

## MINUTES OF THE HOUSE EDUCATION COMMITTEE

The meeting was called to order by Chairman Kathe Decker at 9:00 A.M. on March 11, 2005 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research  
Theresa Kiernan, Office of the Revisor of Statutes  
Art Griggs, Office of the Revisor of Statutes  
Dana Wurdeman, Committee Secretary

**SB 48 - concerning schools and school districts; relating to contracts.**

**Supplemental Note - SB 48 would place in statute the policy of the State of Kansas that a school board's actions relating to a contract are the sole responsibility of the district. Contracts entered into by any representative of the school board, officer, or employee would carry the same provision. Finally, the bill would prohibit the use of language in the contracts that would indemnify or hold harmless other parties against damages, injury, or death resulting from the action of any party to a contract other than the school board or district. All contracts of a school board or district inconsistent with this bill would be void and unenforceable.**

A motion was made by Rep. Horst and seconded by Rep. Storm to move SB 48 out of Committee.

Representative Horst made a motion that would extend the same authority to our community colleges and technical schools. The motion was seconded by Representative Craft. (Attachment 1). The motion passed on a voice vote.

Chairman Decker explained that this amendment would be a parallel provision at their statute areas.

The motion to move SB 48 out of Committee passed on a voice vote.

**SB 49 - concerning schools and school district; relating to contracts.**

**Supplemental Note - SB 49 would create a new provision in state law with regard to contracts entered into by any unified school district in Kansas. The provision would state that it is the policy of the State of Kansas that all contracts entered into by a local school board will be governed by and interpreted in accordance with the laws of the State of Kansas. Contracts entered into by any officers or employees acting on behalf of the school board would carry the same provision. The local board, or any officer or employee acting on the board's behalf, would have no power to enter into a contract which provides that the contract must be governed by or interpreted in accordance with laws of any other state. Contracts not consistent with the provisions of this bill would be void and unenforceable.**

Representative Horst moved that SB 49 be amended into SB 48. The motion was seconded by Representative Storm and passed on a voice vote.

Representative DeCastro made a motion to amend the provisions of what is currently SB 49 to also extend that policy to include technical schools and community colleges. The motion was seconded by Representative Storm and passed on a voice vote.

A proposed amendment by Representative Loyd for a parallel provision for community colleges and technical colleges was explained. (Attachment 2).

Motion was made by Representative Horst to make this an amendment. The motion was seconded by Representative Storm and passed on a voice vote.

CONTINUATION SHEET

MINUTES OF THE House Education Committee at 9:00 A.M. on March 11, 2005 in Room 313-S of the Capitol.

Representative Miller moved that SB 48 be passed favorably as amended. It was seconded by Representative Horst and passed on a voice vote.

**SB 154 - an act relating to food and beverages available to students in Kansas school districts.**

A motion was made by Representative Horst and seconded by Representative Crow to work SB 154.

Representative Crow explained her amendment to **SB 154**. (Attachment 3).

Representative Crow moved to make this amendment to SB 154. The motion was seconded by Representative Colloton and passed on a voice vote.

A motion was made by Representative Horst to move SB 154 favorably amended. Representative Colloton seconded the motion which carried on a voice vote.

Representative Phelps voiced opposition to passage of SB 154.

**HB 2331 - concerning school districts; relating to the provision of special education and related services.**

Kathie Sparks offered explanation to the Committee on how **HB 2331** would amend state law. (Attachment 4).

A motion to work HB 2331 was made by Representative Decker and seconded by Representative Horst.

Representative Horst offered technical corrections she wished made to **HB 2331**. (Attachment 5).

Representative Mah requested an amendment be made to **HB 2331** by deleting the word "to" on page 11, line 28.

A motion was made by Representative Mah and seconded by Representative Huebert that this amendment be included in Representative Horst's technical corrections to HB 2331 and passed. The motion to amend passed by a voice vote.

**HB 2247 - concerning school records of certain pupils; relating to the transfer thereof; imposing duties upon the Secretary of the Department of Social and Rehabilitation Services.**

Representative Horst asked that a conceptual amendment be considered regarding lines 27 and 28 of **HB 2247**, a bill that is now in the Senate. Her request was in regard to, "Such school records shall be transferred at the same time that those pupils, who are in the custody of the Juvenile Justice Authority or the Department of Corrections, are transferred or as soon as possible thereafter." She asked that this be copied from **HB 2247** and inserted into **HB 2331** on page 24, line 3 (g) (1).

