

Approved: 2-22-05

Date

MINUTES OF THE SELECT COMMITTEE ON SCHOOL FINANCE

The meeting was called to order by Chairman Kathe Decker at 2:30 P.M. on January 31, 2005 in Room 313-S of the Capitol.

All members were present except:

Willa DeCastro- excused

Ray Merrick - excused

Valdenia Winn- excused

Committee staff present:

Kathie Sparks, Kansas Legislative Research

Art Griggs, Revisor of Statutes Office

Ann Deitcher, Committee Secretary

Kathie Sparks gave a presentation to the Committee on the Legislative Educational Planning Committee that met during the summer of 2004. (Attachment 1).

A copy of the estimated special education excess costs for the fiscal year 2006 was provided. (Attachment 2) as well as the selected information on special education expenditures for the fiscal years 1983 through 2006 (est). (Attachment 3).

A brief question and answer session followed.

The meeting was adjourned at 3:30 p.m. The next select committee meeting is scheduled for Wednesday, February 2, 2005.

Legislative Educational Planning Committee

ELEMENTARY AND SECONDARY EDUCATION POSTSECONDARY EDUCATION

CONCLUSIONS AND RECOMMENDATIONS

The Legislative Educational Planning Committee recommends ten bills for introduction during the 2005 Session. One bill would amend current law by expanding the requirement that school districts have policies authorizing self-medication by students in grades 6 through 12 to require that the policies also must apply to elementary school children. The recommended legislation makes other changes in current law generally to conform Kansas law to recently-enacted federal legislation. Another bill would establish in statute the policy that funding for special education excess costs should be at the 88 percent level. Currently, the excess costs level has been subject to appropriation. Other recommended legislation would implement the following legislative proposals requested by the Kansas Board of Regents: Provide that interest earnings on special revenue funds at the state universities would be credited to the funds that generated the interest, not to the State General Fund as presently is the case; continue funding for Kan-Ed from the Kansas Universal Service Fund for another three years (through FY 2008) rather than allowing the funding to expire at the end of FY 2005; repeal the prohibition on community colleges entering into agreements with out-of-state institutions; modify statutes relating to the Regents system retirement plans and the Regents phased retirement program; authorize the creation of a new unclassified employee category named "University Support Staff" which, at the discretion of each state university and subject to approval by the Board of Regents, would replace state university civil service job classifications; eliminate the cap, currently \$1 million, on Research Foundation Capital Improvement projects; and authorize the state universities to participate in a property insurance plan developed by the Midwest Higher Education Commission. The Committee also recommends the introduction of legislation to increase the scholarship paid to teachers who are in a program leading to National Board certification from \$1,000 to \$1,150, authorize a scholarship of \$500 for teachers who are in the process of renewing their National Board certification, and providing that \$1,000 bonuses will be paid to eligible teachers who have renewed their National Board certification. The Committee also requests that the Committee Chair send letters to the Chairs of the House Appropriations and Senate Ways and Means Committees endorsing on behalf of the Committee full implementation of the Higher Education Coordination Act (1999 SB 345), full funding of the technical school and technical college postsecondary tuition state aid program, and adequate funding for student assistance programs.

Proposed Legislation: The Committee recommends the introduction of ten bills.

BACKGROUND

The Legislative Educational Planning Committee (LEPC) is a statutorily-authorized committee charged with jurisdiction over preschool, elementary, secondary, and postsecondary education. It is statutorily

charged with monitoring the implementation and ongoing operation of the Kansas Higher Education Coordination Act (KSA 74-3201 *et seq.*). The Committee consists of seven House members and six Senate members appointed by the Legislative Coordinating Council (LCC). The Committee may initiate

its own studies or be assigned proposals by the LCC. During the 2004 interim, the LCC charged the Committee with studying special education, child care programs operated by school districts, and the implementation of policies relating to school district personal financial literacy programs.

COMMITTEE ACTIVITIES

Elementary and Secondary Education

Special Education

The LCC directed the Committee to review special education in Kansas, including the current funding formula, how Individual Education Plans (IEPs) are developed, the role of parents in the special education process, and accountability measures to ensure that services and programs are in compliance with state and federal requirements. In fulfillment of its charge, the Committee reviewed the following:

- Federal and state laws which mandate services for disabled (and, under Kansas law, gifted) children;
- the process by which IEPs are developed, including parental rights under state and federal law;
- special education due process procedures and alternatives to formal due process, such as mediation;
- how special education services are provided by school districts, including the use of cooperatives and interlocals;
- how special education services are provided to private school students;
- special education teacher qualifications and teacher shortages;
- the special education funding formula in Kansas and how other states fund special

education services, including Florida, which has a voucher program for special education students enrolled in private schools; and

- the federal role in special education funding.

