

## Supreme Court Should Dismiss *Gannon* for Lack of *Rose* Measurement and False Spending Premise

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### EXECUTIVE SUMMARY

In 2014, in *Gannon v. State of Kansas*, the Kansas Supreme Court determined that the adequacy of the state's education finance system is met when students meet or exceed the *Rose* standards. The Court is now ready to hear arguments as to the adequacy of school funding.

Pursuant to the arguments, the attorneys for the plaintiffs in *Gannon* have filed a legal brief contending that the funding mechanism is inadequate. They claim low assessment scores provide evidence that *Rose* standards have not been met and, therefore, more money should be spent on K-12 public education.

However, there are two central issues that place the Court in *no position* to determine that the finance system is inadequate and order an increase in K-12 funding.

- The *Rose* standards, which are to be the basis for determining an adequate education financing system as stipulated in the 2014 Supreme Court *Gannon* decision, have neither been designed nor measured.
- The State Board of Education, which is both constitutionally and statutorily charged with the "general supervision" of public schools – including setting standards – has failed to make provisions for either designing or measuring the *Rose* standards.
- Instead, there is evidence that the State Board has ceded the lead on *Rose* standards to the Kansas Association of School Boards, a non-statutory body.
- The arguments by the plaintiffs' attorneys that a) low assessment scores prove *Rose* standards have not been met, and b) those scores are a function of inadequate funding and should be disregarded.
- The plaintiffs' attorneys have no authority to determine whether *Rose* standards have been met.
- The claim that an increase in spending will lead to an increase in student performance is fundamentally flawed. Ample evidence provided herein at both the state and national levels indisputably demonstrates that virtually no correlation exists between an increase in education spending and an increase in student outcomes, let alone a causal relationship between the two.

Given these realities, it is impossible for the Supreme Court to determine whether the state's school finance system is, in their words, "reasonably calculated" to determine whether *Rose* standards are being met.

### INTRODUCTION

Litigation over public school funding in Kansas has been virtually omnipresent since the School District Equalization Act of 1973 was struck down in *Mock v. State of Kansas*<sup>1</sup> in 1991. That decision spawned the School District Finance and Quality Performance Act (SDFQPA) in 1992. SDFQPA was challenged, beginning in 1999 in *Montoy v. State of Kansas*, a case that was not fully resolved until the Kansas Supreme Court did so in 2006.<sup>2</sup> The latest court case challenging public education funding began in 2010 with *Gannon v. State of Kansas*. Several court rulings have been made pursuant to *Gannon*, addressing both the equity and adequacy of funding,<sup>3</sup> including a controversial opinion by the Supreme Court in May of 2016 that included the threat of school closure.<sup>4</sup> Complicating the landscape of the *Gannon* case, the Kansas Legislature replaced the SDFQPA formula with a block grant funding formula in 2015, a financing mechanism scheduled to expire at the end of the 2016-17 school year. With the *equity* issue apparently resolved, only the matter of the *adequacy* of education funding remains. The Kansas Supreme Court is scheduled to hear oral arguments in September of 2016 with what could be the final decision regarding the adequacy of public education funding in the balance, at least for now.

This paper will explore two fundamental issues key to the next Supreme Court decision:

1. The *Rose* standards, central to determining the adequacy of public education finance system – as defined by the Kansas Supreme Court in a 2014 ruling – have not been sufficiently addressed by the State Board of Education in order for the Court to make such a consequential decision.
2. The contention of the attorneys for the plaintiffs in *Gannon* that the Court should order more money to public education is flawed and should instead be disregarded. They argue that low achievement scores are due to insufficient funding. However, there is ample evidence that simply providing more money to public education will not improve student outcomes.



## ■ Constitutional Backdrop

Article 6 of the Kansas Constitution provides the framework for the state's public education system. Among others it establishes financial and supervisory responsibilities. Specifically, Section 6 states "the legislature shall make *suitable provision* for finance of the educational interests of the state."<sup>5</sup> (Emphasis added). It is the phrase "suitable provision" that has been the basis for the on-going litigation over the past quarter-century.

Section 2 of Article 6 stipulates supervisory responsibility. It states:

*(t)he legislature shall provide for a state board of education which shall have general supervision of public schools, educational institutions and all the educational interests of the state, except educational functions delegated by law to the state board of regents. The state board of education shall perform such other duties as may be provided by law.*<sup>6</sup>

Under the constitutional umbrella of supervision, many statutes related to education have been signed into law over the years regarding the State Board of Education (SBOE). Among them is 72-6439 which directs the SBOE to:

*establish curriculum standards which reflect high academic standards for the core academic areas of mathematics, science, reading, writing and social studies. The curriculum standards shall be reviewed at least every seven years.*<sup>7</sup>

## ■ Gannon, Rose standards, and school finance

With the Supreme Court *Gannon* ruling in 2014, the Court melded standards and finance for the first time.

