

## HOUSE RESOLUTION No. 6007

By Representatives Decker and O'Neal

6-24

10 A RESOLUTION responding to the Kansas Supreme Court's decision  
11 in the case of Montoy v. State of Kansas.

12

13 WHEREAS, In January of 2005 the Kansas Supreme Court issued a  
14 preliminary ruling that the Legislature had failed to make suitable pro-  
15 vision for finance of the public school system; and

16 WHEREAS, The Legislature passed provisions in 2005 House Bill No.  
17 2247 in response to this ruling; and

18 WHEREAS, In crafting this legislation the Legislature considered all  
19 relevant data, including information from the Kansas State Department  
20 of Education, Office of Legislative Research, Office of Revisor of Stat-  
21 utes, Legislative Division of Post Audit, conferees who appeared before  
22 various committees of the Legislature, and the further input of school  
23 officials, community leaders and our constituents; and

24 WHEREAS, In crafting this legislation the Legislature considered,  
25 along with other information, data from various studies commissioned by  
26 the legislature in past years, including the Augenblick & Myers (A&M)  
27 study referenced in the Court's decision of January 3, 2005; and

28 WHEREAS, In 2001, the Legislature enacted in K.S.A. 2004 Supp.  
29 46-1225(e) a statutory definition of "suitable education" for the purpose  
30 of the professional evaluation of school district finance; and

31 WHEREAS, The definition of "suitable education" enacted by the  
32 Legislature was limited to "a curricular program consisting of the subjects  
33 and courses required under the provisions of K.S.A. 72-1101, 72-1103  
34 and 72-1117, and amendments thereto, the courses in foreign language,  
35 fine arts and physical education required for a state scholarship under the  
36 provisions of K.S.A. 72-6810 through 72-6816, and amendments thereto,  
37 and the courses included in the precollege curriculum prescribed by the  
38 board of regents under the provisions of K.S.A. 76-717, and amendments  
39 thereto"; and

40 WHEREAS, The above-mentioned statutory references in the defi-  
41 nition of "suitable education" refer to the required subjects in elementary  
42 school, required courses of instruction for graduation from high school,  
43 the requirement of a course of instruction in Kansas history and govern-

1 ment, the courses required to qualify for the state scholarship program,  
2 and the course requirements to meet the state’s qualified admissions cri-  
3 teria; and

4 WHEREAS, The purpose for the study and of this definition of “suit-  
5 able education” for purposes of the cost analysis was to “determine the  
6 cost of a suitable education for Kansas children” (K.S.A. 46-1225(a)). The  
7 Legislature wanted to know the cost of providing the courses mandated  
8 for K-12 Kansas students in order for them to accomplish one or more  
9 of the goals set forth in the referenced statutes; and

10 WHEREAS, The Augenblick and Myers study references and ac-  
11 knowledges the fact that, notwithstanding the statute, the legislatively  
12 enacted definition of “suitable education” was not used for purposes of  
13 their study (A&M, III. Setting a Suitable Education Definition); and

14 WHEREAS, During the 2005 legislative session it was confirmed that  
15 the definition that was ultimately used incorporated not only what the  
16 state required, but also included everything else districts chose to teach  
17 or offer in the way of curriculum or activities. Specifically, it was con-  
18 firmed that pursuant to the expanded definition used by Augenblick &  
19 Myers, the Department of Education couldn’t identify anything that  
20 schools currently offered that would not be included; and

21 WHEREAS, Accordingly, the Augenblick & Myers study, while mak-  
22 ing numerous spending recommendations based on funding of all man-  
23 dated and nonmandated offerings did not address the question asked by  
24 the legislature, i.e., the cost of providing what every Kansas K-12 student  
25 is required to be offered; and

26 WHEREAS, The Augenblick and Myers study did not determine ac-  
27 tual costs but instead took a blended percentage of its “professional judg-  
28 ment” analysis and its “successful schools” analysis; and

29 WHEREAS, Augenblick & Myers, in the Kansas study, noted that the  
30 “professional judgment” approach “assumes that people can be reason-  
31 ably precise in specifying the resources schools need if they are expected  
32 to meet a particular set of objectives, however our experience contradicts  
33 that assumption.” According to Augenblick & Myer’s experience “people  
34 tend to overestimate the resources schools need. In part, this is because  
35 people believe schools should meet broader objectives than those defined  
36 by state accountability systems and, in part, it is because panel participants  
37 tend to avoid being Machiavellian (that is, they want to serve the needs  
38 of all students even when doing so is not necessary to meet state objec-  
39 tives.)”; and