In addition to receiving information from Committee staff and staff in the State Department of Education, the Committee heard presentations by directors of special education programs in USD 282 (West Elk), USD 259 (Wichita), USD 497 (Lawrence), and the Butler County School Board Council Special Education Cooperative. The Committee received testimony from a coalition of parents and other advocates for services for the disabled which had been organized by Kansas Advocacy and Protective Services, Inc. Additional testimony was given by a speech pathologist who formerly had worked for USD 475 (Geary County) and representatives of the Kansas Association of School Boards, the Kansas Association for the Gifted, Talented, and Creative, and the Coordinating Council on Early Childhood Developmental Services. The Committee also received a report from the Legislative Division of Post Audit on whether school districts are accountable for meeting students' IEP goals.

State and Federal Special Education Laws. The special education law in Kansas generally conforms to federal law, except that: Kansas law mandates services for gifted students and federal law does not; Kansas law requires that a child enrolled in a private school in Kansas who receives special education services provided by a public school must have an IEP and the parents must have the same due process rights as parents of public school students; and Kansas law requires parental consent prior to making a material change in a student's services or a substantial change in placement, in addition to the federally-required parental consent for the evaluation or reevaluation of a child or upon initiation of services. The decision to include gifted

children in the special education mandate was made at the time the Kansas special education law was enacted in 1974 and was based on the policy of providing special education services to eligible students who "differ from the norm."

Federal law requires that a free appropriate public education be available to all children with disabilities from age three through 21. (Kansas law extends this mandate to gifted children.) The United States Supreme Court has defined "free appropriate public education" to mean specialized instruction and services that are individually designed to provide educational benefits to the handicapped child. To fulfill this mandate, federal law requires states to have a continuum of placements available, ranging from instruction in regular classes to special classes, special schools, home instruction, and instruction in hospitals and institutions.

School districts have an "affirmative duty" to identify children who have disabilities and to make a formal evaluation to see whether the student qualifies for special education services. If the child's primary language is not English, the evaluation has to be in a language that is appropriate, and the inability to speak or understand English well cannot be the basis for a special education placement. Once an evaluation is completed, a team is assembled to determine whether the child fits the definition of a child with disabilities under the law and to develop the IEP. The team consists of the child's parents, a regular education teacher, a special education teacher, a representative of a public agency that provides special education instruction, an individual who can interpret evaluation results, other individuals included at the request of the school or the parent, and, if appropriate, the child. Parents have the right examine their child's records, participate in meetings about their child, obtain an independent educational evaluation of their child, and receive written notice about their child's progress. A parent who is aggrieved may file a complaint with

the State Department of Education, request mediation of disputes, request a due process hearing, or appeal to the courts. The State Department receives about 50 complaints a year.

The process to develop an IEP is critical, both in terms of ensuring that various legal requirements are met and in terms of setting the course that will determine the services a child is provided. Following the identification and assessment of a child and the determination that the child is eligible for special education services, a school district has 30 days to convene an IEP team to meet and write an IEP for the child. All parties must be contacted and, in the case of the child's parents, must be told that they may invite people to the meeting who have knowledge or special expertise about their child. The child begins to receive services as soon as possible after the meeting. The parents must give consent before services are provided.

Parents and teachers have copies of the IEP and the school is responsible for making sure that services are provided. Progress is measured and reported to parents. The IEP team conducts reviews at least once a year or more often if requested by the parents or the school. Revisions are made in the IEP as necessary. At least every three years the child must be reevaluated to determine whether the child continues to be a "child with a disability," as defined by federal law. The child must be reevaluated more often if conditions warrant or if the child's parent or teacher asks for a new evaluation.

Due Process Procedures. When there is a disagreement between parents and a school district regarding special education services, the parent or the district may request mediation or initiate a due process hearing. The processes are as follows:

- *Mediation.* If mediation is requested, both parties must participate. The State Board of Education appoints a mediator

(usually an attorney) from a list it maintains. The State Board of Education pays for the mediator and related costs.

- *Due Process.* If mediation fails or is bypassed, a due process hearing may be initiated by the parents or the school. The school district must provide for the hearing and furnish to the parent a list of qualified due process hearing officers and written notification that the parent has the right to disqualify any or all of the hearing officers on the list and to request that the State Board appoint the hearing officer. Both parties present evidence by sworn testimony and written documents. The proceedings are recorded, verbatim, by a court reporter. The hearing officer renders a written decision which either party may appeal to an independent state review official. If still dissatisfied, a party may file a civil action in either state or federal court.