The SBOE's exclusive domain to set standards was compromised in that decision. The Court, citing a 1989 Kentucky case, imposed what are commonly referred to as the *Rose* standards. These are a set of seven academic criteria by which the *adequacy* requirement regarding the K-12 finance system is now to be measured. Specifically, the Court declared:

*the adequacy requirement is met when the public education financing system provided by the legislature for grades K-12—through structure and implementation—is reasonably calculated to have all Kansas public education students meet or exceed the standards set out in *Rose* and presently codified in K.S.A. 2013 Supp. 72-1127.*<sup>8</sup>

The statute referenced above was amended shortly after the Court's decision to specifically include the seven *Rose* standards.<sup>9</sup> They are:

1. *sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization;*
2. *sufficient knowledge of economic, social, and political systems to enable the student to make informed choices;*
3. *sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation;*

4. *sufficient self-knowledge and knowledge of his or her mental and physical wellness;*
5. *sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage;*
6. *sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently;*
7. *sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market.*

The definitions of the standards is prefaced in that statute with this clause:

*Subjects and areas of instruction shall be designed by the state board of education to achieve the goal established by the legislature of providing each and every child with at least the following (*Rose*) capacities.*<sup>10</sup>

## ■ Rose standards in Kansas have neither been "designed" nor "measured"

It is important to understand that the 2014 Supreme Court opinion and the amended statute that followed actually deal with two different aspects of the *Rose* standards. The statute previously referenced directs the SBOE to *design* the content framework that will achieve the standards. The Court opinion addresses the *measurement* of those standards to determine the adequacy of the finance system. As of this writing, the SBOE has certainly not developed a system to measure when/if/how *Rose* standards are being met and it is arguable that the SBOE has not even designed subjects and areas of instruction.

There is a plethora of evidence in support of this contention. Most notably, no formal action has been taken by the SBOE regarding any aspect of the *Rose* standards since the 2014 Supreme Court decision. In fact, only a handful of references to *Rose* have been made at monthly SBOE meetings since that decision.

The first such reference came shortly after the Supreme Court opinion in March 2014. The Education Commissioner at that time, Diane DeBacker, indicated that the SBOE would respond. "I think that's a discussion that this board will have,"<sup>11</sup> she said in reference to the ruling. She also acknowledged that the *Rose* standards, as applied by the Supreme Court, indeed refer to funding. "These standards are set in terms of financing,"<sup>12</sup> she affirmed.

At the April 2014 SBOE meeting, DeBacker presented a draft chart to board members to show how the Kansas State Department of Education (KSDE) aligned Kansas College and Career Ready Standards (CCRS) with the *Rose* standards.<sup>13</sup> There is no indication of subsequent action pursuant to this draft.

Not only has the SBOE failed to address *Rose* standards issues, for all intents and purposes, they have ceded the "implementation" of the *Rose* standards to the Kansas Association of School Boards (KASB), a non-statutory, non-profit organization comprised mostly of public school districts across the state. In August of 2014, KASB produced a document entitled *The Rose*

*Capacities Primer for Kansas Boards of Education.*<sup>14</sup> The paper serves as KASB's interpretation of the standards and how they relate to what Kansas public schools are already doing. They presented the document at a conference that month, a forum that was attended by seven of the ten SBOE members. Given the failure of the SBOE to take action, the document has become the de facto authority on *Rose* standards.

In February 2015, KASB's Mark Tallman made a formal presentation of the *Rose* standards to the SBOE.<sup>15</sup> During the presentation, Tallman pointed out that districts were looking for direction regarding *Rose*. "Our members acknowledge there still needs some basic, some guidance" in implementing *Rose* standards, he told the SBOE. Although considerable discussion followed the presentation, no formal follow-up action on the part of the SBOE has ever been scheduled.

The absence of direction on the part of the SBOE was evidenced during testimony to the K-12 Student Achievement and Efficiency Commission.<sup>16</sup> Even KASB asked for direction with regards to the *Rose* standards. On August 19, 2014, KASB asked the commission to "encourage the development of a system to define and measure the *Rose* student capacities." There is no record of KASB asking the SBOE to do the same. Further, it was emphasized by KASB's Tallman that the request reflects the position of their member districts and not just a position taken by the organization.<sup>17</sup>

Several school administrators testified to that commission that they needed direction from the state in how to measure *Rose* standards.<sup>18</sup> Comments from superintendents included:

- "The *Rose* standards need to be well-defined so that school districts know what they mean."
- "We need to better define the *Rose* standard capacities."
- "... the local school board and community should set public school priorities ...until such time as there is agreement on indicators for assessing a school's, district's or state's performance relative to the *Rose* standards."

