

# KANSAS SCHOOL FINANCE LITIGATION CHRONOLOGY *Montoy and Robinson*

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<b>Summary of case scope</b>	<p>This effort to effect change in school finance in Kansas was supported by 19 Kansas school districts, representing over 130,000 Kansas students, through an organization called Schools For Fair Funding, Inc., a private Kansas not-for-profit corporation:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">USD 470 Arkansas City</td> <td style="width: 33%;">USD 457 Garden City</td> <td style="width: 33%;">USD 480 Liberal</td> </tr> <tr> <td>USD 402 Augusta</td> <td>USD 428 Great Bend</td> <td>USD 383 Manhattan</td> </tr> <tr> <td>USD 260 Derby</td> <td>USD 489 Hays</td> <td>USD 373 Newton</td> </tr> <tr> <td>USD 443 Dodge City</td> <td>USD 446 Independence</td> <td>USD 305 Salina</td> </tr> <tr> <td>USD 490 El Dorado</td> <td>USD 500 Kansas City</td> <td>USD 259 Wichita</td> </tr> <tr> <td>USD 253 Emporia</td> <td>USD 453 Leavenworth</td> <td>USD 465 Winfield</td> </tr> <tr> <td>USD 234 Fort Scott</td> <td></td> <td></td> </tr> </table> <p>Schools For Fair Funding employed lawyers Alan Rupe of Husch &amp; Eppenberger (1998-2003) and Kutak Rock (2003- present) in Wichita and John Robb of Somers, Robb &amp; Robb in Newton to implement a comprehensive plan to effect change. Rupe and Robb had prior experience in Kansas school finance litigation as plaintiffs' counsel in <i>Mock et al. vs. State of Kansas</i> in 1989-1992 and <i>U.S.D. 229 et al. vs. State of Kansas</i> in 1992-1994. Rupe and Robb developed and implemented a combined litigation and lobbying strategy and they employed John Peterson and Bill Brady and the lobbying firm of Kansas Governmental Consulting (1998-2006) and Capitol Strategies (2006- present), both of Topeka, for lobbying services. Experts were retained to provide litigation support as well as lobbying support for the effort. Primary experts used included Dr. Bruce Baker, University of Kansas, and Dr. Van Mueller, University of Minnesota.</p> <p>The effort took the group to the United States District Court in Wichita, the Tenth Circuit Court of Appeals in Denver (twice), the Tenth Circuit Court of Appeals, <i>En Banc</i>, the United States Supreme Court, the Shawnee County District Court, the Butler County District Court and the Kansas Supreme Court (six times.) The lobbying effort mounted by the group spanned nine (9) years and ten (10) legislative sessions, including the historic special legislative session devoted solely to school finance in 2005. The effort is possibly the most significant court case in Kansas history.</p> <p>The combined effort cost slightly in excess of \$3 million dollars, <u>over a period of 9 years</u>, all in pursuit of adequacy and equity in Kansas school finance. Their investment was rewarded by an <u>annual</u> increase in funding in excess of \$755.6 million dollars. When additional local option budget authority is taken into account, the <u>yearly</u> increase in resources made available to Kansas schoolchildren will exceed \$1 billion dollars annually. Over the next 10 years, Kansas kids will see a cumulative increase in excess of \$10 billion dollars invested in their futures.</p>	USD 470 Arkansas City	USD 457 Garden City	USD 480 Liberal	USD 402 Augusta	USD 428 Great Bend	USD 383 Manhattan	USD 260 Derby	USD 489 Hays	USD 373 Newton	USD 443 Dodge City	USD 446 Independence	USD 305 Salina	USD 490 El Dorado	USD 500 Kansas City	USD 259 Wichita	USD 253 Emporia	USD 453 Leavenworth	USD 465 Winfield	USD 234 Fort Scott		
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	<b>CURRENT SCHOOL FINANCE LITIGATION ACTIVITY</b>																					
August 29, 1996	Mid-sized districts meet in Wichita to begin exploration of more organized efforts to bring about change in finance formula.																					

October 6, 1997	Schools For Fair Funding, Inc. is incorporated to work toward change of school finance formula.