A motion was made by Representative Horst and seconded by Representative Decker that these amendments be made to HB 2331, The motion carried on a voice vote.

Representative Storm moved that an amendment be made on page 22 of HB 2331 by reinstating lines 12 through 19 and deleting lines 20 through 26. The motion was seconded by Representative Crow and passed on a voice vote.

CONTINUATION SHEET

MINUTES OF THE House Education Committee at 9:00 A.M. on March 11, 2005 in Room 313-S of the Capitol.

A motion was made by Representative Storm and seconded by Representative Miller that **HB 2331** be passed favorably as amended..

Representative Otto made the motion that the words "gifted children" be deleted from **HB 2331** on page 1, like 28, section (g). The motion was seconded by Representative Powers and failed on a voice vote.

It was moved by Representative DeCastro and seconded by Representative Colloton that an amendment be made on page 2, line 10 to **HB 2331** that would add a period following the word "parent" and on lines 10 and 11 on the same page, to delete the words "if the foster parent has been appointed the education advocate of an exceptional child.". Representative DeCastro then withdrew her amendment.

A question was called to pass **HB 2331**. The motion to pass the bill favorably as amended passed on a voice vote.

The meeting was adjourned at 10:30 a.m. The next meeting of the full committee is scheduled for Monday, March 14, 2005.

SENATE BILL No. 48

By Senator Vratil

1-19

Proposed Amendments

9 AN ACT concerning schools and school districts; relating to contracts.

10

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. (a) It is the public policy of the state of Kansas that all  
13 contracts entered into by the board of education of a school district, or  
14 any officers or employees thereof acting on behalf of the board, provide  
15 that the school district and board of education shall be responsible solely  
16 for the district's or board's actions or failure to act under a contract.

17 (b) The board of education of a school district and any officers or  
18 employees thereof acting on behalf of the board shall not have the au-  
19 thority to enter into a contract under which the school district or board  
20 agrees to, or is required to, indemnify or hold harmless against damages,  
21 injury or death resulting from the actions or failure to act on the part of  
22 any party to a contract other than the board or district.

23 (c) The provisions of any contract entered into in violation of this  
24 section shall be contrary to the public policy of the state of Kansas and  
25 shall be void and unenforceable.

26 Sec. 2. This act shall take effect and be in force from and after its  
27 publication in the statute book.

Parallel provisions for both community colleges and  
technical schools (Reps. ~~Ward~~ and Loyd)

Faber

House Education Committee

Date: 3-11-05

Attachment # 1

SENATE BILL No. 49

By Senator Vratil

1-19

Proposed Amendments

9 AN ACT concerning schools and school districts; relating to contracts.

10

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. (a) It is the public policy of the state of Kansas that all  
13 contracts entered into by the board of education of a school district, or  
14 any officers or employees thereof acting on behalf of the board, shall be  
15 governed by and interpreted in accordance with the laws of the state of  
16 Kansas.

17 (b) The board of education of a school district and any of its officers  
18 and employees thereof acting on behalf of the board shall have no power  
19 to enter into a contract which provides that the contract shall be governed  
20 by or interpreted in accordance with the laws of a state other than the  
21 state of Kansas.

22 (c) The board of education of a school district and any officers and  
23 employees thereof acting on behalf of the board shall have no power,  
24 pursuant to a contract, to submit to the jurisdiction of any court other  
25 than a court of the state of Kansas.

26 (d) The provisions of any contract entered into in violation of this  
27 section shall be contrary to the public policy of the state of Kansas and  
28 shall be void and unenforceable.

29 Sec. 2. This act shall take effect and be in force from and after its  
30 publication in the statute book.

1. Parallel provisions for both community colleges and technical schools (Reps. ~~Ward~~ and Loyd)  
*Faber*
2. See attached (Rep. Loyd)

House Education Committee  
 Date: 3/11/05  
 Attachment # 2-1

SB49Attachment

Sec. 2. (a) Except as provided by subsection (c), any contract entered into by the board of education of a school district or any of its officers or employees acting on behalf of the board shall contain the mandatory contract provisions prescribed by the department of administration in form DA-146a, as amended.