Without question, a cavernous void has emerged. The SBOE has taken no formal action concerning either the design or measurement of the *Rose* standards despite the fact that districts across the state are clearly looking for direction. Curiously, the SBOE has in essence ceded the interpretation of *Rose* to the KASB, an organization with no statutory authority. In an ironic twist, the KASB sought *Rose* standards direction from the K-12 Student Achievement and Efficiency Commission, a group that concluded their statutorily charged tasks in 2014.

### ■ *Gannon* attorneys attempt to fill the void in a legal brief

Absent a mechanism for measuring whether *Rose* standards have been met, the attorneys for the *Gannon* plaintiffs filed a brief with the Court using their own interpretation of whether the standards have been met.<sup>19</sup> Not surprisingly, the attorneys present a case that the *Rose* standards have not been fulfilled. Therefore, they conclude that the constitutional adequacy test for school financing has not been met and the Court should direct more money to public education. Their brief relies

heavily on scores from the National Assessment of Education Outcomes (NAEP)<sup>20</sup> and Kansas state assessments to show that three of the *Rose* standards have not been met since the performance levels of these assessments are so poor.<sup>21</sup> The brief focuses heavily on the lack of achievement by low-income and minority groups. It is inarguable that the scores are indeed unacceptably low, but the flaw in their argument is that more money will lead to greater outcomes and the cause for the low scores is due to inadequate public education funding.

On the contrary, there is ample research and data, both specific to Kansas and the nation as a whole, which show that there is virtually no correlation between more money and higher outcomes and certainly no causal relationship.

### ■ NAEP and Kansas state assessment outcomes have remained virtually unchanged regardless of funding levels

Figures 1 and 2 provide evidence that NAEP and Kansas state assessments have essentially stayed flat regardless of changes in levels of education funding. Achievement gaps between low-income and not-low-income students are staggering and persistent, regardless of the significant increases in at-risk funding.<sup>22</sup> Figure 1 reveals that despite a nearly seven-fold increase in at-risk funding from 2003 to 2015 (the last year at-risk was identified separately), NAEP results are virtually unchanged for low-income students.<sup>23</sup>

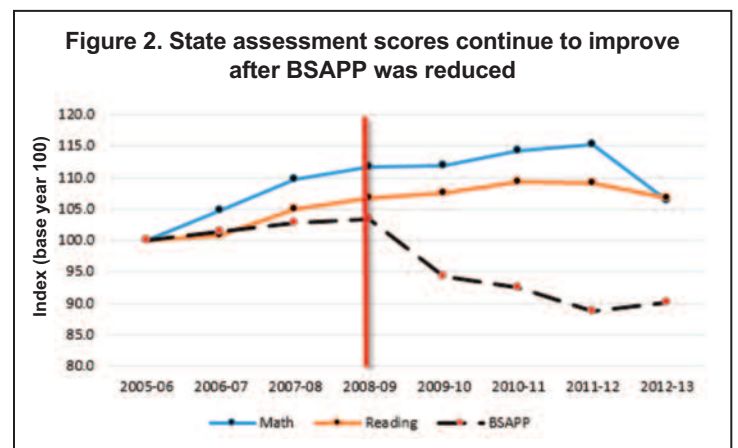
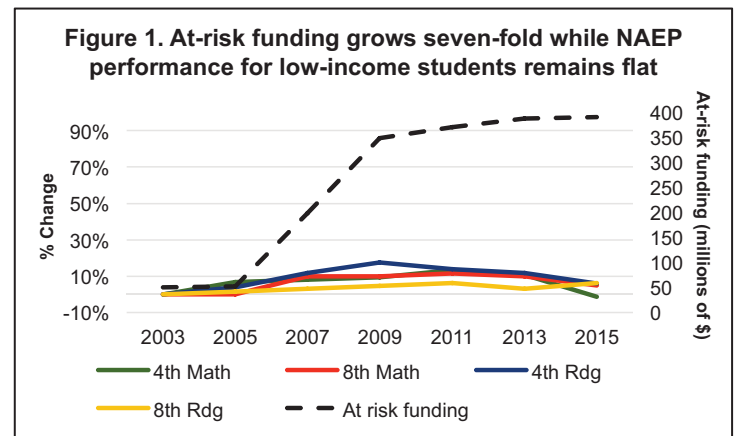
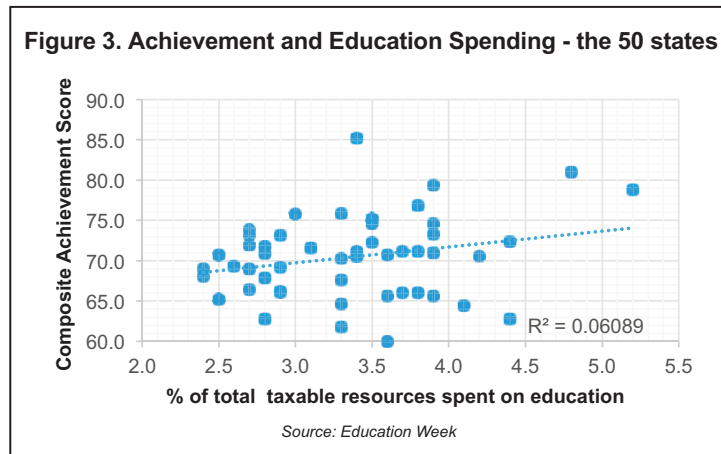


