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Finance formula upheld

Staff and wire reports

The Kansas Supreme Court today approved lawmakers' plan to boost school funding by \$541 million over three years and dismissed the lawsuit that had forced legislators to dramatically increase spending on public schools.

The decision allows officials in USD 383 and other districts to move forward with budget considerations for the 2006-2007 school year.

"We're obviously at a point where we can definitively proceed, knowing that this is the formula," observed USD 383 Supt. Bob Shannon. He noted that the board is scheduled to hold a budget work session Wednesday, with the likelihood of additional discussion during its regularly scheduled meeting.

Dave Colburn, school board president, expressed mixed feelings about the decision.

"On the positive side, this new funding formula gives us additional funding that will benefit the students," said Colburn, referring to funds focusing on at-risk, special education, and ESL students.

But he said the decision also presents challenges.

"The challenge for our board is that the court has signed off on allowing higher local option budgets and the board will have to decide if it wants to go in that direction," Colburn said. "The money coming in to our general fund out of the new formula is not very significant, and it does not match the rate of inflation."

Colburn said he "generally" agreed with the dissenters in the court's 4-2 decision, but at the same time "I will acknowledge that we have benefited from this process."

State Rep. Sydney Carlin and Tom Hawk, both of whom supported the formula, praised the court's decision.

"I think it's important to note our efforts to define and address the problems as defined by the court opinion were sufficient, and that our own cost studies addressed the issue in a satisfactory manner," said Carlin.

"I think we worked so hard in the legislation to have good bipartisan support," said Hawk. "The fact that we could pass something that was a bipartisan effort that substantially improved the education here and statewide makes me feel good."

The court's 4-2 decision concluded that legislators substantially complied with previous orders to increase spending on schools. While it dismissed the lawsuit, the court acknowledged it was leaving for another day the question of whether the new school finance law will continue to fulfill legislators' duty under the state constitution to fund a suitable education for every child.

In the majority opinion, the court said the only issue before it was whether the funding plan complied with its orders. The court also said that it had to be mindful of "the realities of the legislative process."

The decision was a major victory for legislators and Gov. Kathleen Sebelius, who had hoped the justices would see the plan passed this year as a good faith effort and end the lawsuit. The increase, once phased in, would boost public school funding for the state's 296 school districts and 450,000 students to about \$3.5 billion.

In a brief statement before the opinion was released, Chief Justice Kay McFarland said that because of the plan children will be better educated, benefiting the state.

"This case is not about winners and losers," McFarland said. "It is about the children of Kansas."

The lawsuit was filed in 1999 by parents and administrators in Dodge City and Salina, and even with the infusion of the new money into education, they still believed that over the next three years, the state would be almost \$1 billion short of meeting schools' needs.

Kathy Cook, executive director of Kansas Families United for Public Education, questioned whether legislators will fulfill their promises to schools now that they are not working under the threat of court action.

"I'm a little dismayed," she said.

However, Dan Biles, attorney for the State Board of Education, took little comfort in the court's decision. He said the court's leaving open the question of the plan's constitutionality "is an invitation for these plaintiffs or anybody else to attack it."

"In school finance, the case can be over today and another filed tomorrow."

Biles noted that the plaintiffs also filed a separate federal lawsuit in 1999, which has been on hold while the state case went forward.

Justices Carol Beier and Marla Luckert dissented. Writing their opinion, Beier said she would prefer to return the case to district court, keeping it alive.

Beier wrote that she was "unwilling to graft a 'good enough for government work' phrase" into an interpretation of the Kansas Constitution.

"The appropriate way to respond is not to throw the plaintiffs out of court," Beier wrote.

Justice Lawton Nuss did not participate in the decision, having removed himself from the case in April after disclosing that he had discussed school finance issues with two senators.

The court's decision came three weeks before students began returning to their classrooms — and as local boards of education tried to finish work on budgets for the school year. Also, the ruling was only four days before Democratic and Republican primaries.

Legislators this year did not approve any proposals for raising new revenues, and projections show the new spending would lead to a budget shortfall by 2009.

"Now the Legislature can get on with its other business, as well as education," said House Speaker Doug Mays, R-Topeka. "Just because the suit has been dismissed doesn't mean the Legislature will ignore the issue."