

Approved: _____
Date

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION.

The meeting was called to order by Chairperson Rick Bowden at 11:30.m. on April 8, 1992 in Room 519-S of the Capitol.

All members were present except:

Committee staff present:

Avis Swartzman, Revisor of Statutes Office
Shirley Wilds, Secretary to the Committee

Conferees appearing before the committee:

Rob Bieker, Director of Legal Services - KS State Board of Education

The meeting was called to order by Chairperson Rick Bowden.

Consideration of SB 523:

Rod Bieker. Mr. Bieker said SB 523 helps to ensure the state is in compliance with the federal law that requires that special education children are provided special education services. In addition, he reported this bill incorporates the substance of HB 3076, wherein in Sections 2 and 3 it provides consistent definitions in the state special education and attendance laws. (See Attachment #1.)

Pat Baker. Ms. Baker offered a brief comment that KASB supports this measure.

Gerry Henderson. Mr. Henderson said USA supports the bill as explained by Mr. Bieker.

Representative Blumenthal moved to amend SB 523 on Page 3, line 28 strike the word "custody" and insert "control;" and on Page 4, line 29 strike the word "custody" and insert "control." Representative Ramirez seconded the motion. Motion passed.

Representative Blumenthal moved to pass SB 523 out favorably, as amended; Representative Crumbaker seconded the motion. Motion passed.

The meeting adjourned at 12:10

Kansas State Board of Education

120 S.E. 10th Avenue, Topeka, Kansas 66612-1182

April 8, 1992

TO: House Education Committee

FROM: State Board of Education

SUBJECT: 1992 Senate Bill 523

My name is Rod Bieker, and I am Director of Legal Services for the State Department of Education. It is a pleasure for me to appear before this Committee on behalf of the State Board.

Senate Bill 523 was requested to ensure that the state is in compliance with the federal special education law, the Individuals With Disabilities Education Act (IDEA). Under the federal law, the state is responsible for assuring that the requirements of the federal law are met and that each child with a disability is provided a free, appropriate public education. If this responsibility is not fulfilled, the state, as well as the local school district, can be sued and there is no immunity.

When Congress reauthorized the federal special education law, it specifically added language to ensure that special education was provided to children, not only in schools, but also "in hospitals and institutions and in other settings". We, in the Department of Education, have been made aware of instances when identified special education students have ceased being provided services when they are admitted to a care facility or other institution. Such activity puts the state in violation of the federal law.

In those situations, neither the district of residence of the student nor the district in which the care facility is located have wanted to assume the responsibility for providing the services to which the child is entitled. The state cannot allow such bickering between the school districts, since it is the state that is responsible for the provision of special education services. Under SB 523, the school district of residence of a child with disability would remain responsible for paying for the services needed by the child; however, if the child were moved to a care facility in another school district, that school district would be required to actually provide the services for the child and the school district of residence would be required to pay for those necessary services. This would be accomplished under an agreement entered into by the two local school districts.

In short, federal law requires that special education children be provided special education services. This is the state's responsibility. Senate Bill 523 helps to ensure the state is in compliance with the federal law.

Legal Services
(913) 296-3204

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In addition, SB 523 incorporates the substance of HB 3076, which the Committee previously considered. This is accomplished in sections 2 and 3 of the bill. These sections simply provide consistent definitions in the state special education law and the school attendance law of the term "person acting as parent." In the special education law, the definition fails to mention a legal guardian, and uses the phrase "person who has physical or legal custody of a child." The school attendance law, however, includes a legal guardian, and uses the phrase "a person having physical and legal custody of a child."

The amendments to these laws make them the same and clarify the definition. The language does not expand or contract the persons who are included under the laws. Consequently, we request your favorable recommendation on this bill.

Attach #1-2