Figure 2 is a graphic representation of the relationship between money and outcomes when isolating base state aid per pupil (BSAPP).<sup>24</sup> Although BSAPP was only about one-third of total funding, the reduction of BSAPP is a linchpin in the *Gannon* attorneys' arguments. As the attorneys correctly stated, BSAPP funding was reduced beginning in the 2009-10 school year. What the attorneys failed to mention is that total funding to education has increased in the years since the "constitutional fund[ing]," as defined by the *Gannon* plaintiff's attorneys (as detailed below). The vertical red line in the graph represents that demarcation. The graph clearly refutes the contention that the reduction in BSAPP precipitated a likewise lowering of state assessment results. On the contrary. Even though BSAPP was reduced three consecutive years, overall state assessment scores for reading and math continued to increase. The only decrease in state assessments came in 2013 when BSAPP ticked back up. It shows clearly that a reduction in BSAPP did not cause a reduction in state assessment outcomes. State officials speculated that much of the reduction was due to the shift in teaching to the Kansas version of Common Core standards. Deputy Education Commissioner Brad Neuenswander was quoted as saying, "The one thing I know is that the State Board (of Education) retired the old standards in 2010 and adopted the new standards."<sup>25</sup>

**■ Data from *Quality Counts* shows virtually no correlation between spending and outcomes**

The 20<sup>th</sup> annual edition of *Quality Counts*,<sup>26</sup> a nationwide report card produced by *Education Week* magazine, provided education funding and performance data as part of their analysis. A statistical analysis from the scatterplot in Figure 3, which consists of data from *Quality Counts*, shows the correlation between spending and results falls short of even being considered statistically weak.<sup>27</sup>



**■ Data provided by the attorneys in the brief**

The attorneys claim that adequate "constitutional funding" has only occurred for two years since the *Montoy* decision and that the "cuts began in 2009-10." According to the attorneys, only in 2007-08 and 2008-09 was education "constitutionally funded." In support of their argument they provide NAEP data from 2009, 2011, and 2015.<sup>28</sup> (NAEP is administered every two years – the attorneys gave no reason for leaving out 2013

results). The brief includes the percentage of all Kansas students and various subgroups who scored in the lowest category "Below Basic." From this data, the attorneys conclude that those percentages have risen since the "cuts began," therefore money is the difference. However, a deeper dig into the NAEP data provides a much different picture. The tables below go back to 2003 – both before and after the *Montoy* decision.

If, as the *Gannon* attorneys claim, money could even be considered as a causal factor for the change in NAEP scores, three conditions must be met using data back to 2003:

- In the years preceding 2009, the scores should NOT be improving, since there wasn't "constitutional funding."
- Results from the 2009 NAEP should be significantly higher than 2007 due to "constitutional funding."
- NAEP scores in 2011 and forward should be significantly lower than 2009, since "constitutional funding" was absent.

	NAEP % Below Basic 4th grade math						
	2003	2005	2007	2009	2011	2013	2015
National	24	21	19	19	18	18	19
KS All	15	12	11	11	10	11	17
KS White	10	8	7	6	7	7	11
KS Black	45	30	29	34	28	29	43
KS Hisp	22	21	22	19	17	19	29
KS Fr/Red Lch	25	20	19	18	15	17	26
Per Pupil \$	\$9,128	\$9,707	\$11,558	\$12,660	\$12,283	\$12,781	\$13,124

Source: National Assessment of Education Progress, KSDE

	NAEP % Below Basic 8th grade math						
	2003	2005	2007	2009	2011	2013	2015
National	33	32	30	29	28	27	30
KS All	24	23	19	21	20	21	24
KS White	17	17	13	15	14	15	18
KS Black	65	56	43	48	41	44	46
KS Hisp	51	44	42	35	35	33	35
KS Fr/Red Lch	39	39	33	33	32	33	36
Per Pupil \$	\$9,128	\$9,707	\$11,558	\$12,660	\$12,283	\$12,781	\$13,124