According to the State Department of Education, in the five-year period from school years 1998-99 to 2002-03, there was a total of 190 mediations sought, of which 17 were withdrawn and 173 were conducted. Agreement was reached in 137 or 79 percent of the mediations. The total number of due process hearing notices filed during the same period was 485, of which 58 were heard. (The Wichita school district tends to file many due process hearing notices, but withdraws them prior to hearing.) Of the issues in the due process hearings that actually were heard, 86 were resolved in favor of the school district and 15 in favor of the parent. During this five-year period, approximately 75,000 students were receiving special education services.

Special Education Incidence Rate.

While federal guidelines define the categories of disability, it is up to states to set criteria to determine eligibility for each category. According to data collected for school year 2000-01 (the most recent year for which comparative information is available), Kansas had an incidence rate for children

with disabilities of 13.0 percent, compared to the national incidence rate of 13.3 percent. (The categories compared exclude gifted children.) According to data from the State Department of Education, 62 percent of special education children in Kansas are in the learning disabled or speech/language impaired categories, compared to 73 percent nationwide. The three fastest growing categories are learning disabled, autism, and "other health impaired," which includes chronic or acute health problems.

Special Education Service and Accountability. State and federal special education laws make public school districts responsible for providing special education services. Federal law mandates a "continuum of alternative placements" and requires that, to the extent appropriate, children with disabilities should be educated in the least restrictive environment. That means that the continuum begins with services provided in settings with children who are not disabled and runs through the provision of instruction in special classes, special schools, home instruction, and services provided in hospitals and institutions. School districts are required to provide special education and related services to all exceptional children who reside in the district, including private school students. The United States Supreme Court has ruled that "related services" means services necessary to enable a child to attend school and to benefit from special education, except for those services that must be performed by a licensed physician.

School districts have available to them various mechanisms and arrangements by which special education services are provided. These are statutorily provided for by KSA 72-967 and include authorization to contract with other school districts for special education and related services, to enter into cooperative agreements with one or more other districts, and to contract with private nonprofit corporations or public or private institutions, in or out of Kansas.

A frequent means by which special education services are provided is through interlocals and cooperatives. An interlocal is a legal agreement between two or more school districts for the purpose of performing services and functions which the law authorizes be performed by school districts, except that an interlocal does not have taxing or bonding authority. Interlocals are separate legal entities governed by boards comprised of members of the boards of education of participating districts and are financed by payments from the districts that are party to the agreement. Special education cooperatives are not separate legal entities, but are formed by agreement between the boards of two or more school districts in or out of state that provide for the operation and administration of special education and related services on a shared-cost basis.

The Committee received testimony from several special education directors who described how their school districts provide special education services. One noted a high correlation between poverty and incidence of special education students, speculating that many low-income families who have disabled children are moving into the area in order to live with relatives. The director of the largest special education program in the state said the program continues to grow because families move into the area to take advantage of available educational and medical services. The directors also described differences between large and small school districts with regard to teacher salaries (larger districts tend to have to pay more) and the availability of placement options for students (smaller districts tend to have fewer options).

Accountability is ensured in part by the requirement that states make reports to the federal government to demonstrate compliance with federal special education law and by State Department of Education monitoring activities. Compliance is assessed in several areas, including state supervision procedures, accuracy of data, the extent of parental involvement, evidence

of compliance with the requirement that free appropriate public education in the least restrictive environment be provided, evidence of secondary transition programs and services, and school completion rates. In the past, Kansas has been cited for not having appropriate transition plans for older students, not inviting students to meetings, and not beginning transition discussions when the child is 14 years of age. However, in letters from the United States Department of Education dated November 18, 1998, and September 29, 2004, officials at the State Department of Education have been told that Kansas has corrected its deficiencies and is in compliance with federal requirements.

Special education accountability was the subject of a performance audit reviewed by the Committee, which was conducted by the Legislative Division of Post Audit in 2001. The auditors found that 95 percent of the student files they reviewed (out of a sample of 164 children) had clearly defined and measurable IEP goals. The auditors reported that state regulations require school districts to make "good faith efforts" to help children achieve their special education goals and that the State Department of Education independently monitors districts' special education programs and conducts training sessions for district special education staff. The auditors concluded that Kansas' rank of 13 compares favorably among the 50 states, the District of Columbia, and Puerto Rico in the overall percentage of children who leave special education because they achieve their goals. In another audit conducted in 1998, auditors found that 96 percent of the special education students in the files they reviewed met the criteria for being placed in special education programs.

Assessments. All special education students participate in the state assessments, with accommodations, modifications, or alternative assessments provided for as necessary. For example, students who have difficulty in all subjects might be given a modified assessment with less advanced questions and be given more time to complete the assessment. Students with

severe learning problems might be given alternative assessments whereby they are tested on items such as communicating “yes” and “no” or learning to express their needs through sign language. The federal No Child Left Behind Act requires schools to report gains in the academic achievement of the overall school population and for subgroups of students, including those who are disabled. Special education students are included in the federal testing requirement, but districts may make accommodations on tests, as necessary, or provide appropriate alternative assessments. The State Department of Education considers Kansas on target to meet the educational testing requirements of the federal law.

