

STATE OF KANSAS

DR. STEVE E. ABRAMS  
SENATOR, 32ND DISTRICT  
6964 252ND ROAD  
ARKANSAS CITY, KANSAS 67005

DURING SESSION  
STATE CAPITOL—541-E  
TOPEKA, KANSAS 66612  
OFFICE: 785-296-7381 FAX: 785-368-6365



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS  
AGRICULTURE  
EDUCATION  
FEDERAL AND STATE AFFAIRS  
NATURAL RESOURCES  
E-mail: sabrams@hit.net

**Testimony on SB 1608 before Senate Judiciary  
By Steve E. Abrams Feb 13, 2013**

Mr. Chairman and members of the Committee,

Where does the legislature get its authority to do what it does? Do Senators and Representatives derive their authority because they are all really good looking or because they are really smart?

Should the legislature do something beyond their authority? Obviously the answer is "no."

From where does the legislature derive its authority? Again, the answer is obvious. It is the Kansas Constitution.

I am sure that each of you has read the Kansas Constitution. Article 1 authorizes the Executive branch. While Article 2 authorizes the Legislative branch and Article 3 authorizes the judicial branch. Articles 4 through 15 authorize elections, suffrage, education, public institutions, militia, and seven other areas that are important to life in Kansas.

But it surely doesn't hurt for me to talk briefly about one of the articles of the Constitution in just a bit more detail.

As previously stated, Article 3 of the Kansas Constitution authorizes the organization of the judicial system in Kansas and I want to give a brief synopsis.

According to the Kansas Constitution, the Judicial Power has general administrative authority over all Kansas courts. But judicial power of this state shall be vested exclusively in one court of justice, which shall be divided into one Supreme Court, district courts, and such other courts as are provided by law. The Court shall set rules to govern the appellate practice in the Kansas Court of Appeals and the Supreme Court, including procedures in the district courts.

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It also provides oversight to the legal profession by setting rules that provide for the examination and admission of attorneys within the state and the code of professional responsibility which governs the conduct of attorneys. Article 3 also includes the canon of judicial ethics which regulate the conduct of judges. Lastly it sets the rules for the examination and certification of official court reports. The Article also authorizes the ability to ensure compliance by its members, in other words, the Court may discipline attorneys, judges, and non-judicial employees.

Article 3 gives a lot of authority to our Judicial System. But I want to point out that nowhere does Article 3 give authority to the courts to appropriate money. Nor does Article 3 give authority to the courts to determine policy for the state.

Both of these items are important, and they are strictly within the realm of the legislature. It is the legislature that has the authority to appropriate tax monies. It is the legislature that has the authority to deliberate on the bills to determine what entities will be able to spend those tax monies. Specifically, to the question at hand, policy decisions on financing schools is authorized by our Kansas Constitution to be the introduction of a bill in the legislature, deliberation of a bill in the legislature, voting on a bill in the legislature and then the signing of a bill by the Governor.

It is not the judicial system stating that "X" amount of dollars is required and that it must be spent in a certain way and no other amount and no other way of spending will suffice.

Just as the people of this state have an opportunity to remind each legislator every 2 years or 4 years that our power is limited; the people of this state must have the opportunity to remind the Judiciary that their power is also limited and that the Kansas Constitution gives authority for appropriation and policy development to the legislature and the legislature alone. I would urge you pass SB1608 out favorably.

I would stand for questions at the appropriate time.

Sincerely,



Steve E. Abrams