Source: National Assessment of Education Progress, KSDE

	NAEP % Below Basic 8th grade reading						
	2003	2005	2007	2009	2011	2013	2015
National	28	29	27	26	25	23	25
KS All	23	22	19	20	21	22	21
KS White	18	18	14	14	16	16	15
KS Black	47	44	41	43	42	46	43
KS Hisp	45	40	41	39	34	34	34
KS Fr/Red Lch	36	35	34	33	32	34	32
Per Pupil \$	\$9,128	\$9,707	\$11,558	\$12,660	\$12,283	\$12,781	\$13,124

Source: National Assessment of Education Progress, KSDE

	NAEP % Below Basic 4th grade reading						
	2003	2005	2007	2009	2011	2013	2015
National	38	38	34	34	34	33	32
KS All	34	34	28	28	29	29	32
KS White	29	28	23	22	24	22	26
KS Black	60	60	48	44	54	53	56
KS Hisp	49	54	46	45	45	45	46
KS Fr/Red Lch	49	47	43	40	42	43	46
Per Pupil \$	\$9,128	\$9,707	\$11,558	\$12,660	\$12,283	\$12,781	\$13,124

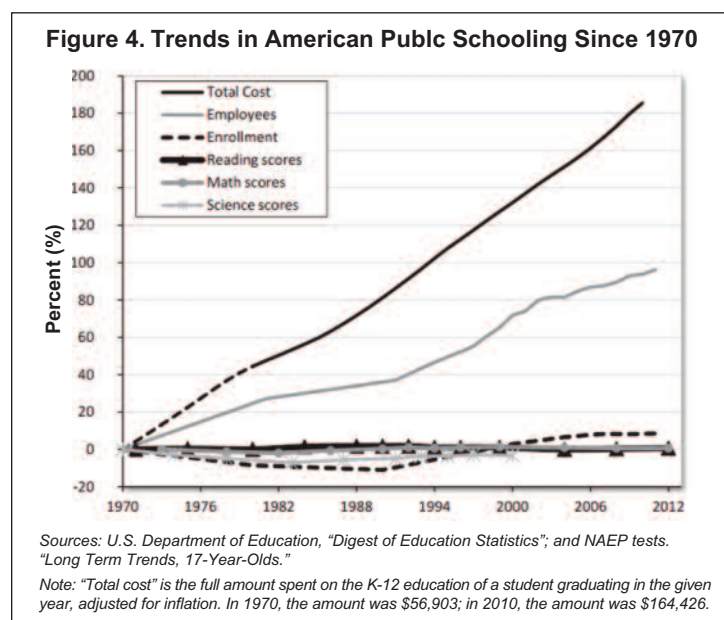
Source: National Assessment of Education Progress, KSDE



None of these conditions is met. For most groups, scores from 2003 to 2007 actually improved. The change in 2009 scores, which should have gone up had there been a causal relationship between money and outcomes, is a mixed bag. Some improved and some got worse. The changes in scores post-“constitutionally funded” education are also varied. Some are higher and some are lower. In 2015, the Kansas scores took a dip, mirroring the lower overall national scores. The best explanation for this is from William J. Bushaw, the executive director of the National Assessment Governing Board which sets policy for NAEP. Bushaw saw the nationwide decrease as a function of conversion to Common Core State Standards.<sup>29</sup> He used the term “curricular uncertainty” in describing how states are having trouble aligning curriculum to meet Common Core Standards, thus the lower scores.

### ■ Cato Institute 2014 study of statewide spending and performance

Andrew Coulson of the Cato institute analyzed state education spending and outcomes on NAEP and SAT going back over 40 years.<sup>30</sup> The graph from that study<sup>31</sup> shows the stark contrast between total K-12 spending per student and with employment, enrollment, and performance data.



Coulson concludes, based on Figure 4, that the data “suggests that there is essentially no link between state education spending ... and the performance of students at the end of high school.”

### ■ Eric Hanushek’s studies

Hanushek’s work in spending and performance has been oft-cited. The Heritage Foundation, in *Does Spending More on Education Improve Academic Achievement?*<sup>32</sup> cites Hanushek’s finding that “either no relationship or a relationship that is either weak or inconsistent” exists between spending and performance.<sup>33</sup>

In a 2016 Texas Supreme Court Case (discussed in more detail below) over education funding in the Lone Star State,<sup>34</sup> the Goldwater Institute, in an amicus brief, recognized the work of Hanushek regarding judicial intervention in school finance.<sup>35</sup>