Special Education Teachers. Information presented to the Committee by the State Department of Education indicates that Kansas presently has 35,162 general education teachers who are currently employed, plus 5,131 special education teachers. An additional 1,313 full-time equivalent (FTE) related service personnel, such as school nurses and psychologists, are involved in providing services to special education students.

Of the 5,131 special education teachers, 4,285 are fully qualified, 382 are provisionally licensed, and 250 are on waivers. “Provisionally licensed” means that the teacher has completed most of the requirements to be fully licensed but lacks some component, such as the teaching practicum. Waivers are given to individuals who are enrolled in teacher education programs but have not yet been given a provisional license. At the time of the Committee’s review, there were 81.75 FTE special education positions that were vacant. Special education, along with science, mathematics, foreign language, and music, is an area in which teacher shortages are most acute. State Department of Education staff told the Committee that reasons why special education teachers leave the teaching field include too much paperwork, relationships with parents, and lack of administrative support. To deal with the shortage, some

districts are “growing their own” special education teachers (providing incentives for current employees to become certificated in special education).

Testimony from Conferees. In addition to representatives of the State Department of Education and school district personnel involved in the delivery of special education services, the Committee received testimony from representatives of several associations and organizations and a number of persons speaking as concerned individuals. The representative of the Kansas Association for the Gifted, Talented, and Creative urged the Committee to continue to include gifted children in the special education mandate. The representative of the Coordinating Council on Early Childhood Developmental Services asked legislators to consider funding for services for preschool children in any public policy discussion of special education. The representative of the Kansas Association of School Boards observed that the special education process is extremely complicated, but most indications are that the process is working well. The Association opposes changes in the current law which would increase the cost of providing services, would exceed existing federal requirements (with the exception of the gifted mandate), or likely would increase special education litigation.

Several organizations that advocate for the disabled, including Kansas Advocacy and Protective Services, Inc., Families Together, and Keys for Networking, formed a coalition to address various aspects of services for the disabled. The coalition maintains that the special education process is complex, confusing, and intimidating, and that more services and support are needed for parents. Areas of particular concern include giving more attention to educating special education children in the least restrictive environment; becoming more aware of the use of assistive technology; providing better transition services for students who are moving from school to post-school activities; and doing a better job of monitoring achievement, outcomes, and

technical compliance. The coalition recommended to the Committee that issues raised by school districts and by representatives of the disabled community be examined by the 2005 Legislature. The coalition also asked the Committee to consider establishing guidelines for the use of seclusion rooms for special education students who need to be separated from the rest of the class.

Information presented to the Committee by members of the coalition included reports from parents who were frustrated with how they or their special education child had been treated by school officials, testimony from a foster parent who had limited rights concerning a child in her custody because parental rights had not been severed, reports from several parents about the use of seclusion rooms or time-out boxes, reports of unexplained delays and frustrations in getting needed services, frustration over the lack of transition services for students who need help preparing for jobs upon completion of school, criticism of the State Department of Education for not having a more rigorous process in place to monitor school districts for compliance with state and federal law, and testimony from parents who said they did not understand what information they are given about their children or who believe they are treated with hostility by school officials.

Issues raised involving special education children in foster care placement prompted the Committee to ask the Department of Social and Rehabilitation Services to respond to the following questions:

- Are the standards for selecting a foster care parent for a special education child the same as for a child who does not need special education services?
- What consideration is given to the school district's ability to deal with a special education child who is placed in foster care?

- Is there any information that would support or refute the contention that many special education foster care children are cared for by foster care parents during the school year but not during the summer when the foster care parent would have more responsibility for their care?
- Is there a correlation between the number of foster care placements in a school district and the district's number of at-risk pupils?

The response to the questions from the Department of Social and Rehabilitation Services is that foster care parents of special education children meet the same requirements for all foster care parents. Foster parents must meet requirements established by the Department of Health and Environment in order to be licensed and must complete additional hours of parenting training before a foster care child can be placed with them. The highest priorities in placing a child are security and permanence and consideration is given to placing a child near the child's birth parents or other relatives. For that reason, little consideration is given to the school district's ability to provide special education services to a child, although that situation may be changing. On July 1, 2005, the Department of Social and Rehabilitation Services is changing to a system under which attempts will be made to place children with families so that they can attend their home schools. The purpose of the change is so that children can continue to have contact with their families and home communities. Implementation of the change will depend on the Department of Social and Rehabilitation Service's ability to locate and recruit individuals in each child's home school area who are willing to serve as foster parents.

