

SESSION OF 2005

SUPPLEMENTAL NOTE ON SENATE BILL NO. 181

As Recommended by House Committee on
Education

Brief*

SB 181 would require the Chief Justice of the Kansas Supreme Court to notify the Chief Judge of the Court of Appeals, who would appoint a panel of three district judges to hear any suit brought by a plaintiff alleging a violation of the Education Article (Article 6) of the *Kansas Constitution*.

Under provisions of the bill, venue would be based on location and convenience of the parties and witnesses to the case. The bill would establish the burden of proof in any such action as follows:

- ! The burden would be on the plaintiffs to prove that state funds appropriated and allocated are not sufficient to fund the cost of providing the subjects or areas of instruction required by state law, including reasonable and necessary related instruction, administration, support staff, supplies, equipment, and building costs.

- ! In determining whether the plaintiffs have met their burden of proof, the court panel would not be bound by the manner in which state funds were allocated, but would make a determination based on an analysis of adequacy, had state funds been utilized first to fund the reasonable and necessary costs of providing the required subjects or areas of instruction and related services.

Finally, the bill would provide that an appeal from the three-judge panel decision may be made directly to the Kansas Supreme Court as a matter of right under KSA 60-2012(b).

*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>

Background

The bill was supported by the Kansas Attorney General. The proponent said issues involving school finance litigation were of such statewide importance they required a broader perspective than a three-judge panel could provide.

The House Committee amended by the bill as follows:

- ! The Chief Judge of the Court of Appeals making the appointment of the three judges instead of the Chief Justice of the Supreme Court;
- ! The venue would be based on location and convenience of the parties and witnesses instead of the county as designated by the three-judge panel; and
- ! The establishment of burden of proof.

The bill would have a fiscal impact on the Judiciary, but the impact cannot be estimated.