Specifically,

the Hoover Institution’s Eric A. Hanushek states that the “simplest summary is that no currently available evidence shows that past judicial actions about school finance— either related to equity or to adequacy—have had a beneficial effect on student performance.” Why haven’t court-ordered spending increases boosted student performance? “The reason is now unfortunately quite obvious,” Hanushek says. “Measures of school resources do not provide guidance either about the current quality of schools or about the potential for improving matters.” Increasing expenditures without fixing underlying causes of failure does little or nothing to solve the problem. Education surely is one of the few services, if not the only one, for which violations of the product guarantee (in this case, the education guarantee of the Texas Constitution) are remedied by giving the failing producers more money.<sup>36</sup>

### ■ *Morath v. Texas Taxpayer and Student Fairness Coalition*<sup>37</sup>

In *Morath*, the constitutionality of the Texas education finance system was decided by the Texas Supreme Court in May 2016. In a brief filed by Senator Phil Gramm,<sup>38</sup> he cites Milton Friedman:<sup>39</sup>

The lesson taught by Dr. Friedman 40 years ago still holds true today: in the realm of public education, adding resources without changing the way public schools operate will not lead to improved results. In short, simply spending more money is not a panacea.

In *Morath*, the Court overturned a lower court finding that ruled in favor of more than 600 Texas school districts who sued the state seeking greater funding. Coincidentally, the attorneys for the *Gannon* plaintiffs also cited *Morath* in their brief, telling the Kansas Supreme Court to disregard *Morath* because it “is not persuasive in Kansas.”<sup>40</sup> Specifically, the attorneys say there is a difference between the two constitutions, “including – for instance – that the term ‘efficient’ does not appear in Article 6 of the Kansas Constitution.”<sup>41</sup> But simply because the Kansas constitution does not contain the word “efficient” does not preclude the Kansas Supreme Court from considering efficiency in determining the adequacy of a finance mechanism. Kansans have gone on record stating they strongly favor efficient spending when it comes to education spending. Nearly 9 in 10 Kansans expect school districts to spend efficiently and nearly three-quarters believe the new school finance formula should include some requirement for efficiency.<sup>42</sup>

### ■ Missouri School Finance Litigation review

Michael Podgursky, James Smith, and Matthew Springer, in a review of Missouri school finance<sup>43</sup> found no relationship between education spending and student performance. The authors concluded that “changes in school funding formulas, and the seemingly interminable litigation about those formulas, are not an effective vehicle for addressing achievement gaps or the overall level of school performance.”

Further, they found “not only is there no positive relationship between spending and average achievement, but there is no tendency toward compression either. High-spending districts are just as unequal as low-spending districts.”

When measuring only the spending effect on African American students receiving free and reduced lunches these authors conclude that, “there is no evidence of a positive effect of district spending (on student achievement).”

## ■ Spending and outcomes in North Dakota

During the past decade, education spending skyrocketed in North Dakota without any improvement in student performance. Dr. Larry Picus, who was commissioned by the state to do a funding adequacy study, explained the lack of improvement despite the increase in spending. A state oversight committee charged with the task of overseeing the report wrote that Picus:

insisted that expending a specific dollar amount per student would not achieve the desired results (increased student outcomes) unless the expenditures were linked to certain programmatic strategies that guaranteed the desired results. Without such linkages, the final effect would be nothing other than the existing education system at a much higher cost to taxpayers.<sup>44</sup>

Dr. Picus himself put it more succinctly: “just giving more money is not enough, it’s how it is spent.”

## CONCLUSION

As stated in the Introduction, the purpose of this brief is to investigate why the Supreme Court is not in a position to order more money to fund K-12 education pursuant to the *Gannon* case. The two issues critical to this notion are:

1. The *Rose* standards, which are to be the basis for determining an adequate education financing system, have neither been designed nor measured, as stipulated in the 2014 Supreme Court *Gannon* decision.
2. The argument by the plaintiffs’ attorneys that low assessment results by Kansas students are caused by insufficient funding is fundamentally flawed. The evidence is indisputable that there exists virtually no correlation between an increase in education spending and an increase in student outcomes, let alone a causal relationship between the two.

The State Board of Education, which is both constitutionally and statutorily charged with the “general supervision” of public schools – including setting standards – has not made provisions for either designing or measuring the *Rose* standards in the more than two years since the Supreme Court’s last decision. Instead, the board has relied on the Kansas Association of School Boards to take the lead on *Rose* standards. Given these realities, it is impossible for the Supreme Court to determine whether the state’s school finance system is, in their words, “reasonably calculated” to determine whether *Rose* standards are being met.