(b) Except as provided by subsection (c), any contract entered into after the effective date of this act shall be deemed to have incorporated the mandatory contract provisions prescribed by the department of administration in form DA-146a, as amended, even if such provisions are not specifically contained in such contract.

(c) The board of education of a school district may omit any of the mandatory contract provisions prescribed by the department of administration in form DA-146a, as amended, upon a majority vote of the entire membership of the board. Such action shall be spread in the minutes of the meeting of the board at which such vote is taken. The board shall not have the authority to waive or omit from the provisions of any contract the provisions of section 1 of this act or section 1 of 2005 Senate Bill No. 48, and amendments thereto.

(Parallel provision for community colleges. Rep. Loyd)

SENATE BILL No. 154

By Committee on Public Health and Welfare

2-1

10 AN ACT relating to food and beverages available to students in Kansas  
11 school districts; ~~providing for the adoption of certain standards.~~

12  
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. (a) The state board of education shall ~~prescribe nutritional~~  
15 ~~standards~~ for all foods and beverages made available to students in Kansas  
16 public schools during the school day. ***In developing such standards, the***  
17 ***state board of education shall consult with other state agencies,***  
18 ***private foundations and other private entities.*** ~~In prescribing such~~  
19 ~~standards,~~ particular attention shall be given to providing healthful foods  
20 and beverages, ***physical activities and wellness education*** with the  
21 goals of preventing and reducing childhood obesity.

22 ~~(b) All Kansas public school districts shall comply with the standards~~  
23 ~~prescribed by the state board of education. These standards may provide~~  
24 ~~for the granting of a waiver in appropriate circumstances. The state board~~  
25 ~~of education shall be responsible for determining waiver criteria and~~  
26 ~~procedures.~~

27 Sec. 2. This act shall take effect and be in force from and after its  
28 publication in the statute book.

relating to nutrition guidelines

develop nutrition guidelines

guidelines

*developing*

(b) When establishing the wellness policy of the school district, the board of education of each district shall take into consideration the guidelines developed by the state board under subsection (a).

House Education Committee  
Date: 3-11-05  
Attachment # 3



March 11, 2005

**To:** House Committee on Education  
**From:** Kathie Sparks, Principal Analyst  
**Re:** HB 2331

House Bill 2331 would amend state law to incorporate changes made by the U.S. Congress to the federal Individuals with Disabilities Education Act. The following is a section-by-section description of proposed changes to current law.

## Section 1

State agency is revised from Secretary to Department of Social and Rehabilitation Services and Corrections and lists Juvenile Justice Authority. **Parent** is revised to include a foster parent, if the foster parent has been appointed the education advocate of an exceptional child. Under the definition of a **person acting as parent**, the list is expanded to include other relatives. **Related services** lists is expanded to include interpreting services, school nurse services designated to enable a child with a disability to receive a free appropriate public education, and related services would not mean any medical device that is surgically implanted or the replacement of any such device. The **definition of children with disabilities** is expanded to include children experiencing one or more developmental delays and, by reason thereof, need special education and related services if such children are ages three through nine. **Developmental delay** is defined as a deviation from average development in one or more of the following developmental areas, as determined by appropriate diagnostic instruments and procedures, as indicate that special education and related services are required: physical, cognitive, adaptive behavior, communication; or social or emotional development. A definition for **homeless children** which is defined in the federal McKinney-Vento Homeless Assistance Act is added. A definition of **limited English proficient** is added which conforms with the federal Elementary and Secondary Education Act of 1965.

## Section 2

A sentence is added that until the State Board of Education adopts new rules and regulations, the federal law is to be followed in any disputes.

## Section 3

Dispute resolution procedures; hearing officers and mediators, qualifications standards, education and training for a school district is amended to read in accordance with federal law.

House Education Committee  
Date: 3-11-05  
Attachment # 4-1



#### **Section 4**

Amends the State Advisory Council for Special Education representatives to include parents of exceptional children, ages birth through 26; state and local education officials, including officials who carry out activities under the federal McKinney-Vento Homeless Education Act; and adds a representative from the state agency responsible for foster care of children.

#### **Section 5**

Under the bill, a school district would be allowed to use up to 15 percent of the federal funding it receives to provide early intervention services.

