

IN THE SUPREME COURT OF THE STATE OF KANSAS

No. 113,267

LUKE GANNON, by his next friends and guardians, *et al.*,
Appellees,

v.

STATE OF KANSAS,
Appellant.

ORDER

On April 19, 2018, the State filed a "Notice of Legislative Cure and Motion to Bifurcate Briefing." The State asserted that 2018 Substitute for Senate Bill No. 423 (S.B. 423)—signed by Governor Colyer on April 17—cured four equity violations this court identified in *Gannon v. State*, 306 Kan. 1170, 402 P.3d 513 (2017) (*Gannon V*). The State also argued that S.B. 423 codified significant and sustained increases to school funding, but contended "not all the money appropriated is distributed by S.B. 423." It cited statements by the governor and comments by counsel for the Kansas House of Representatives and Senate, and represented the Kansas Legislature intended to take additional action during the veto session which would begin April 26, 2018.

To allow time for the Legislature to act, the State asked this court to amend the briefing schedule established in *Gannon V* to bifurcate briefing on the adequacy and equity issues. The State proposed: (1) concurrent briefing on equity issues due April 30, 2018; (2) concurrent briefing on adequacy and equity responses on May 10, 2018; and (3) optional reply briefs addressing adequacy on May 15, 2018.

On April 23, 2018, Plaintiffs responded and asked this court to deny the State's proposal to bifurcate briefing on the issues of equity and adequacy because those issues are intertwined. They suggested that if this court were inclined to modify the briefing

schedule, then the following deadlines should be set: (1) concurrent briefing addressing both adequacy and equity on May 7, 2018; and (2) concurrent reply briefs on May 14, 2018. Plaintiffs also indicated an intention to raise two equity issues if S.B. 423 were not modified during the upcoming veto session.

On April 24, 2018, this court held a prehearing conference on the State's motion by telephone. The Plaintiffs were represented by Alan L. Rupe and Jessica L. Skladzien, of Lewis Brisbois Bisgaard & Smith, LLP; and by John S. Robb, of Somers, Robb & Robb. The State was represented by Toby Crouse, Solicitor General of Kansas; by Jeffrey A. Chanay, Chief Deputy Attorney General; by Bryan C. Clark and Dwight R. Carswell, Assistant Solicitors General; and by Arthur S. Chalmers, of Hite, Fanning & Honeyman, LLP.

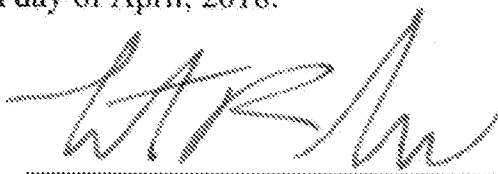
During the conference, the parties jointly requested an extension of time to file briefs. Because the veto session is set to end on May 4, 2018, both parties proposed the following schedule: (1) concurrent briefs due on May 8; and (2) reply briefs due on May 15. Chiefly based on their recommended timelines, we grant their joint request for the extension of time. Accordingly, we order concurrent briefing of all issues on the following schedule:

- Each party shall file its first brief by noon on Monday, May 7, 2018. Each brief shall be limited to 50 pages excluding the cover, table of contents, appendix, and certificate of service.
- Each party shall file its reply brief by noon on Monday, May 14, 2018. Each brief shall be limited to 25 pages excluding the cover, table of contents, appendix, and certificate of service.
- Format of the briefs shall conform to Supreme Court Rule 6.07 (2018 Kan. S. Ct. R. 37).

Plaintiffs' response also indicated that the State had not finalized the minutes for all of the meetings of the Senate Select Committee on Education Finance, Senate Education Committee, House K-12 Education Budget Committee, House Education Committee, and House Judiciary Committee. Plaintiffs requested that those minutes be completed by April 30 or May 7, 2018.

The State responded it has been updating the meeting minutes on a rolling basis and toward that end had contacted counsel for the House and Senate, but admitted that not all the information is available yet. Given the State's recent cooperation in proposing briefing dates, we are confident it will continue to act in good faith, expedite the minutes' production and update its website as soon as the information becomes available. All legislative or Kansas Department of Education materials the parties cite in their briefs should be included as attachments.

BY ORDER OF THE COURT this 25th day of April, 2018.



LAWTON R. NUSS,
Chief Justice