The brief filed by the attorneys for the *Gannon* plaintiffs claims that more money for public education should be ordered by the Court because low assessment scores are a function of the

schools not having “constitutional funding.” That argument should be disregarded by the court because a) they have no authority to determine if *Rose* standards been met and b) sufficient evidence has been provided herein that shows there is little, if any correlation between more spending and higher outcomes, at both the Kansas and national levels. Given this lack of correlation, there is no basis for an argument that more spending on education causes higher outcomes, as stated both implicitly and explicitly by the attorneys for the plaintiffs.

## ENDNOTES

- 1 <http://www.robblaw.com/PDFs/MockCase31WashburnL.J.489.pdf>
- 2 [https://nces.ed.gov/edfin/pdf/lawsuits/Montoy\\_v\\_KS.pdf](https://nces.ed.gov/edfin/pdf/lawsuits/Montoy_v_KS.pdf)
- 3 A summary of *Gannon* decisions are presented here: <https://kansaspolicy.org/2348-2/>
- 4 <https://kansaspolicy.org/dont-let-courts-close-schools/>
- 5 <http://kslib.info/832/Article-Six-Education>
- 6 Ibid.
- 7 [http://www.kslegislature.org/li\\_2012/b2011\\_12/statute/072\\_000\\_0000\\_chapter/072\\_064\\_0000\\_article/072\\_064\\_0039\\_section/072\\_064\\_0039\\_k/](http://www.kslegislature.org/li_2012/b2011_12/statute/072_000_0000_chapter/072_064_0000_article/072_064_0039_section/072_064_0039_k/)
- 8 <http://www.kscourts.org/cases-and-opinions/opinions/supct/2014/20140307/109335.pdf> p.3
- 9 [http://www.ksrevisor.org/rpts/2014\\_72\\_11\\_27.pdf](http://www.ksrevisor.org/rpts/2014_72_11_27.pdf)
- 10 Ibid
- 11 <http://www2.ljworld.com/news/2014/mar/18/education-officials-ponder-application-rose-standa/>
- 12 Ibid
- 13 <http://www.ksde.org/Portals/0/Learning%20Services%20Documents/Rose%20Standards%20Crosswalk%20cf%20TC2.pdf>
- 14 [https://www.kasb.org/assets/Publications/Rose%20Capacities%20Primer\\_Fall%202014.pdf](https://www.kasb.org/assets/Publications/Rose%20Capacities%20Primer_Fall%202014.pdf)
- 15 <https://www.youtube.com/watch?v=GQmEtF1eTsU> KASB presentation begins at the 17-minute mark.
- 16 <http://www2.ljworld.com/news/2014/jun/18/brownback-names-two-new-education-panel/> The K-12 Student Performance and Efficiency Commission was created by 2014 Senate Sub. for House Bill 2506, Section 29. It was charged with studying cost-effectiveness and look for opportunities for cost-efficiencies. The full report of the commission is available here: <http://www.kslegresearch.org/KLRD-web/Publications/CommitteeReports/2014CommitteeReports/K-12-student-perform-eficity-comm-cr.pdf>
- 17 <http://cjonline.com/blog-post/dave-trabert/2014-11-30/school-districts-don%E2%80%99t-know-how-measure-rose-standards-can%E2%80%99t>
- 18 Ibid
- 19 [http://www.kscourts.org/kansas-courts/supreme-court/Cases\\_of\\_interest/Cases/113267/20160812bSupplementalResponseBriefPlaintiffs-Appellees.pdf](http://www.kscourts.org/kansas-courts/supreme-court/Cases_of_interest/Cases/113267/20160812bSupplementalResponseBriefPlaintiffs-Appellees.pdf)
- 20 NAEP is self-described as “the largest nationally representative and continuing assessment of what America’s students know and can do in various subject areas.” <http://nces.ed.gov/nationsreportcard/about/> NAEP is given to a representative sample of 4<sup>th</sup> and 8<sup>th</sup> grade students in all states every two years in the areas of reading and math.
- 21 [http://www.kscourts.org/kansas-courts/supreme-court/Cases\\_of\\_interest/Cases/113267/20160812bSupplementalResponseBriefPlaintiffs-Appellees.pdf](http://www.kscourts.org/kansas-courts/supreme-court/Cases_of_interest/Cases/113267/20160812bSupplementalResponseBriefPlaintiffs-Appellees.pdf) pp. 10-14
- 22 <https://kansaspolicy.org/kpi-paper-at-risk-funding-increased-money-fails-to-increase-achievement/>
- 23 NAEP performance data was taken from the NAEP data explorer, available at <http://nces.ed.gov/nationsreportcard/naepdata/dataset.aspx>
- 24 Source: Kansas State Department of Education – Building Report Card ; (Note: state assessment scores and BSAPP are indexed at 100 to 2005-2006 levels.)
- 25 <http://www2.ljworld.com/news/2013/nov/12/state-reading-math-scores-drop-schools-shift-new-s/>
- 26 <http://www.edweek.org/ew/toc/2016/01/07/index.html>
- 27 The R<sup>2</sup> value is a measure of the strength of the relationship between the two variables: achievement and spending. An R<sup>2</sup> of .06, as in this case, is considered statistically “weak” (anything less than an R<sup>2</sup> of .09 is considered a weak relationship) and when the one outlier in the scatterplot (Vermont) is removed, the R<sup>2</sup> value is .02. Further explanation is available at: <https://kansaspolicy.org/nationwide-report-on-education-provides-evidence-that-kansas-students-perform-poorly-in-a-nation-of-mediocre-achievement/>

