

School finance litigation...points to consider...

The Kansas Constitution.

- The Kansas Constitution requires public schools run by local boards of education.
- The Constitution also provides that these schools be suitably funded.
- The Kansas Supreme Court has held that the suitable funding provision of the constitution “thus imposes a mandate that our education system cannot be static or regressive but must be one which “advances to a better quality or state.”

The Kansas Legislature’s Duty.

- The Constitution provides that “The legislature shall provide, at each regular session, for raising sufficient revenue to defray the current expenses of the state for two years.” (Article 11, Section 4)
- It is the duty of the legislature to adequately fund government.
- The legislature knows the cost to adequately fund schools. They have specifically commissioned studies on this topic, but continue to ignore the cold, hard facts.
 - Augenblick and Myers Cost Study (2002)
 - A&M found that the base should be set at \$4650 in 2001-02 dollars and that the state was \$852 million short on funding schools in 2003-04.
 - Legislative Post Audit Cost Study (2006)
 - LPA found that the base should be set at \$5695 in 2010-11 dollars and that, prior to the cuts, the state is underfunding schools by \$635.9 million for 2010-11. When the cuts are added in, the state is currently \$938.9 million short of funding the known cost of schools.

The Budget Cuts.

- Thus far the legislature and the governor have reduced education funding in excess of \$303 million, due to a lack of revenue and a lack of political will to raise taxes.
- Even after these cuts, the legislature is facing a \$105 million shortfall for this year, a \$426 million deficit for next year and an \$800 million deficit for the following year. Without revenue increases, schools will be staring at an additional \$200 million dollar cut for next year and a then an additional \$400 million dollar cut the following year.
- These cuts do not make schools “advance to a better quality or state.” The cuts are in direct violation of the Kansas Constitution.

The Foreseeable Budget Disaster.

- This budget disaster was foreseen long before the current recession. In 2006 it was known that the state would face a huge budget shortfall in 2009, unless taxes were increased.
- The Topeka Capital Journal reported “In fact the school finance bill that will become law... is projected to leave the state with a \$422 million budget shortfall by mid-2008.” (Topeka Capital Journal, May 11, 2006) In the same story it went on to report “Meanwhile, the Legislature finished its session by passing a bill that would eliminate property taxes on new business machinery and equipment. Lawmakers rejected the notion that it was irresponsible to reduce revenues— by an estimated \$123 million over three years— in the face of a budget deficit. The measure passed 28-11 in the Senate and 109-10 in the House.”

- In recent years the Legislature has reduced taxes by over \$1 billion, knowing that the state would not be able to keep its mandated commitment to schools.

Safety Net Squandered.

- The state had almost \$1 billion in positive cash balances on July 1, 2008. By grossly mismanaging the state budget and reducing income, the legislature has squandered the state safety net and will have created an almost \$2 billion budget deficit in less than four years.
- This gross fiscal mismanagement has endangered our children, the disabled, the elderly, the medical system, law enforcement, the prisons, the Judiciary, the transportation system, the state pension fund and all other areas of state government.
- It continues this legislative session. We are told that increasing taxes is not an option. The governor has called any future cuts “crippling” to the state. When is enough, enough? Who will take steps to stop it?

Checks and Balances.

- As we learned in Government class, years ago, our state has three branches of government: the Legislative branch, the Judicial branch and the Executive branch.
- These co-equal branches of our government serve as checks and balances on each other.
- The Kansas Supreme Court is tasked to interpret the Constitution and keep the Legislative and Executive branches operating within the limitations of the Constitution.
- When the Legislative branch of government violates the Constitutional provisions concerning school funding, it is left to the schools to call them on it and bring the dispute to the courts for resolution.

Taxpayers suing Taxpayers.

- There is absolutely nothing improper with one unit of government taking other units of government to court to settle a dispute. It happens routinely. It is why the Courts exist.
- When the legislature passed the casino gambling bill, the state sued itself to see if the act was constitutional.
- Kansas has sued Colorado and Nebraska over water rights for decades.
- Kansas has litigated with the Federal Government.
- Local governments have sued each other over annexation of land.
- The Kansas Speaker of the House has even sued the state over the constitutionality of legislative budgeting issues.
- Apparently these so-called “taxpayers suing taxpayers suits” are only objectionable if it happens to be the schools filing suit to protect the education rights of the children of Kansas.

! New School Funding Lawsuit.

- 72 Kansas school districts representing 163,375 school children have banded together in an attempt to stop the wrongdoing.
- They have authorized a new school funding suit to stop the bleeding and restore the funding cuts.
- Hurdles have been enacted by the legislature to slow these suits down and make them more costly.
- The schools attempted a quicker and cheaper course of action which was unsuccessful. The Supreme Court told the group to simply file a new lawsuit.

- A “Notice of Intent to File Suit” will be filed in late spring with a new lawsuit filed 120 days later, in late summer.

The Education Advisor to the Legislature.

- The 2010 Commission, an advisory body appointed by the legislature, sums it up well:
“...the Commission believes we cannot sacrifice a generation of Kansas students because the economy is weak. It is time for the legislature to take steps to ensure that the revenue and funding policies of the Legislature allow every Kansas student to achieve his or her full potential.”