

SPECIAL SESSION OF 2005

**SUPPLEMENTAL NOTE ON
HOUSE CONCURRENT RESOLUTION NO. 5002**

As Introduced by House Committee on
Federal and State Affairs

Brief*

HCR 5002, if adopted by voters at an August 16, 2005, special election, would amend Article 6 of the *Kansas Constitution* to add an additional section that would clarify that the courts are without authority to review the funding of public education or the distribution of education expenditures; and would stipulate further that the courts would be prohibited from applying Section 6 of Article 6 (relating to education finance). Additional language would provide that authority to determine the structure and level of education funding is a power reserved exclusively to the Legislature and the Governor.

Background

The concurrent resolution was introduced at the request of Representative Kinzer.

In *Ryan Montoy, et al, v. State of Kansas*, the Kansas Supreme Court on June 3 issued a supplemental opinion requiring the Legislature by July 1 to "implement a minimum increase of \$285 million above the funding level for the 2004-05 school year, which includes the \$142 million presently contemplated" in school finance legislation (HB 2247) approved by the Legislature, which the Governor allowed to become law without her signature.

The court further noted that in "deference to the [post audit] cost study analysis mandated by the Legislature in HB 2247, the implemen-

*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>

tation beyond the 2005-06 school year will be contingent upon the results of the study directed by HB 2247 and this opinion.

"Further, if (1) the post audit study is not completed or timely submitted for the legislature to consider and act upon it during the 2006 session, (2) the post audit study is judicially or legislatively determined not to be a valid cost study, or (3) legislation is not enacted which is based upon actual and necessary costs of providing a suitable system of finance and which equitably distributes the funding, we will consider, among other remedies, ordering that, at a minimum, the remaining two-thirds (\$568 million) in increased funding based upon the Augenblick and Myers study be implemented for the 2006-07 school year."