) currently states the Legislature “shall make suitable provision for finance of the educational interests of the state”; prohibits tuition charges for public schools, except

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

for fees or supplemental charges authorized by law; and permits the Legislature to authorize the Board of Regents to establish tuition, fees, and charges for institutions under its supervision.

In 2005, the Kansas Supreme Court issued decisions in the case *Montoy v. State*, in which the plaintiffs challenged the Kansas scheme of financing public education, asserting it violated several Kansas constitutional requirements, including the provision of Article 6, Section 6 that requires the Legislature to make suitable provision for finance of the state's educational interests. Ultimately, the Court held that the Legislature had failed to make suitable provision for finance of the public school system. Stating that it was relying on a study commissioned by the Legislature, the Court ordered the Legislature to implement a minimum increase of \$285 million in school funding for the 2005-06 school year. The Court also contingently ordered the Legislature to implement an additional minimum increase of \$568 million in school funding for the 2006-07 school year. See *Montoy v. State*, 279 Kan. 817, 112 P.3d 923 (2005).

The Legislature passed several bills related to school finance following the Supreme Court's decisions in *Montoy*, and the Court eventually held that the Legislature had substantially complied with its orders and dismissed the case.

In November 2010, four school districts and various students filed a lawsuit, *Gannon v. State*, again alleging the state violated Article 6, Section 6(b) of the *Kansas Constitution* by failing to make suitable provision for finance of the educational interests of the state. A three-judge panel heard the case in the summer of 2012 and issued an opinion in January 2013, ruling that the public education system is underfunded, violating Article 6, Section 6(b). As part of the remedy for this violation, the panel enjoined the state from taking any action that would lower the base state aid per pupil below the statutory amount of \$4,492. The state has appealed the panel's ruling to the Supreme Court of Kansas and has requested a stay of the panel's ruling and an order of

mediation.

Article 14, Section 1 of the *Kansas Constitution* allows for an amendment to be made through approval by popular vote of a legislative proposal. Specifically, it provides that a concurrent resolution originating in either house of the Legislature that is approved by two-thirds of all the members of each house will be considered by Kansas voters at the next election. If a majority of those voting on any such amendment approve the amendment, it becomes a part of the *Kansas Constitution*. When multiple amendments are proposed, a separate vote is taken for each, with no more than five amendments being considered in the same election.

SCR 1608 was introduced by the Senate Education Committee. In the Senate Judiciary Committee, Senator Abrams and a representative of the Kansas Policy Institute testified in support of the resolution. The Committee heard neutral testimony from analysts with the National Conference of State Legislatures and the New Hampshire Center for Public Policy, and received written neutral testimony from the superintendent of the Oswego school district. The Committee heard opponent testimony from the following conferees: the superintendents of the Kansas City, Kansas, school district and the Trego County school district (also representing Schools for Quality Education); a former school board member of the Independence school district; representatives of the Topeka Public Schools District Citizens Advisory Council, United School Administrators of Kansas, MainStream Coalition, and the Kansas Association of School Boards; and a student from Topeka West High School.