40 WHEREAS, The “successful school” approach fails to accurately ac-  
41 count for actual costs:

42 “The most obvious criticism of the “successful schools” approach... is  
43 that it makes no adjustment based on poverty, peer effects, family

1 status, and other demographic factors that may influence achieve-  
2 ment...” *Yale Law and Policy Review*, Vol. 22, 571, 603 (2004); and

3 WHEREAS, Augenblick & Myers noted that one of the strengths of  
4 the “successful schools” approach to their cost analysis was that it allowed  
5 for the inclusion of spending efficiency to be used as a measure of success,  
6 and that in New Hampshire, e.g., the lowest spending half of successful  
7 districts were used to create the base cost figure. However, for purposes  
8 of the Kansas study, because, using Augenblick & Myers’ methodology,  
9 a majority of the successful districts would be considered inefficient  
10 spenders, they discarded their methodology; and

11 WHEREAS, The Ohio Supreme Court deferred to the educational  
12 spending decisions of its legislature and has refused to allow further con-  
13 stitutional challenges to legislative spending authority. See, *DeRolph III*  
14 and *Lewis*; and

15 WHEREAS, During the 2005 Legislative session, some school dis-  
16 tricts pointed to the Augenblick & Myers study as support for their re-  
17 quest for additional funds. However, some of the same districts were  
18 sharply critical of Augenblick & Myers’ recommendation to, e.g., elimi-  
19 nate vocational education funding and its recommendation against in-  
20 creases in teacher pay. It was apparent throughout consideration of school  
21 finance legislation that Augenblick & Myers was cited by districts to the  
22 extent it suggested greater funding and criticized when Augenblick &  
23 Myers recommended action that was not favorable to the districts’ posi-  
24 tion; and

25 WHEREAS, As a result of the lack of usefulness of the Augenblick &  
26 Myers study in determining the actual cost of a “suitable education” as  
27 defined by the statute for purposes of the study, the Augenblick & Myers  
28 cost analysis was not adopted. In view of the fact that this Court suggested  
29 in its January 3, 2005, preliminary decision that a lack of a true cost  
30 analysis has distorted some of the school finance law’s weighting factors,  
31 the school finance plan embodied in 2005 House Bill No. 2247 includes  
32 a requirement that each school district shall compile, record and report  
33 expenditures by category and the Department of Education shall verify  
34 on an ongoing basis the costs incurred by districts to provide the programs  
35 required by law; and

36 WHEREAS, The enacted school finance plan requires the Depart-  
37 ment of Education to design and implement a uniform system of report-  
38 ing of this data by district in a user-friendly, internet-based system. In  
39 that regard, the respective House and Senate committees working on  
40 school finance had representatives from the state of Wisconsin demon-  
41 strate their highly efficient system, and representatives of the Legislative  
42 Division of Post Audit were sent to Wisconsin to analyze its system. In  
43 March, the Legislative Division of Post Audit released its performance

1 audit report: “School Finance: Putting District Budgetary Data into a  
2 More Accessible Database.” Its audit of school finance information in the  
3 Department of Education revealed that our current system “doesn’t lend  
4 itself to ready financial comparisons between districts, or to obtaining  
5 more detailed financial information within a district. If legislators have  
6 questions about revenues or expenditures that can’t be answered from  
7 the website, a Department programmer has to write a specialized pro-  
8 gram to answer them”; and

9 WHEREAS, The Legislative Division of Post Audit converted revenue  
10 and expenditure data from the 2004-2005 school district budgets to a  
11 more accessible format and noted that “[u]ntil the Department is able to  
12 convert its existing mainframe system to a database system, a website such  
13 as Wisconsin’s that is directly accessible by the public won’t be able to be  
14 built.”; and

15 WHEREAS, In crafting a Legislative response to the Court’s January  
16 3, 2005, preliminary decision, the Legislature used the most updated fi-  
17 nancial data available, but it was not possible, in the time allotted, to  
18 perform a true cost analysis in all areas of court inquiry. The Legislature  
19 was hindered by the fact that, in many cases, funds allocated to school  
20 districts were comingled and it was not possible to sort out what districts  
21 had actually spent on certain categories of services. Two thousand five  
22 House Bill No. 2247 solves that problem in the future; and