#### **Section 6**

Under the bill, each board would be required to adopt and implement procedures to assure that all exceptional children including **homeless children, foster care children,** and children enrolled in private schools are identified, located, and evaluated. In addition, local school boards and state agencies would be prohibited from requiring any child to obtain a prescription for a substance covered by the federal Controlled Substances Act.

#### **Section 7**

Local school districts would be required to furnish all necessary data required by the State Board of Education to complete required reports.

#### **Sections 8-10**

The bill would change the due process complaint process to require that complaints give notice of all issues; require parents and schools to participate in a resolution meeting prior to a hearing, unless they agree to waive the meeting and use mediation instead; require hearing officers to have content knowledge about special education and be impartial; require hearing officer decisions to be based on whether the school provides a free appropriate education, not on technical violations of procedural requirements; provide a two-year statute of limitations for bringing complaints; and allow school districts to recover attorney fees for frivolous complaints.

The bill requires that within 15 days of receipt of a due process complaint notice from a parent, the agency will convene a meeting with the parents, the member or members of the IEP team who have specific knowledge of the facts, a representative of the agency who can make decisions for the agency, and the agency cannot include the agency's attorney unless the parent is accompanied by an attorney. The section also outlines the execution of a written agreement which is binding if agreement is reached, or if agreement is not reached at the meeting, outlines the next steps to be followed by all parties.

4-2

## **Section 11**

The bill would add to the goals for the performance of children with disabilities that the goals are the same as the goals included in the state's definition of adequate yearly progress under the federal No Child Left Behind Act of 2004, including the state's objectives for progress by children with disabilities and addresses graduation rates, dropout rates, and other factors as determined by the State Board of Education.

## **Section 12**

The bill would require that appropriate accommodations will be provided for exceptional children when taking assessments, and this can include alternative assessment instruments. Reporting requirements for the state and local boards also are listed in the section.

## **Sections 13-16**

This section outlines the evaluation process and states that an initial evaluation may be initiated either by the parent of a child or by an agency. In addition, the screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation would not be considered to be an evaluation under this Act.

Parental consent is required for evaluation of a child. An agency, when determining whether a child has a specific learning disability, would not be required to take into consideration whether the child has a severe discrepancy between achievement and intellectual ability, and may use a process that determines if the child responds to scientific, research-based intervention as part of the child's evaluation. Assessments would need to be in a language and form most likely to yield accurate information on functionality, unless it is not feasible to so provide or administer. If the child is determined to be a child with disabilities, parental consent for services would be required.

The bill also outlines the conduct and the content of the IEPs and transitional services and plans required. The process of transferring a child with disabilities from one school or district to another is outlined in the bill to insure that appropriate services continue.

The bill would require that the State Board of Education develop and distribute notice of the rights available to the parents of exceptional children, including a full explanation of the rights and that the rights are available in various languages and written in an easily understandable manner. A copy of the rights would be required to be given to the parents each year that the child receives services and at the initial referral or parental request for evaluation.

## **Sections 17-20**

These sections deal with matters concerning the discipline of children with disabilities.

Horat #1

House Education Committee –February 16, 2005  
Attachment to Testimony of Rodney J. Bieker  
HB 2331

Technical corrections to H.B. 2331

1. On p. 2 in lines 40-41, substitute "designed" for "designated".
2. On p. 2, in line 42, following "IEP", add a comma.
3. On p. 4, in line 4, substitute "need" for "needs".
4. On p. 8, in lines 33-35, no language should be stricken.
5. On p. 9, in line 33, substitute "(b)(2)" for "(a)".
6. On p. 11, in line 33, substitute "parties" for "parents".
7. On p. 12, in line 19, strike "72-992 or".
8. On p. 12, in lines 34-35, strike "K.S.A. 72-991" and  
in line 35 immediately before the comma, insert  
"section 18".
9. On p. 19, in line 22, substitute "education" for "educational".
10. On p. 21, in line 8, after "achievement", insert "and".
11. On p. 22, in line 1, substitute "on" for "in".
12. On p. 24, in line 1, insert "parents" after the first "the".
13. On p. 27, in line 14, substitute "section 18" for "K.S.A. 72-922".
14. On p. 30, in line 9, preceding the comma, insert "or has refused  
services under this law".

House Education Committee

Date: 3-11-05

Attachment # 5