January- April 1998	SFFF lobbies legislature for change. Grassroots efforts. Legislator dinners.
July 15, 1998	Alan Rupe and John Robb employed by Schools For Fair Funding to do feasibility study on litigation of the formula again.
October 19, 1998	Litigation feasibility study presented to Schools For Fair Funding.
	<b>AREAS FOR COURT REVIEW.</b>
	<b>Title VI Civil Rights Act- Disparate impact race and national origin discrimination.</b> Does the current school finance system have an adverse impact on minorities and those of foreign origin and thus violate federal law?
	<b>ADA and Federal Rehabilitation Act- Disparate impact disability discrimination.</b> Does the current school finance system have an adverse impact on those students with disabilities and thus violate federal law?
	<b>Adequacy- Suitability.</b> Is the State of Kansas funding education to a “suitable” or “adequate” level?
	<b>Equity- Weighting factors.</b> Are the lines that are drawn for low enrollment weighting “very wide of any reasonable mark?” Do ‘economies of scale’ support the amount of money given to low enrollment districts?
	<b>Equity- Local option budget.</b> The Court said that “The education of each similarly situated student is to be equally funded regardless of where he or she resides.” Does the operation of the LOB scheme violate this principle?
January- April 1999	SFFF lobbies legislature for change. Grassroots efforts. Legislator dinners.
	<b>THE CURRENT TWO LAWSUITS</b>
May 21, 1999	<b>Federal Court Suit.</b> Dodge City and Salina districts and group of students challenge the law in United States District Court in Wichita on the basis of its discriminatory effect on minorities and the disabled. The suit seeks (1) <b>Elimination of low enrollment weighting where economies of scale and sparsity do not support it and (2) Elimination of LOB for necessities and replacement with uniform, adequate, statewide funding.</b> The complaint contained federal causes of action and also, for judicial economy, several causes based upon the Kansas Constitution. The federal court has jurisdiction to hear these additional claims with the consent of the state. It was reasoned that it would be more economical for everyone to do this in one lawsuit.
June, 1999	<b>Federal Court Suit.</b> State and State Board of Education file motions to dismiss the case alleging, among other things, that the state is immune from suit in the federal courts under the 11 <sup>th</sup> Amendment. The state also objected to hearing the state constitution matters in the federal court.
September 21, 1999	<b>Federal Court Suit.</b> United States Department of Justice intervenes on behalf of SFFF and against the state, arguing that immunity does NOT apply to the state in this case.
December 14, 1999	<b>State Court Suit.</b> Plaintiffs dismiss their state constitutional claims from the federal lawsuit because the state refused to allow them in that suit and filed a second suit in state court in Shawnee County with those claims. Case gets assigned to Judge Terry Bullock. There are now TWO suits: a federal court lawsuit in Wichita and a state court lawsuit in Topeka.

September 14, 2000	<p><b>Federal Court Suit.</b> Federal Judge Monti Belot overrules the state's motions to dismiss and orders that matters proceed in his court. The discrimination claims against <b>both</b> low enrollment weighting and LOB may proceed under <b>both</b> the race/national origin theory (Title VI of the Civil Rights Act) and the disability theory (Sec. 504 of the Rehabilitation Act). The equal protection challenge is limited to attacking low enrollment weighting and not LOB.</p> <p>The opinion finds that the state waived its 11th Amendment immunity by accepting federal funding for education.</p> <p>"In conclusion, defendants [state] have failed to come forward with any argument warranting dismissal of any of plaintiffs' claims with the specific exception that plaintiffs' Fourteenth Amendment challenge is limited to a challenge of low enrollment weighting. The litigation may proceed." (Belot, page 52)</p>
September 25, 2000	<p><b>Federal Court Suit.</b> State appeals Judge Belot's ruling to the 10<sup>th</sup> Circuit Court of Appeals in Denver. All matters in the federal suit are stayed pending the outcome of this appeal.</p>
July 2000- July 2001	<p><b>State Court Suit.</b> Plaintiff's experts study the data and generate reports.</p>
September 11, 2001	<p><b>Federal Court Suit.</b> Oral arguments scheduled before the 10<sup>th</sup> Circuit Court of Appeals in Denver on State's appeal of the adverse ruling on 11<sup>th</sup> Amendment immunity issues. The terrorist acts on the east coast cause the evacuation of the 10<sup>th</sup> Circuit courtroom and the appeal was rescheduled.</p>