23 WHEREAS, The enacted school finance plan also provides that in  
24 order to assist the legislature in gathering the necessary information  
25 needed to make suitable provision for the finance of the educational in-  
26 terests of the state, the Legislative Division of Post Audit will conduct a  
27 professional cost study to determine the costs of delivering the K-12 cur-  
28 riculum, related services and other programs mandated by statute in ac-  
29 credited schools. The cost study will include, inter alia, relevant infor-  
30 mation regarding the cost of such items as curriculum, services,  
31 administration, support staff, supplies, equipment and building costs, spe-  
32 cial education, bilingual education, at-risk programs, and LOB spending;  
33 and

34 WHEREAS, The cost study will also include a review of the relevant  
35 studies that assess whether there is a correlation between amounts spent  
36 on education and educational performance. The Augenblick & Myers  
37 study noted that “no research exists that demonstrates a straightforward  
38 relationship between how much is spent to provide education services  
39 and student, school or school district performance”; and

40 WHEREAS, To the extent actual cost data was available, the Legis-  
41 lature considered the actual cost of providing a suitable education; and

42 WHEREAS, In crafting the legislation the Legislature itself engaged  
43 in substantial open and public discussion and debate both in various com-

1 mittees and on the floor of both legislative chambers; and

2 WHEREAS, In passing 2005 House Bill No. 2247 the Legislature  
3 made full, proper and judicious use of the legislative process which is an  
4 integral part of our system of government as set forth in article 2 of the  
5 Constitution of the State of Kansas; and

6 WHEREAS, 2005 House Bill No. 2247 contains a provision dealing  
7 with the problems encountered by districts with extraordinary declining  
8 enrollments. The Legislature received evidence demonstrating that while  
9 current declining enrollment provisions in law are sufficient to aid most  
10 affected districts, extraordinarily large declines in enrollment in larger  
11 school districts presents a unique problem meriting legislative attention;  
12 and

13 WHEREAS, In districts with extraordinary declines in enrollment, re-  
14 ductions in funding based on per pupil budgeting are not sufficiently  
15 offset by reductions in necessary school district expenditures. Enrollment  
16 declines spread over a large number of buildings and grade levels do not  
17 result in significant savings on expenditures. Class size must remain within  
18 reason and some schools must be allowed to operate at diminished ca-  
19 pacity to avoid significant overcrowding at another facility, until such time  
20 as the low enrollment center can be closed; and

21 WHEREAS, The extraordinary declining enrollment provisions of  
22 2005 House Bill No. 2247 ensure cost justification. Districts must docu-  
23 ment to the Board of Tax Appeals (BOTA) its inability to absorb all the  
24 lost revenue from declining enrollment. If approved by BOTA, the district  
25 would be authorized to raise, through local taxes, the difference between  
26 what the district is able to absorb and the total lost revenue. Eligibility  
27 must be reaffirmed every two years; and

28 WHEREAS, The extraordinary declining enrollment provision is par-  
29 ticularly important for districts with low per pupil operating expenses.  
30 These districts have less flexibility and are more at risk of having to cut  
31 programs without assistance; and

32 WHEREAS, The issue of extraordinary declining enrollment was not  
33 an issue in Montoy and represents an important matter of compelling  
34 public policy and merits reenactment and immediate implementation;  
35 and

36 WHEREAS, The “cost-of-living” provision in House Bill No. 2247 al-  
37 lows qualifying school districts additional budget authority to address the  
38 additional costs of residential housing for teachers in the qualifying dis-  
39 tricts; and

40 WHEREAS, The Legislature received information that regional fac-  
41 tors such as cost-of-living differences have been addressed in other states  
42 and should be considered in Kansas; and

43 WHEREAS, The Legislature rejected recommendations, including

1 Augenblick & Myers’, that involved redistributing state dollars through a  
2 formula that increased funding to some districts at the expense of other  
3 districts. Instead, the Legislature determined that housing costs are a  
4 major factor in cost-of-living differences and are costs that are easily de-  
5 termined on a district-by-district basis; and

6 WHEREAS, The cost-of-living weighting is a self-funded weighting  
7 based on data provided by the Kansas Department of Revenue. Those  
8 districts with housing costs more than 125% of the statewide average  
9 qualify for the weighting, with the percentage based on the percentage  
10 of income an average wage earner might be expected to pay for a home  
11 purchase; and

