

SPECIAL SESSION OF 2016

**SUPPLEMENTAL NOTE ON SENATE CONCURRENT
RESOLUTION NO. 1602**

As Amended by Senate Committee on Judiciary

Brief*

SCR 1602 would submit to the qualified electors of the state an amendment to Article 6, Section 6 of the *Kansas Constitution* that would prohibit school closure as a remedy in civil actions in which a statute or other legislative enactment has been held unconstitutional as a violation of Article 6. Specifically, the amendment would prohibit any court from ordering a school district or any attendance center within a school district to be closed or from making or enforcing any other order or remedy that prohibits the expenditure of funds such that a school district or any attendance center within a school district shall not operate. Further, the amendment would specify the Legislature would not have such authority when its action is in direct response to a court ruling.

If approved by two-thirds of the members of the House and Senate, the amendment would be submitted to the electors at the November 2016 general election.

Background

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

*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>

majority of those voting on any such amendment approve the amendment, it becomes a part of the *Kansas Constitution*.

When multiple amendments are proposed, a separate vote is taken for each, with no more than five amendments being considered in the same election.

On June 16 and 17, 2016, the House and Senate Committees on Judiciary held a joint meeting to receive staff overviews regarding the *Gannon v. State* school finance litigation, including the Kansas Supreme Court's order of May 27, 2016 (*Gannon III*); pre-*Gannon* school finance litigation; school finance litigation in other states and the judicial and legislative responses to such litigation; and background on the 2005 Kansas law prohibiting school closure (codified at KSA 72-64b03(d) and KSA 60-2106(d)) and possible constitutional amendments on the same topic. Following these overviews, public comments, and discussion, the Senate Committee on Judiciary recommended the language of this concurrent resolution be introduced at the Special Session commencing June 23, 2016.

Following introduction of the concurrent resolution, at the hearing before the Senate Committee on Judiciary, representatives of the Kansas Chamber of Commerce and Kansas Policy Institute testified as proponents of the concurrent resolution. Representatives of the Kansas Association for Justice and the Kansas Association of School Boards submitted written testimony opposing the concurrent resolution.

The Senate Committee amended the resolution to change the election date from the August 2016 primary election to the November 2016 general election.