The Department was unable to provide data to respond to the question of whether foster care parents release their child to the care of others when school ends. The

representative of the Department said that changes in a child's placement usually take place at a normal break in the school routine and it is possible that more children do change locations when school ends, although the reason would not necessarily be because the foster parent does not want to remain responsible for the child.

Information on the number of foster care children and at-risk children in each school district shows that 14 school districts are in the top 20 districts for both numbers of at-risk students (free lunch eligible) and children in foster care. Four districts are in the top 20 districts on the basis of percentages of at-risk and foster care students.

Special Education Funding in Other States. Special education students are more expensive to educate than regular students because of the services they require. The most recent information on total expenditures for students with disabilities is from the Center for Special Education Finance for school year 1999-2000. The data are for children with disabilities and include all educational costs except for capital outlay. The data show that the average expenditure for a special education student is \$12,525 or \$5,969 (91 percent) more than the average expenditure for a regular education student (\$6,556).

The cost to educate special education students varies greatly by area of disability, ranging from learning disabled students, who cost on the average \$4,002 (61 percent) more than regular students to students whose conditions require that they receive services in private or state facilities, at a cost that exceeds the cost to educate a regular education student by \$16,024 (290 percent). In a separate study of selected individual states, the Center for Special Education Finance noted that special education expenditures in Kansas tend to be slightly lower than the national average.

There is great variety among states in how they fund special education services.

The Center for Special Education Finance groups state mechanisms for funding into the following categories:

- *Resource-Based.* Funding is based on a specific unit involved in delivering special education services, most commonly teachers or other staff. Eight states, including Kansas, use resource-based funding, either entirely or in combination with other funding mechanisms.
- *Flat Per-Pupil Grant.* Funding is based on a set amount per special education student.
- *Pupil Weights.* Funding is based on an amount per special education student, adjusted to take into account the cost of providing services, with more money provided students who require more services or who require expensive services. Twenty states use this approach, in some cases in conjunction with another funding method.
- *Census-Based.* Funding is based on the total number of students, not just those who receive special education services. It is used solely or in conjunction with other methods by 12 states.
- *Percentage Reimbursement.* Funding is provided for program expenditures, with all or a portion of expenditures reimbursed by the state.
- *Variable Block Grants.* Funding is based on a base-year allocation, often the prior year, with possible adjustments made for changes in enrollment, revenues, or inflation.

A voucher program in Florida received particular attention from the Committee because it was the basis for legislation introduced in Kansas during the 2004 Session. The McKay Scholarship for Students with Disabilities is a program in Florida which is intended to give parents of

disabled children more flexibility in deciding where their child will attend school. Parents who are dissatisfied with the public elementary or secondary school their disabled child attends may pick another public or private school and receive a voucher from the state to pay expenses associated with educating their child at the private school. During the 2002-03 school year, 977 schools participated in the program and 9,202 students were served.

To be eligible to participate, a student must have been enrolled in a Florida public school the prior year, have completed a year of kindergarten, and have an IEP. The amount of the scholarship is the lesser of the amount of funding the student would have generated at his or her assigned public school or the cost of the new school's tuition and fees. In school year 2002-03, the minimum scholarship was \$1,300 and the maximum was \$21,326, with a median of \$6,751. Eligibility for the scholarship continues until the student graduates from high school or returns to a public school.

SB 563, patterned after the Florida program, was introduced in Kansas during the 2004 Session, but did not pass.

Special Education Funding in Kansas.

Special education categorical aid is distributed as follows:

- From the amount appropriated, school districts are reimbursed for 80 percent of costs incurred in providing transportation for children to special education services and for travel allowances paid special education teachers.
- From the amount appropriated, school districts are reimbursed for 80 percent of actual costs incurred in providing maintenance of a child away from the child's residence, not to exceed \$600 per child per school year.
- From the amount appropriated, school districts are reimbursed for expenditures

for fully trained reading recovery teacher leaders, subject to an aggregate limit of \$180,000.

- From the amount appropriated, school districts are reimbursed for 75 percent of any expenditure in excess of \$25,000 per year for any one student ("catastrophic" state aid).
- From the amount remaining from the appropriation, school districts receive an amount per teacher based on each district's number of FTE special teachers in proportion to the state total of such teachers. For purposes of this calculation, special education paraprofessionals are counted as 0.4 FTE special teacher.

The amount appropriated for special education is determined annually by the Legislature and pays part of the excess cost to provide special education services. The amount of excess cost paid has varied over the years, but the appropriation has not exceeded the 85 percent level since FY 2002. Because services are mandated, they must be provided and school districts usually have to supplement the appropriation from other sources, most typically with transfers from their general funds. Because the amount of the appropriation has remained relatively stable while costs for services have been subject to inflationary increases, the amount per teaching unit has generally decreased in recent years, going from an estimated \$19,420 in FY 2004 to an estimated \$18,665 in FY 2005.