12 WHEREAS, The Legislature considered expressed concerns relating  
13 to equity but determined, as a matter of public policy, that qualifying  
14 school districts should be allowed the authority to seek and access local  
15 funds to compensate teachers at a level that would enable them to pur-  
16 chase an average home in the district where they teach; and

17 WHEREAS, The cost-of-living provision was not an issue in Montoy  
18 and the Legislature finds that this provision merits reenactment and im-  
19 mediate implementation; and

20 WHEREAS, Members of the Legislature studied and discussed  
21 whether increasing local option budget (LOB) authority would cause or  
22 contribute to increased disparity in school district operating expenses per  
23 pupil; and

24 WHEREAS, In approving additional LOB authority in 2005 House  
25 Bill No. 2247, the Legislature concluded that increasing LOB authority  
26 will not cause or contribute to increased disparity in school district op-  
27 erating expenses per pupil. Larger school districts tend to use LOB au-  
28 thority more than do smaller school districts. Larger school districts gen-  
29 erally have lower operating expenses per pupil. The Legislature finds  
30 there is a rational basis to conclude that increasing LOB authority will  
31 not increase disparity in spending. In fact, increasing LOB authority is  
32 likely to result in decreased disparity in spending; and

33 WHEREAS, Fifteen of the 17 school districts that may qualify for this  
34 cost-of-living weighting are in the bottom 25% of all school districts in  
35 terms of operating expenses per pupil. The Legislature finds that this new  
36 weighting is unlikely to result in increased disparity of spending; and

37 WHEREAS, The legislative history of the school finance law, the  
38 School District Finance and Quality Performance Act, relied upon a local  
39 option budget at the time of its adoption in 1992 to prevent some school  
40 districts from losing revenue under the Act and was immediately used as  
41 part of the basic school expenditures by various districts; and

42 WHEREAS, It is the legislative intent that the local option budget is  
43 a necessary part of funding for schools throughout the state; and

1 WHEREAS, It is the intent of the Legislature that the local option  
2 budget provisions be immediately available during the 2005-2006 school  
3 year; and

4 WHEREAS, The Kansas Legislature has appropriated moneys to sup-  
5 port the following programs:

	Actual FY 2004
	<i>Expenditures</i>
6	
7 <i>State Program</i>	
8 KPERs-Schools	\$110,806,841
9 Juvenile Detention Facilities and	
10 Flint Hills Job Corps Center	6,028,857
11 School Safety Hotline	6,840
12 School Food Assistance	2,369,551
13 Educational Deaf-Blind Program	97,859
14 Governor's Teaching Excellence	135,500
15 Parent Education	6,979,745
16 State Safety Fund	1,519,479
17 Motorcycle Safety Fee Fund	4,905

18 for a total of fiscal year 2004 expenditures of \$127,949,577. Additionally,  
19 the legislature has provided \$56 million to match bond and interest  
20 requirements for local capital improvements and will provide \$403 million  
21 to satisfy KPERs unfunded liability, all of which totals \$587,599,145.  
22 These expenditures of public moneys were not considered by the Kansas  
23 Supreme Court in its decision regarding the funding of public schools;  
24 and

25 WHEREAS, The state has provided to the State Department of Ed-  
26 ucation the above moneys to be distributed to Kansas schools. These  
27 moneys will be counted as part of the K-12 funding for Kansas schools;  
28 and

29 WHEREAS, In crafting the legislative response to the Court's January  
30 3, 2005, preliminary decision, the Legislature had the benefit of relevant  
31 school finance and performance data that was not available to the Court  
32 or the parties prior to the decision. For example, *EDUCATION WEEK*,  
33 a highly respected national education publication, released at the start of  
34 the legislative session its annual "Quality Counts" report card. Based on  
35 data from the U.S. Department of Education, National Center for Edu-  
36 cation Statistics, the Education Week Research Center, adjusting for re-  
37 gional cost differences, ranked Kansas 19th in the country for per pupil  
38 expenditures. (Their 2001-2002 figures were \$8,206 per pupil. 2002-2003  
39 was actually \$8,894 and 2003-2004 was slightly higher.) Kansas received  
40 a grade of "B" for resources: equity, an important measure for evaluating  
41 a school finance formula. Kansas scored in the top 10 states in the area  
42 of equity (near the top in its "wealth-neutrality" score) and was the top  
43 state in school climate. Kansas also scored well with standards and ac-