<sup>28</sup> Despite the fact that NAEP is given every two years, the attorneys gave no reason for leaving out 2013 results.

<sup>29</sup> [http://blogs.edweek.org/edweek/curriculum/2015/10/math\\_naep\\_scores\\_drop\\_for\\_4th\\_8th\\_grades.html?cmp=eml-enl-eu-news2](http://blogs.edweek.org/edweek/curriculum/2015/10/math_naep_scores_drop_for_4th_8th_grades.html?cmp=eml-enl-eu-news2)

<sup>30</sup> <http://object.cato.org/sites/cato.org/files/pubs/pdf/pa746.pdf>

<sup>31</sup> Ibid

<sup>32</sup> [http://www.heritage.org/research/reports/2008/09/does-spending-more-on-education-improve-academic-achievement#\\_ftn17](http://www.heritage.org/research/reports/2008/09/does-spending-more-on-education-improve-academic-achievement#_ftn17)

<sup>33</sup> Eric A. Hanushek, "School Resources and Student Performance," in Gary Burtless, ed., *Does Money Matter? The Effect of School Resources on Student Achievement and Adult Success* (Washington, D.C.: Brookings Institution Press, 1996), pp. 74-92.

<sup>34</sup> <http://www.txcourts.gov/media/1371141/140776.pdf>

<sup>35</sup> Eric A. Hanushek, ed., *Courting Failure: How School Finance Lawsuits Exploit Judges' Good Intentions and Harm Our Children* (2006), pp. xxiii-xxiv.

<sup>36</sup> <http://www.texaspolicy.com/library/doclib/Goldwater-Amicus-Brief.pdf>

<sup>37</sup> <http://www.txcourts.gov/media/1371141/140776.pdf>

<sup>38</sup> <http://www.search.txcourts.gov/SearchMedia.aspx?MediaVersionID=13b9967b-a6cb-4709-8c88-aa737b9497fa&coa=cossup&DT=BRIEFS&MediaID=ae628f2e-545e-4b29-af3d-1eeea6b4fb8>

<sup>39</sup> Milton Friedman, et al., *Free to Choose* 145 (1979)

<sup>40</sup> [http://www.kscourts.org/kansas-courts/supreme-court/Cases\\_of\\_interest/Cases/113267/20160812bSupplementalResponseBriefPlaintiffs-Appellees.pdf](http://www.kscourts.org/kansas-courts/supreme-court/Cases_of_interest/Cases/113267/20160812bSupplementalResponseBriefPlaintiffs-Appellees.pdf) 36

<sup>41</sup> Ibid., p. 37

<sup>42</sup> <https://kansaspolicy.org/kansans-want-efficiency-no-new-taxes-schools/>

<sup>43</sup> M. Podgursky, J. Smith, and M.G. Springer, A New Defendant at the Table: An Overview of Missouri School Finance and Recent Litigation, *Peabody Journal of Education*, 83: 174-197, 2008, pp. 174, 180, 189-190, and 191-195.

<sup>44</sup> <http://www.legis.nd.gov/files/resource/63-2013/legislative-management-final-reports/2015finalreport.pdf?20160419112117>



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## About the Author

**David Dorsey** is a Senior Education Policy Fellow with Kansas Policy Institute. His primary emphasis in this role is combining his time spent as a public school teacher with policy research on issues related to K-12 finance, student achievement, and education reform. Prior to joining KPI, David spent 20 years as a public school elementary teacher, 17 in Kansas. He was both a classroom and specialty teacher and served in various leadership capacities in those schools. David finished his teaching career with eight years as a mathematics interventionist at Lowman Hill Elementary School in Topeka USD 501 working with at-risk students. Prior to teaching he spent 15 years working in state and local government in Arizona as a city administrator, research analyst for the Phoenix Police Department, and a program evaluator for the largest state agency in Arizona. He earned a Master of Arts in Political Science from Arizona State University with an emphasis on research and statistical analysis in 1980. David was born and raised in South Dakota and received a BS degree from the University of South Dakota in 1977 with a major in Political Science and a minor in Economics.

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