

July 2, 2005

IN THE SUPREME COURT OF THE STATE OF KANSAS

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No. 92,032

RYAN MONTTOY, *et al.*,  
*Appellees/Cross-appellants*,

v.

THE STATE OF KANSAS, *et al.*,  
*Appellants/Cross-appellees*.

**ORDER TO APPEAR AND SHOW CAUSE**

WHEREAS, in this Court's June 3, 2005, Supplemental Opinion (June opinion) in the above-captioned appeal, we held that 2005 House Bill 2247 fails to comply with our January 3, 2005, opinion in this case and fails to bring the Kansas School District Finance and Quality Performance Act (SDFQPA), K.S.A. 72-6405 *et seq.* into compliance with Article 6, § 6 of the Kansas Constitution; and

WHEREAS, we ruled in our June opinion in part that no later than July 1, 2005, for the 2005-06 school year, the Legislature shall 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 H.B. 2247; and

WHEREAS, the Governor of the State of Kansas, pursuant to the authority vested in her by the Kansas Constitution, issued a Proclamation on the 9<sup>th</sup> day of June 2005, calling the Legislature of the State of Kansas into Special Session for Kansas Schools on June 22, 2005; and

WHEREAS, although the Legislature has been in Special Session since June 22, it has been unable as of this date to enact legislation to comply with the Orders of this Court regarding the minimum increase in funding for the 2005-06 school year, as set out in our June opinion; and

WHEREAS, in our June opinion, we expressly retained jurisdiction of this appeal and held that, if necessary, further action would be taken by this Court as we deemed advisable to ensure compliance with our opinion.

NOW, THEREFORE, IT IS HEREBY ORDERED, that counsel for the parties appear before this Court at 9 o'clock a.m. on Friday, July 8, 2005, to show cause, if any there be, why this Court should not

issue an injunction, which as a traditional judicial remedy therefore clearly respects the separation of powers between the legislative and judicial branches. Specifically, counsel should demonstrate why this Court should not enter an ORDER enjoining the expenditure and distribution of any funds for the operation of Kansas schools pending the Legislature's compliance with this Court's June ruling regarding minimum funding increases for the 2005-06 school year.

IT IS FURTHER ORDERED, that the parties, shall address during the hearing what, if any, exceptions to such an injunction this Court should ORDER. These include, but are not limited to, those listed by the district court in its Order of May 18, 2004, e.g., payment of school districts' general obligation bonds, temporary notes, no-fund warrants and leases, lease-purchase agreements, and other financial obligations relating to the acquisition of capital assets.

BY ORDER OF THE COURT, this 2nd day of July 2005.

FOR THE COURT

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KAY McFARLAND  
Chief Justice