

SESSION OF 2018

**SUPPLEMENTAL NOTE ON HOUSE CONCURRENT
RESOLUTION NO. 5029**

As Amended by House Committee on Judiciary

Brief*

HCR 5029 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): “Such provision is suitable if it is adequate and equitable. The power to establish and the jurisdiction to resolve all questions regarding the adequacy of such provision shall be exclusively within the legislative power of the state.”

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 November 2018, 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 provisions for finance of the educational interests of the state”; prohibits tuition charges for public schools, except 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.

*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>

Article 14, Section 1 of the *Kansas Constitution* allows amendments 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 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*.

HCR 5029 was introduced by the House Committee on Taxation at the request of the Kansas Coalition for Fair Funding. As introduced, the resolution would have replaced the phrase “the legislature shall make suitable provision for finance of the educational interests of the state” with “as all political power is inherent in the people, the legislature shall determine suitable provision for finance of the educational interests of the state.” The resolution then would have added the following language:

The determination of the total amount of funding that constitutes suitable provision for finance of the educational interests of the state is exclusively a legislative power, and shall be made as provided by law. Such power is committed to the legislature under article 2 of this constitution and shall be shown due respect by the other branches of government. No court, or other tribunal, established by this constitution or otherwise by law shall alter, amend, repeal or otherwise abrogate such power, nor shall such power be exercised by, either directly or indirectly, by any such court or other tribunal.

The House Committee on Judiciary held an informational briefing by staff of the Office of Revisor of Statutes on the history of Article 6 of the *Kansas Constitution*; the history of school finance litigation in Kansas, including the Kansas Supreme Court’s most recent decision in *Gannon v. State*; prior legislation addressing school finance litigation;

and education provisions of the 50 state constitutions. The Attorney General also presented testimony at the briefing, encouraging the Legislature to provide a timely response to the latest *Gannon* decision and to consider providing Kansas voters with an opportunity to clarify the intent of Article 6.

At the House Committee on Judiciary hearing, staff of the Office of Revisor of Statutes provided answers to questions asked by the Committee during the informational hearing. Representatives Aurand, Johnson, and Waymaster testified in support of the resolution. Also appearing in support of the resolution were representatives of the Kansas Coalition for Fair Funding, Kansas Chamber of Commerce, Kansas Contractors Association, Kansas Farm Bureau, Kansas Livestock Association, Kansas Policy Institute, and Petroleum Marketers and Convenience Store Association of Kansas, as well as a Johnson County commissioner speaking on his own behalf.

A representative of the Kansas Association of Counties provided written-only neutral testimony.

Opponent conferees included representatives of Game on for Kansas Schools, Kansas Association of School Boards, Kansas Farmers Union, Kansas National Education Association, Kansas PTA, and MainStream Coalition, as well as a private citizen. Written-only opponent testimony was submitted by Representative Bishop; representatives of American Federation of Teachers – Kansas, Board of Education of USD 497 Lawrence Public Schools, Five Shawnee County School Districts – One United Voice, Kansas Center for Economic Growth, Kansas Trial Lawyers Association, Olathe Public Education Network, Schools for Fair Funding, Schools for Quality Education, and Topeka Public Schools; and 14 private citizens.

The House Committee amended the resolution to retain the existing “suitable provision” clause, change the wording of the language that would be added, and reword the explanatory statement.