September 28, 2001	<p><b>State Court Suit.</b> At the pretrial conference Judge Terry Bullock orders the parties to prepare briefs of the legal issues thought to be involved in the suit. This is not a normal step in litigation, but the same procedure he used in 1991. Trial is set for December 3, 2001 in Topeka.</p>
November 21, 2001	<p><b>State Court Suit.</b> Twelve days before trial, Judge Bullock issues his opinion and dismisses the state court suit on his own motion without hearing any testimony or reading any expert reports.</p>
January 17, 2002	<p><b>Federal Court Suit.</b> Oral arguments held in the 10<sup>th</sup> Circuit Court of Appeals in Denver on the issue of State immunity.</p>
January 18, 2002	<p><b>State Court Suit.</b> Judge Bullock's dismissal of the State Court suit is appealed to the Kansas Court of Appeals and then transferred to the Kansas Supreme Court.</p>
July 9, 2002	<p><b>Federal Court Suit.</b> The 10<sup>th</sup> Circuit Court of Appeals in Denver issued its opinion that the suit can proceed in federal court. It found that the state waived its 11<sup>th</sup> Amendment immunity from suit in the federal court system by accepting federal funds.</p>
August 22, 2002	<p><b>Federal Court Suit.</b> The State filed a Motion for the Appeal to be reheard by the entire panel of 10<sup>th</sup> Circuit judges.</p>
October 23, 2002	<p><b>State Case.</b> The Kansas Supreme Court heard oral arguments in the state case appeal. SFFF contended that incorrect procedure was used by Judge Bullock in dismissing the case.</p>
October 24, 2002	<p><b>Federal Court Case.</b> The State's motion for the appeal to be reheard was unanimously denied by the full panel of 10<sup>th</sup> Circuit judges.</p>
December 19, 2002	<p><b>Federal Court Case.</b> First Amended Complaint filed in US District Court in Wichita. Judge Belot sets very aggressive schedule for the case to move.</p>
January 22, 2003	<p><b>Federal Court Case.</b> The state appeals the 10<sup>th</sup> Circuit Court of Appeals decision to the United States Supreme Court. This is not an appeal by "right" and it is up to the Supreme Court on whether they want to take the appeal. They receive about 7000 requests a year and accept less than 100 cases.</p>

January 24, 2003	<p><b>State Court Case.</b> The Kansas Supreme Court, in <b>Montoy I</b>, unanimously reverses Judge Bullock’s dismissal of the state court case and orders it to proceed to a trial. Of note is the language in the opinion:</p> <p>“We conclude that this case is sufficiently removed in time from our decision in <i>U.S.D. 229</i> [1994] so as to preclude summary application of <i>U.S.D. 229</i> to dispose of the plaintiffs' claims.</p> <p>“We do not believe that the plaintiffs' factual allegations are a sham, frivolous, or so unsubstantial that it would be futile to try the case we now consider. The issues raised in this case require the district court to determine either on the basis of uncontroverted facts or on facts determined by trial whether the school financing provisions complained of are now constitutional.”</p> <p>“There is a point where the legislature's funding of education may be so low that regardless of what the State says about accreditation, it would be impossible to find that the legislature has made "suitable provision for finance of the educational interests of the state." Kan. Const. art. 6, § 6. <i>U.S.D. 229</i> suggested base criteria for determining suitability. The district court must make a finding, after giving the plaintiffs the opportunity to substantiate their claims, that the legislature has provided suitable provisions for financing the educational interests of the State before judgment may be entered for the defendants regarding the plaintiffs' unsuitability claim.”</p>
February 10, 2003	<p><b>State Court Case.</b> Judge Bullock holds a status conference and orders SFFF to amend its Petition to update the plaintiff students and the causes of action.</p>
March 11, 2003	<p><b>State Court Case.</b> SFFF Second Amended Petition filed.</p>
March 14, 2003	<p><b>State Court Case.</b> Judge Bullock sets schedule for the case to complete discovery and all motions prior to trial beginning September 22, 2003.</p>
May 28, 2003	<p><b>Mediation.</b> The parties participate in a mediation process as ordered by the federal court in an attempt to settle the cases. The SFFF plaintiffs offer to settle both cases and dismiss them if the State and State Board of Education would attempt to implement the recommendations of the Augenblick and Myers Cost Study. Although the State Board as well as the Governor had previously expressed support for the implementation of these recommendations, at mediation they withdrew their support and claimed that the finance formula did not need adjusting.</p>