Federal Funding. The Individuals with Disabilities Education Act (IDEA) mandates special education services and authorizes grants to states to assist them in providing services to children with disabilities. The legislation contains a formula intended to help fund the difference between what it takes to educate a regular education student and a student with disabilities. Each state's amount is based on the number of disabled

children in the state multiplied by 40 percent of the average per pupil expenditure nationwide to educate all public elementary and secondary students. The 40 percent is a cap, not a guarantee, and under President Bush's budget proposal for federal FY 2004, grants to states under IDEA would approximate 19 percent of the average per pupil cost nationwide to educate all children. Kansas' grant for FY 2005 is estimated to be \$91,060,000. If the grant were to equal the 40 percent maximum authorization, Kansas would receive approximately \$100,000,000 more.

The failure of the federal government to adequately fund the federal special education mandate has been a longstanding point of contention between the federal government and the states. Efforts by the states to secure more funding have resulted in an increase in states' grants, with the grant to Kansas increasing by approximately \$10,000,000 each year since FY 2001. School districts in Kansas also receive federal Medicaid reimbursement for medical services provided special education students enrolled in the district. For Kansas, that aid is estimated to be \$25,000,000 in FY 2005.

Recommendation. The Committee received mixed input during the course of its study about special education services provided by Kansas school districts. Committee members do not doubt the sincerity of advocates for the disabled as they described their frustrations with the system and their efforts to obtain services for their children. Committee members also believe that special education professionals in the State Department of Education and in school districts are working to ensure that services are provided and that parents are involved in the process as much as possible. The Committee supports efforts of the State Department of Education and agrees with the testimony from the Kansas Association of School Boards that the special education process is complicated, but most indications are that the process is working well.

The Committee notes that policy makers in Kansas have opted to exceed the federal mandate in several regards, the effect being that more children are provided services and parents are afforded more rights than under the federal law. Specifically, Kansas defines gifted children as "exceptional" and requires that services be provided. (Services for the gifted totaled approximately \$9.4 million in FY 2004.) In addition, Kansas law requires more parental consent regarding special education services and placements than does the federal law and Kansas law extends more benefits and rights to students receiving services in private schools.

Exceeding the federal mandate in these areas illustrates the commitment Kansas policy makers have to providing special education services and to ensuring that parents are guaranteed their rights to participate in decisions affecting their children. The Committee reaffirms its commitment to continuing the gifted mandate and to promoting parental involvement in their children's educations. In spite of the fact that exceeding the federal mandate imposes an additional cost on Kansas in terms of more children receiving services, more IEPs being developed, more paperwork for school districts, and more people being entitled to participate in dispute resolution procedures, the per-pupil cost of providing services for special education children in Kansas (excluding gifted) is slightly below the national average. The balance between aggressively identifying all children who need special education services and over-identification appears to have been struck, as evidenced by the fact that the incidence rate for children with disabilities in Kansas is 13.0 percent, just below the national rate of 13.3 percent.

The Committee is aware that the burden on school districts to provide mandated services is made heavier during times of general revenue shortfalls. The Committee also is aware of rising costs for some special education services. Although federal funding for special education has increased in recent years, the grant to Kansas still is

less than half the maximum authorization and represents only a small portion of the total additional cost to educate a disabled child. The failure of the federal government to adequately fund IDEA is compounded by the almost certain financial burden that will be imposed by the No Child Left Behind Act, leaving states and school districts even more strapped as they try to comply with federal mandates.

The Committee's response to the financial plight of school districts is to recommend that funding under the existing formula be increased and to recommend that consideration be given to changing the formula itself. Increasing funding under the existing formula would give school districts immediate relief by making more state aid for special education available and thereby reducing the amount of money likely to be transferred from school district general funds.

The Committee's recommendation is that legislation be introduced to statutorily set the funding level for special education excess costs at 88 percent. In FY 2006, 88 percent funding would total \$278,162,406. This amount is an increase of \$27,145,561 over FY 2005, when excess costs are expected to be funded at the 81.7 percent level.

The Committee also intends to give consideration to changing the existing special education funding formula to include a census-based component. Census-based formulas allocate funding on the basis of total numbers of students, not just those who require special education services. An advantage of the method is that it may help contain costs because there is no incentive to classify students as special education, which is a concern of the Committee, particularly if the percentage of excess costs funding increases. The proposal under consideration by the Committee is the following:

- Fund 100 percent of special education excess costs.

- Of the appropriation, distribute first certain statutorily described aid, such as transportation and catastrophic aid. Of the remaining aid, distribute half on the basis of special education teaching units (the same as the current distribution formula) and half on the basis of a uniform amount per FTE student (regular and special education).

