

IN THE SUPREME COURT OF KANSAS

Luke GANNON, by his Next Friends     )  
and Guardians, et al., Appellees,     )     Case No. 113,267  
  )  
v.    )  
  )  
STATE of Kansas, Appellant.            )

**APPLICATION BY THE LEGISLATIVE COORDINATING COUNCIL FOR LEAVE  
TO FILE *AMICUS CURIAE* BRIEF TO ADDRESS THE CONSTITUTIONALITY OF  
SENATE BILL 19**

The Legislative Coordinating Council of the Kansas Legislature (“LCC”) hereby seeks leave to file an amicus brief in support of the constitutionality of Senate Bill 19 of the 2017 Session of the Kansas Legislature (“SB19”) as signed into law by Governor Sam Brownback on June 15, 2017. In support of this request, the LCC states as follows:

1. Kansas Supreme Court Rule 6.06 provides that “A brief of an amicus curiae may be filed when: (1) an application to file the brief is served on all parties and filed with the clerk of the appellate courts; and (2) the appellate court enters an order granting the application.”

2. The LCC consists of “the president of the senate, the speaker of the house of representatives, the speaker pro tem of the house of representatives, the majority leader of the senate, the majority leader of the house of representatives, the minority leader of the senate, and the minority leader of the house of representatives.” K.S.A. 46-1201.

3. The LCC was created by state law in relevant part to “have general authority over all legislative services” and “represent the legislature when the legislature is not in session.” K.S.A. 46-1202.

4. Kansas law authorizes the LCC, through a vote of five of its members, to participate in school finance litigation through legislative counsel. Specifically, “legislative counsel shall be appointed by the legislative coordinating council.... The legislative counsel

shall represent the legislature, or either house thereof, in any school finance litigation or other cause or matter as directed by the legislative coordinating council.” K.S.A. 46-1222a.

5. This Court has recognized repeatedly that “the legislature has the power—and duty—to create a school funding system that complies with Article 6 of the Kansas Constitution.” *Gannon v. State*, 390 P.3d 461, 483 (March 2, 2017) (“*Gannon IV*”) (citing *Gannon v. State*, 298 Kan. 1107, 1146, 319 P.3d 1196 (2014) (“*Gannon I*”).

6. As the branch of government responsible for the state budget and the school finance system, the Kansas Legislature has a significant interest in the Court’s understanding of Senate Bill 19, its interpretation of Article 6 of the Kansas Constitution, and its application of that law to SB19.

7. In addition to its constitutional duty “to create a school funding system,” the Legislature has unique insight on the months of hearings and deliberation that culminated in passage of SB19. As such, participation of the Legislature in this proceeding would assist the Court in assessing the constitutionality of this important new law.

8. Only 12 days remain until SB19 goes into effect. This legislation, and the recognition of its constitutional compliance by this Court, are therefore critical to Kansas schools remaining open on July 1, 2017, and, consequently, to the success of every Kansas student. As such, the Legislature’s ability to participate in these proceedings is vital and well calculated to assist the Court in its important work.

9. The LCC’s Application, and the Legislature’s participation in school finance litigation, is specifically envisioned by K.S.A. 46-1222a. *See* K.S.A. 46-1222a (“The legislative counsel shall represent the legislature, or either house thereof, in any school finance litigation or other cause or matter as directed by the legislative coordinating council.”).

10. Furthermore, such legislative participation follows precedent established by this Court. The Kansas Supreme Court has found participation by the LCC on behalf of the Kansas Legislature sufficiently helpful in previous school finance litigation to grant the LCC leave to file an amicus brief.

11. On July 6, 2005, the Kansas Legislature passed a new school finance formula in response to an order of this Court. *Montoy v. State*, 282 Kan. 9, 13-14, 138 P.3d 755, 759 (July 28, 2006) (“*Montoy V*”). Two days later, the Court approved that new formula “for interim purposes,” retaining jurisdiction to further review the formula on a permanent basis. *Id.* at 15.

12. After the Kansas Legislature made further changes to the formula in its 2006 session, the Court ordered briefing and oral argument on the constitutionality of the 2006 formula. As part of its deliberations, the Court granted leave for the LCC to file an amicus brief through its then-legislative counsel, Stephen McAllister, who also participated in oral arguments. *Montoy V*, 282 Kan. at 9.

13. Similarly, the 2017 Kansas Legislature passed Senate Bill 19, and the Governor signed, comprehensive new school finance legislation that substantially addressed concerns raised by this Court in a previous order. SB19, and the Court’s response to that enactment, will have enormous and immediate consequences on Kansas schools, just as the actions of their predecessors did in 2005-06 in *Montoy V*.

14. Eleven years ago, the Court found the views of the Kansas Legislature on recently passed school finance legislation sufficiently important to allow it to appear before the *Montoy* Court as amicus curiae. The LCC, through this application, merely seeks the same ability to present the Legislature’s perspective on SB19 and *Gannon* through an amicus brief.

WHEREFORE, having stated precedent, statutory authority, public interest and other good cause supporting its application, the Legislative Coordinating Council of the Kansas Legislature respectfully requests that the Kansas Supreme Court grant it leave to file an amicus brief in support of the constitutionality of Senate Bill 19.

Dated: June 19, 2017

Respectfully submitted,

COLLINS & JONES, PC

By: /s/ Jeffrey R. King

Jeffrey R. King KS #20735  
12980 Metcalf Ave., Suite 100  
Overland Park, KS 66213  
Phone: 913-353-5548  
Fax: 913-353-5549  
jking@collinsjones.com  
**Attorney for Legislative  
Coordinating Council**

**CERTIFICATE OF SERVICE**

I hereby certifies that on June 19, 2017, I electronically filed the above and foregoing with the Clerk of the Appellate Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record in this litigation.

/s/ Jeffrey R. King

Jeffrey R. King