1 countability. (EDUCATION WEEK, Vol. 24, No. 17-Jan. 6, 2005); and  
2 WHEREAS, Performance data for the 2003-2004 school years shows  
3 that Kansas rated among the top 10 states in student participation in the  
4 ACT college entrance exam. And that among these 10 high participation  
5 states Kansas students had the second highest composite scores on the  
6 ACT; and

7 WHEREAS, Performance data for the 2003-2004 school year shows  
8 that with respect to state assessment tests Kansas students improved in  
9 all subject areas and across all grade levels. And that furthermore, the  
10 difference in performance between majority and minority students and  
11 advantaged and disadvantaged students decreased in all subject areas; and

12 WHEREAS, Article 6, section 3 of the Kansas Constitution, prior to  
13 the 1966 amendments, provided:

14 “*State permanent school fund.* The proceeds of all lands that have been  
15 or may be granted by the United States to the state for the support of  
16 schools... and all estates of persons dying without heir or will, and such  
17 percent as may be granted by congress, on the sale of lands in this  
18 state, shall be the common property of the state, and shall be a per-  
19 petual school fund which shall not be diminished, but the interest of  
20 which, together with all the rents of the lands, and such other means  
21 as the legislature may provide, by tax or otherwise, shall be inviolably  
22 appropriated to the support of the common schools.”; and

23 WHEREAS, Article 6, section 6 of the Kansas Constitution, prior to  
24 the 1966 amendment, provided:

25 “*Money applied to schools.* All money which shall be paid by persons  
26 as an equivalent for exemption from military duty; the clear proceeds  
27 of strays, ownership of which shall vest in the taker-up; and the pro-  
28 ceeds of fines for any breach of the penal laws, shall be exclusively  
29 applied in the several counties in which the money is paid or fines  
30 collected to the support of common schools.”; and

31 WHEREAS, According to the report of the Kansas Legislative Council  
32 in December 1965, regarding the proposed education amendment to the  
33 Kansas Constitution:

34 “The proposed new article would establish a framework capable of  
35 providing for a modern educational system, possibly for the next 100  
36 years. It would eliminate obsolete provisions, nullify portions of Article  
37 I relating to the election of the state superintendent, *give the legisla-*  
38 *ture greater freedom in dealing with educational problems*, and provide  
39 constitutional guarantees of local control of local schools.”; and

40 WHEREAS, The report cites to *Lemons v. Noller*, 144 Kan. 813 (1944)  
41 for the proposition that “Since the people have all governmental power,  
42 and exercise it through the legislative branch of the government, the  
43 legislature is free to act except as it is restricted by the state constitution...”

1 Also, “Our constitution limits, rather than confers, power, and hence, we  
2 look to it to see what it prohibits, instead of what it authorizes.”; and  
3 WHEREAS, The report stated:  
4 “A constitution should be elegantly concise, shorn of detail. The people  
5 make succinct statements in their constitution and delegate to their  
6 legislature the obligation to supply the detail. They leave to the judi-  
7 ciary the obligation to interpret the legislature’s action within the  
8 framework of the constitution.”; and  
9 WHEREAS, The report speaks to “equality of educational opportu-  
10 nity” and not adequacy of funding. The report refers to “finance” as the  
11 determination of sources of available funding, not to the level of funding;  
12 and  
13 WHEREAS, In considering the constitutionality of a statute duly en-  
14 acted by the legislature, certain basic ~~principals~~ **principles** apply. When  
15 a statute is attacked as unconstitutional a presumption of constitutionality  
16 exists and the statute must be allowed to stand unless it is shown to violate  
17 a clear constitutional prohibition. It is generally agreed that the Kansas  
18 Constitution limits rather than confers power and any power and author-  
19 ity not limited by the constitution remains with the people and their  
20 legislators; and  
21 WHEREAS, If a legislative enactment is constitutional, it is not for  
22 the court to set policy or to substitute its opinion for that of the legislature  
23 no matter how strongly individual members of the court may personally  
24 feel on the issue; and  
25 WHEREAS, In determining whether a statute is constitutional, courts  
26 must guard against substituting their views on economic or social policy  
27 for those of the legislature. Courts are only concerned with the legislative  
28 power to enact statutes, not with the wisdom behind those enactments;  
29 and  
30 WHEREAS, The Kansas Supreme Court in U.S.D. #229 reaffirmed  
31 the proposition that Article 6 of the Kansas Constitution is a grant of  
32 legislative power. In discussing the 1966 amendments to the Education  
33 article to the Kansas Constitution, the court stated: “...the amendment  
34 reaffirmed the inherent powers of the legislature - and through its mem-  
35 bers, the people - to shape the general course of public education and  
36 provide for its financing.”; and  
37 WHEREAS, The Kansas Supreme Court in U.S.D. #229 held that the  
38 issue for judicial determination was “whether the Act provides suitable  
39 financing, not whether the level of finance is optimal or the best policy...”;  
40 and  
41 WHEREAS, The district court in *U.S.D. #229*, as quoted with ap-  
42 proval by the supreme court, found that “[s]uitability does not mandate  
43 excellence or high quality. In fact, suitability does not imply any objective,

