

# State Representative

# Don Hineman

Don's Legislative Update  
January 5, 2015

## Court Decision Regarding School Funding

On the very day that my last newsletter hit your inbox earlier this week, a three judge district panel in Shawnee County issued their decision regarding [funding for public education](#). So I have sped up my newsletter timetable because I want to share the story with you in a timely manner.

### The History

The decision is the second part of a two-part decision arising out of a lawsuit filed five years ago, claiming that the state was not living up to its constitutional requirement of "suitable provision for finance of the educational interests of the state". The first part of the legal challenge dealt with the question of **equity**, or whether all school children had equal educational opportunity. The Kansas Supreme Court last year ruled that requirement was not being met, and the legislature passed legislation which provided \$130 million of new school funding and/or property tax relief to those school districts which were identified as inequitably funded.

The second and current part of the challenge deals with the question of whether the overall level of school funding is **adequate** to properly prepare Kansas school children for higher education, career opportunities, and life in general.

In their ruling this week the panel claimed the evidence suggests that school funding was adequate as recently as 2009, after an earlier court case (Montoy v. Kansas) had ruled more funding for K-12 education was needed, and the 2005 legislature responded by appropriating a higher funding level and committing to that level plus inflation.

However the panel ruled that funding has now deteriorated. Initially it was due to the revenue shortfall caused by the Great Recession. But the panel claimed that since then it has been "rather from the wholesale abandonment of the commitments made to the Montoy IV Court by the executive and legislative branches of government." The panel also mentioned "the self-imposed fiscal dilemma now facing the State of Kansas" but stated that "Since the obligations here declared emanate from our Kansas Constitution, avoidance is not an option".

The court also determined that the state was ignoring its constitutional responsibility by forcing funding increases onto local school boards and property taxpayers via the Local Option Budget (LOB). The court viewed the initial purpose of the LOB to be a mechanism for local districts to provide enhancements to the local education effort over and above the basic education provided by the state. But recently the state has reduced funding to the point that local boards are forced to use the LOB in an attempt to



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provide a basic education. The court viewed this as unconstitutional, claiming it is an undependable and unequal funding mechanism.

A more extensive history of school funding court cases in Kansas can be found [at the end of this article](#).

### What will it cost?

The three-judge panel avoided requiring any specific level of funding, and the Supreme Court ruled last spring that dollars alone are not the most valid measure of adequacy. Rather, **student outcomes** should be the measure of whether “suitable provision” has been made. Furthermore it suggested the “[Rose standards](#)” as a valid benchmark. These standards are a multi-part test for adequacy of school spending that was first outlined in a Kentucky case. Since then they have been adopted by courts across the country.

Nevertheless, Kansas once promised its base state aid would reach \$4492 per student, and the three-judge panel set its lowest figure at this amount adjusted for inflation since 2012. Other options were also suggested, and the total cost is now estimated to be somewhere between \$548 million and \$771 million per year.

The court indicated a willingness to give the governor and the legislature some time to move in this direction, in recognition of the difficult fiscal situation of the state, albeit self-inflicted. Also, most everyone expects the state to appeal the lower court ruling to the Supreme Court, once again delaying the final day of reckoning.

K-12 funding is already consuming half of the \$6.3 billion that makes up the State General Fund. That is a huge sum, even before adding any additional money that might be required due to the school funding court case. Those of us in state government cannot claim to be good stewards of the taxpayer’s dollar if we fail to scrutinize those expenditures and demand efficiencies wherever possible. The challenge will be to do that while still upholding our constitutional responsibility. During the 2015 session we will examine school funding and education policy closely, and it is quite possible that structural changes will be made.

AP: [Kansas Court Orders More State Spending on Schools](#)

Topeka Capital-Journal: [Judges Rule School Finance Inadequate](#)

Wichita Eagle: [Court Rules School Funding is Inadequate](#)

Kansas City Star: [Kansas Court Calls School Funding Inadequate](#)

Topeka Capitol-Journal: [Analysis: Schools Before and After the Recession](#)

Kansas City Star editorial: [Gov. Sam Brownback and Lawmakers Must Stop Cheating Kansas Schools](#)

[<Back to Top>](#)

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This newsletter is primarily intended for the residents of the 118th District (all of Wichita, Scott, Lane, Logan, Gove, Trego, and Sheridan Counties and portions of Thomas and Graham Counties). However it is available to anyone who finds it of interest. Please forward to your friends, or if you are

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[<Back to Top>](#)

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Cowboy Logic

"If at first you don't succeed, try, try, again. Then quit. There's no use being a damn fool about it." - **W.C.Fields**. (This fits Cowboy Logic so well that I can only conclude that WC. Fields must have spent some time around bovines at some point in his life)

#### **Quote of the day**

"The problem with making mental notes is that the ink fades very rapidly" – **Rolf Smith**

#### **Sermon in a sentence**

You can preach a better sermon with your life than with your lips.

[< Back to Top >](#)

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#### **Representative Don Hineman**

Visit My Website at <http://www.hinemanforkansas.org/>

116 S. Longhorn Road	Room 50A, State Capitol Building
Dighton, Kansas 67839	300 SW 10th Street
Phone: 620-397-2504	Topeka, Kansas 66612
Fax: 620-397-755	Phone: 785-296-7636
Email: <a href="mailto:dhineman@st-tel.net">dhineman@st-tel.net</a>	Email: <a href="mailto:don.hineman@house.ks.gov">don.hineman@house.ks.gov</a>

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