Finally, the Committee notes that IDEA is subject to reauthorization every five years. Last reauthorized in 1997, the current reauthorization was not agreed to by Congress until November of 2004. It will take the U. S. Department of Education at least another year to promulgate rules and regulations, after which states will have to revise their special education laws in order to conform to the federal law. There is no doubt that, in the next several years, the Kansas special education law will undergo extensive review and likely revision.

Early Childhood Standards

Early childhood standards applicable to a variety of settings were developed by groups of agency representatives, educators, and others in the 1990s. Several state agencies that provide services for young children, including the State Department of Education, the Department of Social and Rehabilitation Services, and the Department of Health and Environment, currently are in the process of developing and implementing guidelines that would apply and make operational those global standards to the services and programs they provide.

The Committee reviewed a draft entitled *Kansas Early Learning Guidelines: A Developmental Sequence Building the Foundation for Successful Children*, which includes indicators of what children should be able to do by certain ages. For example, by eight months of age, a young infant should be able to imitate simple sounds and pick up items with the thumb and forefinger.

ESTIMATED SPECIAL EDUCATION EXCESS COSTS – FY 2006

FY 2004 ACTUAL EXPENDITURES		\$558,977,862
FY 2005 ESTIMATE		
FY 2004 Actual		\$558,977,862
Percent Inc. (Based on teacher salary increase avg.)	2.75%	15,371,891
Added Teachers No./Amt.	210 \$ 52,736	11,074,560
EST. TOTAL FY 2005 EXPENDITURES		\$585,424,313

FY 2006 PROJECTION--SPECIAL EDUCATION EXPENDITURES AND EXCESS COSTS BASED ON CURRENT LAW

Est. FY 2005 Costs		\$585,424,313
Percent Inc. (Based on Teacher salary increase avg.)	2.00%	11,708,486
Added Teachers No./Amt.	150 \$53,790	8,068,500
PROJECTED FY 2006 TOTAL BUDGETED EXPENDITURES		\$605,201,299

EXCESS COST COMPUTATION

Projected Total Expenditures		\$605,201,299
Less: Avg. Per Pupil Cost of Regular Ed. (\$5,992.)		
times FTE Special Ed. Pupils		
(except SRS residents):	26,293 *	157,547,656
Less: Fed. Aid		100,060,000
Less: Medicaid Reimbursements		30,000,000 **
Less: SRS Contribution		1,500,000
FY 2006 EXCESS COST – 100 Percent		\$316,093,643

**EXHIBIT:
ESTIMATED EXCESS COST FUNDING FY 2006**

Percent of Excess Cost	Amount (THOUSANDS)	Inc. Over FY 2005 (a) (THOUSANDS)	Teach. Unit Amount (b)
100 Percent	\$ 316,094	\$65,077	\$23,604
95 Percent	\$ 300,289	\$ 49,272	\$22,200
90 Percent	\$ 284,484	\$ 33,467	\$20,795
85 Percent	\$ 268,680	\$ 17,663	\$19,390
80 Percent	\$ 252,875	\$ 1,858	\$17,986
75 Percent	\$ 237,070	\$ (13,947)	\$16,581
70 Percent	\$ 221,266	\$ (29,751)	\$15,176
65 Percent	\$ 205,461	\$ (45,556)	\$13,771

* Computed by subtracting from the projected state total of general fund and supplemental general fund budgets, less special education categorical aid local effort amounts for the preceding year attributable to the transportation, vocational education, bilingual education, and at-risk program weights. This sum was then divided by the projection year unweighted FTE enrollment.

** Assumes continued authorization for bundled rate reimbursement.

- (a) Actual FY 2005 appropriation: \$251,016,845
- (b) For FY 2006, this amount is computed by dividing the amount of the appropriation remaining after amounts for "catastrophic" state aid and transportation reimbursement have been paid by the number of FTE Teaching units.

Amounts are in Thousands:

Est. Catastrophic State Aid	\$ 1,700
Est. Transportation Reimb.	\$ 48,820
Est. Actual FTE Teaching Units	11,251.0

Prepared by: Legislative Research Department, Division of Financial Services--State Department of Education and Division of Budget--November 18, 2004.

NOTE: KSDE 11/18 est. of current FY 2005 excess cost funding –81.7 %. FY 2005 FTE Students 26,163. ; per pupil cost, \$5,992.

Select Comm. on School Finance
Date 1-31-05
Attachment # 2

SELECTED INFORMATION ON SPECIAL EDUCATION EXPENDITURES—FY 1983—FY 2006 (EST.)