1 quantifiable education standard against which schools can be measured  
2 by a court.”; and

3 WHEREAS, Rules have to be made and lines drawn in providing  
4 “suitable financing.” The drawing of these lines lies at the very heart of  
5 the legislative process and the compromises inherent in the process.”;  
6 and

7 WHEREAS, The determination of the amounts, sources, and objec-  
8 tives of expenditures of public moneys for educational purposes, espe-  
9 cially at the state level, presents issues of enormous practical and political  
10 complexity, and resolution appropriately is largely left to the interplay of  
11 the interests and forces directly involved and indirectly affected, in the  
12 arenas of legislative and executive activity. This is of the very essence of  
13 our governmental and political polity. It would normally be inappropriate,  
14 therefore, for the courts to intrude upon such decision-making; and

15 WHEREAS, The court in *State ex rel Stephan v. House of Represen-*  
16 *tatives* provided a detailed discussion of the doctrine of separation of  
17 powers. The court recognized the doctrine and that through it “a dan-  
18 gerous concentration of power is avoided through the checks and balances  
19 each branch of government has against the other,” and that, generally  
20 speaking, “the legislative power is the power to make, amend, or repeal  
21 laws; the executive power is the power to enforce the laws; and the judicial  
22 power is the power to interpret and apply the laws in actual controver-  
23 sies.”; and

24 WHEREAS, Despite the outstanding performance of Kansas public  
25 schools and the continued legislative commitment to those schools evi-  
26 denced in 2005 House Bill No. 2247, the Kansas Supreme Court ruled  
27 on June 3, 2005, that 2005 House Bill No. 2247 “falls short of the standard  
28 set by article 6, section 6 of the Kansas Constitution”; and

29 WHEREAS, The Kansas Supreme Court has now ordered the Leg-  
30 islature to appropriate an additional \$143 million in public school funding  
31 by July 1, 2005, and has further threatened to order the Legislature to  
32 appropriate an additional \$568 million in new money for public schools  
33 during the 2006 legislative session; and

34 WHEREAS, Under article 2, section 24 of the Kansas constitution the  
35 power of appropriations is vested exclusively in the legislative branch; and

36 WHEREAS, The judiciary is not free to exercise all state power; it  
37 may exercise only the judicial power. The confinement of appropriations  
38 to the legislative branches, both in our federal and state governments,  
39 was not random. It reflects our national ideal that the power of appro-  
40 priation must be under the control of those whose money is being spent.  
41 This truth animated all of our colonial and revolutionary history; and

42 WHEREAS, On May 2, 2005, the Kansas Supreme Court issued an  
43 order stating, “Neither chamber of the legislature is a party to this action.”

1 However, as a nonparty the Legislature was the subject of an order by  
2 the supreme court to appropriate a specific amount of money on a specific  
3 date after final adjournment of the 2005 legislative session: Now,  
4 therefore,

5 *Be it Resolved by the House of Representatives of the State of Kan-*  
6 *sas.* That 2005 House Bill No. 2247 was, as a matter of public policy, a  
7 proper legislative response to the court's January 2005 ruling; and

8 *Be it further resolved:* That given the delegation of the appropriation  
9 powers under the Kansas Constitution and the status of the Legislature  
10 as a nonparty to the *Montoy* litigation, the order of the court directing  
11 the legislature to appropriate a specific level of funding for public schools  
12 is viewed by this body as a advisory in nature; and

13 *Be it further resolved:* That with respect to the determination of a  
14 specific amount to appropriate for the funding of public schools the  
15 House of Representatives of the State of Kansas will act based solely upon  
16 its own deliberative judgment as to the proper public policy determina-  
17 tion in this area.