June 16, 2003	<p><b>Federal Court Case.</b> United States Supreme Court denies the State’s request for an appeal of the 10<sup>th</sup> Circuit decision.</p>
September 5, 2003	<p><b>State Court Suit.</b> Judge Bullock issues a pre-trial opinion of the law that he would apply to the case at trial. His opinion says:</p> <ul style="list-style-type: none"> <li>● “In <i>Mock</i> this court held that differences in per pupil spending, to pass constitutional muster must be premised on actual differences in <i>costs incurred</i> to provide an essentially equal educational opportunity for all Kansas children.”</li> <li>● “... a constitutionally suitable education... must provide all Kansas students, commensurate with their natural abilities, the skills necessary to understand and successfully participate in the world around them both as children and later as adults. Because this is the constitutional right of every Kansas child, whether the legislature has met this requirement is ultimately a decision for the judicial branch.”</li> </ul>
September 22 - October 1, 2003	<p><b>State Court Suit.</b> The case was tried before Shawnee County District Court Judge Terry Bullock. Trial lasted 8 days producing a 1400 page trial transcript and 9,600 pages of exhibits. The plaintiffs presented 19 witnesses and 169 exhibits while the defense presented 5 witnesses and 102 exhibits.</p>

December 2, 2003	<p><b>State Court Suit.</b> Judge Bullock issues “Memorandum Decision and Preliminary Interim Order” finding in favor of the plaintiffs on all counts. He finds that:  <b>“the current school funding scheme stands in blatant violation of Article 6 of the Kansas Constitution and the equal protection clauses of both the United States and Kansas Constitutions</b> in the following three separate and distinct aspects in that:</p> <ol style="list-style-type: none"> <li>a. It <b>fails to equitably distribute resources among children</b> equally entitled by the Constitution to a suitable education or in the alternative to provide a rational basis premised in differing costs for any differential;</li> <li>b. It <b>fails to provide adequate total resources</b> to provide all Kansas children with a suitable education (as that term has been defined by both this Court and the Legislature itself); and</li> <li>c. It <b>dramatically and adversely impacts the learning and educational performance of the most vulnerable and/or protected Kansas children.</b> This disparate impact occurs by virtue of underfunding, generally, and selective underfunding of the schools where these vulnerable and/or protected children primarily attend, specifically. Those vulnerable and/or protected children, of course, are: the poor, the minorities, the physically and mentally disadvantaged, and those who cannot or nearly cannot yet speak the primary language of America and its schools.”</li> </ol> <p>The Judge retained jurisdiction of the case by not issuing a final order. The opinion says:  “Accordingly, this Court will withhold its final order and judgment in this cause until July 1, 2004. This delay will give the executive and legislative branches of our government the luxury of a full legislative session (while our schools remain open) to correct the Constitutional flaws outlined in this opinion.</p>
December 16, 2003	<p><b>State Court Suit.</b> The State BOE filed a motion with Judge Bullock to make his opinion final so that it could be appealed to the Kansas Supreme Court.</p>
December 18, 2003	<p><b>State Court Suit.</b> A group called “Kansans for Separation of School and State,” led by Dennis Hawver, files a motion with Judge Bullock to enter the case alleging that they are taxpayers and the state did not adequately defend the taxpayers in this case.</p>
December 19, 2003	<p><b>State Court Suit.</b> Judge Bullock denies the motion to make his judgment final and tells the legislature to “JUST GO FIX IT!”</p>
February 13, 2004	<p><b>State Court Suit.</b> Judge Bullock denies the motion by “Kansans for Separation of School and State” to intervene.</p>
March 1, 2004	<p><b>State Court Suit.</b> The Hawver group, “Kansans for Separation of School and State,” filed appeal to Kansas Supreme Court of the order denying them the right to enter the case. This is appeal number 1 and is Docket Number 91915.</p>
March 4, 2004	<p><b>State Court Suit.</b> The legislature passes and the Governor signs into law Senate Bill 324 which made a special provision for this case only to be appealed to the Kansas Supreme Court before it was procedurally ready. The rationale was to “speed up” the review process.</p>