Fiscal Year	Total Expenditures for Special Education (in thousands)	% Change from Prior Year	Special Education Excess Costs at 100.0% (in thousands)	% Change from Prior Year	Special Education Categorical Aid (in thousands)	% Change from Prior Year	Categorical Aid as a Percent of Excess Cost	Federal Funding—IDEA	% Change from Prior Year	Medicaid Reimbursement	% Change from Prior Year	Teaching Units	% Change from Prior Year	Amount per Teacher	% Change from Prior Year	Headcount Enrollment	% Change from Prior Year
1983	\$ 118,784	-	\$ 63,716	-	\$ 57,440	-	90.1	NA	-	NA	-	5,149	-	\$ 9,580	-	54,296	-
1984	129,361	8.9	69,523	9.1	62,662	9.1	90.1	NA	-	NA	-	5,360	4.1	10,135	5.8	53,615	(1.3)
1985	143,097	10.6	78,282	12.6	70,418	12.4	90.0	NA	-	NA	-	5,493	2.5	11,210	10.6	52,650	(1.8)
1986	162,035	13.2	93,405	19.3	76,384	8.5	81.8	NA	-	NA	-	5,726	4.2	11,855	5.8	52,784	0.3
1987	166,926	3.0	94,007	0.6	76,443	0.1	81.3	NA	-	NA	-	5,759	0.6	11,298	(4.7)	54,263	2.8
1988	173,278	3.8	99,797	6.2	89,785	17.5	90.0	NA	-	NA	-	5,457*	(5.2)	14,450	27.9	55,222	1.8
1989	192,199	10.9	108,143	8.4	101,260	12.8	93.6	NA	-	NA	-	5,753	5.4	15,440	6.9	55,972	1.4
1990	214,650	11.7	119,626	10.6	113,643	12.2	95.0	15,161	-	NA	-	6,132	6.6	16,200	4.9	56,599	1.1
1991	239,321	11.5	151,261	26.4	125,562	10.5	83.0	14,828	(2.2)	NA	-	6,463	5.4	16,945	4.6	58,205	2.8
1992	250,529	4.7	157,439	4.1	121,078	(3.6)	76.9	17,465	17.8	NA	-	6,568	1.6	15,800	(6.8)	59,569	2.3
1993	281,214	12.2	174,840	11.1	149,026	23.1	85.2	14,953	(14.4)	NA	-	7,097	8.1	18,250	15.5	61,634	3.5
1994	305,736	8.7	190,236	8.8	149,026	0.0	78.3	19,698	31.7	NA	-	7,424	4.6	17,400	(4.7)	63,221	2.6
1995	325,609	6.5	212,115	11.5	177,289	19.0	83.6	21,684	10.1	NA	-	7,839	5.6	19,675	13.1	65,651	3.8
1996	345,533	6.1	223,370	5.3	185,815	4.8	83.2	23,349	7.7	NA	-	8,182	4.4	19,825	0.8	67,387	2.6
1997	363,622	5.2	236,973	6.1	190,393	2.5	80.3	25,483	9.1	NA	-	8,591	5.0	19,170	(3.3)	68,992	2.4
1998	389,403	7.1	250,952	5.9	200,848	5.5	80.0	29,292	15.0	NA	-	9,004	4.8	19,245	0.4	70,730	2.5
1999	418,349	7.4	256,990	2.4	218,843	9.0	85.2	33,604	14.7	15,800	-	9,558	6.2	19,815	3.0	72,877	3.0
2000	443,316	6.0	272,167	5.9	228,759	4.5	84.9	39,615	17.9	13,042	(17.5)	10,040	10.9	19,700	(0.9)	74,534	2.3
2001	471,282	6.3	272,250	0.0	247,991	8.4	91.2	46,903	18.4	21,000	61.0	10,335	2.9	20,800	5.6	76,255	2.3
2002	507,120	7.6	286,898	5.4	242,679	(2.1)	85.0	56,490	20.4	24,930	18.7	10,535	1.9	19,625	(5.6)	76,776	0.7
2003	535,238	5.5	298,131	3.9	250,832	3.4	85.0	68,396	21.1	20,000	(19.8)	10,759	2.1	19,715	0.5	79,005	2.9
2004	558,978	4.4	301,703	1.2	251,017	0.1	83.2	81,392	19.0	35,011	50.1	10,891	1.2	19,420	(1.5)	80,404	1.8
2005 (est.)	585,424	4.7	307,242	1.8	251,017	0.0	81.7	91,060	11.9	27,500	(21.5)	11,101	1.4	18,600	(3.9)	81,500	1.4
2006 (est.)	605,201	3.4	316,094	2.9	N/A	-	N/A	100,060	9.9	30,000	9.1	11,251	1.4	N/A	-	N/A	-

* Paraprofessionals were counted as 0.5 FTE teaching unit through FY 1987 and as 0.4 teaching unit beginning in FY 1988.