March 8 and March 12, 2004	<p><b>State Court Suit.</b> Using the new SB324 special procedure law, the State and State BOE file their appeals to the Kansas Supreme Court of Judge Bullock’s December 2 decision, regardless of the fact the Judge Bullock had not completed the case by ordering a remedy. This is Appeal number 2 and is Docket Number 04-92032, and is commonly known as the Montoy case.</p>
May 11, 2004	<p><b>State Court Suit.</b> After the legislature adjourned for the year with no action taken on school finance, Judge Bullock issued his Remedy Decision ordering the schools to be shut down until the constitutional flaws are fixed by the legislature.</p>
May 19, 2004	<p><b>State Court Case.</b> The Kansas Supreme Court stays Judge Bullock’s remedy order until the appeal can be decided.</p>
May 24, June 4 and June	<p><b>State Court Case.</b> State Treasurer, State and State BOE file appeals to the Kansas Supreme</p>

10, 2004	Court challenging Judge Bullock’s May 11 remedy order. This is Appeal Number 3: Docket Number 04-92424. This appeal is then dismissed by the Supreme Court.
August 30, 2004	<b>State Court Case.</b> Kansas Supreme Court hears Oral Arguments of the Judge Bullock December 2, 2003 decision finding the finance system “blatantly unconstitutional” (Appeal No. 2) and the Hawver “Kansans for Separation of School and State” appeal of the denial of their motion to intervene after the case was decided (Appeal No. 1).
January 3, 2005	<p><b>State Court Case.</b> Kansas Supreme Court, in <b>Montoy II</b>, finds the school finance formula unconstitutional as a violation of Article 6 of the Kansas Constitution.</p> <ul style="list-style-type: none"> <li>● Unconstitutionality</li> </ul> <p>“We affirm the district court's holding that the legislature has failed to meet its burden as imposed by <i>Art. 6, § 6 of the Kansas Constitution</i> to "make suitable provision for finance" of the public schools.”</p> <p>“It is clear increased funding will be required; however, increased funding may not in and of itself make the financing formula constitutionally suitable. The equity with which the funds are distributed and the actual costs of education, including appropriate levels of administrative costs, are critical factors for the legislature to consider in achieving a suitable formula for financing education. By contrast, the present financing formula increases disparities in funding, not based on a cost analysis, but rather on political and other factors not relevant to education.”</p> <ul style="list-style-type: none"> <li>● Suitability</li> </ul> <p>“The concept of "suitable provision for finance" encompasses many aspects. First and perhaps foremost it must reflect a level of funding which meets the constitutional requirement that "the legislature shall provide for intellectual, educational, vocational and scientific <i>improvement</i> by establishing and maintaining public schools . . . .”</p> <p>“The Kansas Constitution thus imposes a mandate that our educational system cannot be static or regressive but must be one which "advances to a better quality or state.”</p> <p>“Although in <i>Montoy I</i>, 275 <i>Kan. at 153-55</i>, we concluded that accreditation standards may not always adequately define a suitable education, our examination of the extensive record in this case leads us to conclude that we need look no further than the legislature's own definition of suitable education to determine that the standard is not being met under the current financing formula. Within that record there is substantial competent evidence, including the Augenblick &amp; Myers study, establishing that a suitable education, as that term is defined by the legislature, is not being provided.”</p> <ul style="list-style-type: none"> <li>● The funding levels for mid-sized and large districts must increase.</li> </ul> <p>“In particular, the plaintiff school districts (Salina and Dodge City) established that the SDFQPA fails to provide adequate funding for a suitable education for students of their and other similarly situated districts, <i>i.e.</i>, middle- and large-sized districts with a high proportion of minority and/or at-risk and special education students.”</p> <ul style="list-style-type: none"> <li>● LOBs need to go back to funding only extras. General funding must increase to allow this to occur.</li> </ul> <p>“Additional evidence of the inadequacy of the funding is found in the fact that, while the original intent of the provision for local option budgets within the financing formula was to fund "extra" expenses, some school districts have been forced to use local option budgets to</p>

	<p>finance general education.”</p> <ul style="list-style-type: none"> <li>● The low enrollment weight, special education weight, bilingual weight and at-risk weights must be adjusted to reflect those actual costs.</li> </ul> <p>“Furthermore, in determining if the legislature has made suitable provision for the finance of public education, there are other factors to be considered in addition to whether students are provided a suitable education. Specifically, the district court found that the financing formula was not based upon actual costs to educate children but was instead based on former spending levels and political compromise. This failure to do any cost analysis distorted the low enrollment, special education, vocational, bilingual education, and the at-risk student weighting factors.”</p> <ul style="list-style-type: none"> <li>● Remedy</li> </ul> <p>“Accordingly, at this time we do not remand this case to the district court or consider a final remedy, but instead we will retain jurisdiction and stay all further proceedings to allow the legislature a reasonable time to correct the constitutional infirmity in the present financing formula.”</p> <p>“To ensure the legislature complies with our holding, we will withhold our formal opinion until corrective legislation has been enacted or April 12, 2005, whichever occurs first....”</p>
January 3, 2005	<b>State Court Case.</b> The Supreme Court dismisses the appeal of Kansans For Separation of School and State, (Appeal No. 1) in <b>Montoy II</b> <sup>1/2</sup> finding they filed their motion to intervene too late and also finding that the interests of the taxpayers of Kansas were well represented in the case without their intervention.
January- April 2005	<b>State Court Case.</b> The Kansas Legislature enacts HB 2247 and SB 43 in an attempt to remedy the problems without raising any taxes. Education cost data are not used by legislature as ordered by Kansas Supreme Court. \$142M added to education funding statewide.
April 15, 2005	<b>State Court Case.</b> Kansas Supreme Court orders the parties to brief the issue of whether the new legislative enactments (HB2247 & SB43) remedy the problems. Court puts burden of proof upon state to prove that the new law has remedied the constitutional violations.
May 11, 2005	<b>State Court Case.</b> Oral arguments before Kansas Supreme Court in <b>Montoy III</b> on whether HB2247 and SB43 fixed the problems.
June 3, 2005	<b>State Court Case.</b> The Kansas Supreme Court, in <b>Montoy III</b> , unanimously finds HB2247/SB43 unconstitutional on their face and orders the legislature to increase school funding by an additional \$143M by July 1, 2005. This, together with the previously appropriated \$142M, is \$285M or approximately one-third of the funding increases recommended by the Augenblick and Myers Cost Study. The court went on to mandate one additional cost study to be completed by January of 2006. The legislature must then fund to the level of this cost study. If the legislature fails to fund to this level, or if the study is not a legitimate study of costs, the court said it would require implementation of the remainder of the A&M recommended amount of an additional \$568M. The supreme court retains jurisdiction.
June 22, 2005	<b>State Court Case.</b> Kansas legislature called into special session to address the Supreme Court order to add a total of \$285M more school funding for 2005-06. Conservative legislators mount push for constitutional amendments to limit the Supreme Court’s remedy powers in school finance and other cases.
July 2, 2006	<b>State Court Case.</b> Kansas legislature misses court imposed deadline to add funding. Supreme Court sets July 8 as date for parties to appear and show cause why the Court should not order

	the closure of Kansas schools. The Court sends notice that it intends to strike the current finance laws and enjoin the opening of the schools under the unconstitutional underfunded finance system.
July 6, 2005	<b>State Court Case.</b> Kansas legislature finally separates the constitutional amendment proposals from the school finance proposals and adds an additional \$148.4M to school finance along with substantial extra local spending authority. Total increase for 2005-06 is between \$290M and \$400M depending on which monies are counted. Legislature orders two new cost studies by Legislative Post Audit for action in 2006 legislative session, one of the studies to be an “inputs” study of state mandated subjects only, and the other to be a study of what it costs to produce the “outcomes” mandated by the State BOE.
July 8, 2005	<b>State Court Case.</b> 36 hours after passage of the new legislation, the Kansas Supreme Court hears oral arguments from the parties in <b>Montoy IV</b> and then issues a same day decision, <b>Montoy IV</b> , that the new July 6 finance law meets the courts funding order for this year. Supreme Court retains jurisdiction to review the new cost studies and the actions of the 2006 legislative session.
September 9, 2005	<b>State Court Case.</b> Three justices of the Kansas Supreme Court issue concurring opinions to further explain their view of the court’s January 3, 2005 ruling. They indicate that they would find education a “fundamental right” under the Kansas Constitution, raising the scrutiny the court would employ to review alleged violations of the right to an education in Kansas. This is not the law of the current case, as only three out of the then current six justices joined in these new opinions. It is unknown whether new Justice Rosen will provide the fourth vote for “fundamental right” as the case moves forward.
January 9, 2006	<b>State Court Case.</b> Legislative Post Audit, a division of the legislature, issues two new cost studies, an inputs cost study and an outcomes cost study. The <i>inputs study</i> finds that, to support a class size of 25 and to hold small districts harmless, an additional \$399M is needed. The <i>outcomes study</i> finds that, to meet state and federal outcome requirements for achievement, an additional \$470M is needed. Both studies find that low enrollment weighting overcompensates for the economies of scale for being small, and that small districts receiving this funding should be adjusted downward or at least not increased. Both studies find that larger, high poverty districts are still massively underfunded, especially in serving at-risk and bilingual students. Three year total needs shown at \$831M <i>without inflation</i> and \$1,058M <i>with inflation</i> .
May 22, 2006	<b>State Court Case.</b> SB 549 is signed into law adding \$466.2M over next three years. Low enrollment weighting component not adjusted to remove inequities. Base at end of three years set at \$4433 rather than \$5239 shown necessary by Post Audit study ( <i>without inflation</i> ). LOB increased to 31% before adequacy reached. Additionally, state “renames” \$222M of LOB equalization monies without adding new money in attempt to claim credit for even more money. LOBs not optional for poor districts any more and must be spent on necessities.
June 21, 2006	<b>Federal Court Case.</b> Parents and students from Blue Valley and Shawnee Mission districts move to intervene as plaintiffs in federal suit asking (1) that cap on LOB be lifted, (2) that non-proficient weighting be increased to same level as at-risk funding, (3) that one year sunset on non-proficiency weighting be lifted and (4) that low enrollment weighting be enjoined.
June 22, 2006	<b>State Court Case.</b> Oral arguments in <b>Montoy V</b> before Kansas Supreme Court. State claims all is fixed. Plaintiffs claim it is not.

July 28, 2006	<p><b>State Court Case.</b> Kansas Supreme Court issues decision in <b>Montoy V</b>, ending the state litigation on a 4-2 vote. The court finds that, as a result of the Montoy litigation, new funding in the amount of \$755.6 million, <i>per year</i>, will be added. The court finds that the structure of the school finance system has been fundamentally changed and that the court cannot find from the current record on appeal whether the new structure is constitutional or not. They say that the constitutionality of the new finance system “must wait for another day” and a new lawsuit to test the new law. Justice Rosen adds the 4<sup>th</sup> vote for education being declared a “fundamental interest” in Kansas, which will alter the standard in future school finance litigation. The case is dismissed but two justices joined in a dissent, opining that the matter should not have been dismissed and should have been remanded back to Judge Bullock for a new trial to see if the constitutional violations had been remedied by SB 549.</p>
<b>CURRENT STATUS OF LAWSUITS</b>	
<b>Current status</b>	<p><b>State Court Suit.</b> Suit dismissed after the legislature fundamentally changed the school finance formula and increased school funding by \$755.6 million <i>per year</i>.</p> <p><b>Federal Court Suit.</b> The SFFF group decides to dismiss the federal court suit voluntarily, without prejudice to its refiling in the future.</p>
<b>Postscript</b>	<p>The SFFF group decides to stay together and focus its efforts on working with the legislature to assure that the three year plan adopted by the legislature actually gets implemented. The mission changes from litigation to advocacy as a tool to seek adequate and equitable education funding.</p>

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