

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Arlen Siegfroid at 1:30 P.M. on March 6, 2007 in Room 313-S of the Capitol.

All members were present except:

Representative Mike Peterson- absent

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mike Heim, Revisor of Statutes Office
Carol Doel, Committee Assistant

Conferees:

Senator Dennis Pyle
Brad Bryant, Deputy Assistant Secretary of State
Dr. James Sherman, Professor University of Kansas
Michael Wasmer, DVM
Lisa Bingham, Student Services Consultant
Kirsten Sneid, R.N.
Mark Tallman, Assistant Executive Director KASB
Bob Vancrum, Blue Valley

Others attending:

See attached list

Chairman Siegfroid opened the floor for bill introductions.

Representative Huntington requested a Constitutional Amendment for gaming. The Chairman moved the bill with a second by Representative Ruiz. With no objections, the bill will be accepted.

Representative Olson requested a bill regarding drivers' license renewals. The Chairman moved the bill with a second by Representative Huebert. With no objections, the bill will be accepted.

The Chair moved a bill regarding casino gambling with a second by Representative Huebert. With no objections, the bill will be accepted.

The Chair moved a bill regarding a Constitutional gaming statute with a second by Representative Huebert. With no objection, the bill will be accepted.

There were no other bill introductions.

Chairman Siegfroid opened the floor for public hearing on **SB 152** - Vacancy in office of U.S. Senator; procedure.

Mike Heim, Revisor's Office, explained the bill.

Senator Dennis Pyle provided testimony in support of **SB 152** with the opinion that through the events surrounding the illness of United States Senator Johnson, that our state's process for filling vacancies in the U.S. Congress is lacking in uniformity. Currently a vacancy in the U.S. House must be filled by a special election, and our current statutes require that a vacancy in the U.S. Senate be filled by appointment of the Governor. It is Senator Pyle's opinion that in order to ensure uniformity in procedure, the people of Kansas should determine who should fill a vacancy in the Senate in similar fashion to filling a congressional vacancy. (Attachment 1) Senator Pyle also included a balloon to **SB 152**. (Attachment 2)

With no other proponents and no opponents to **SB 152**, the Chair recognized Brad Bryant, Secretary of States Office who provided testimony neutral to the bill. The Secretary of State is neutral on the central policy question of **Sub. SB 152**, regarding whether vacancies should be filled by special election or by appointment.

CONTINUATION SHEET

MINUTES OF THE House Federal and State Affairs Committee at 1:30 P.M. on March 6, 2007 in Room 313-S of the Capitol.

However, they listed four questions regarding the administration of the elections required by the bill. (Attachment 3)

No other person wished to address the bill, and the Chair closed the hearing on **SB 152**.

Chairman opened the floor for public hearing on **HB 2436** - School Districts; special education; include behavior management and applied behavioral analysis within definition of related services.

Mike Heim, Revisor's Office, gave an overview of **HB 2436** and reported a fiscal note of \$11,468,720.

Dr. James Sherman, Professor in the Department of Applied Behavioral Science at the University of Kansas, provided testimony supporting **HB 2436**. Dr. Sherman related that the need to provide education for people with developmental disabilities has overwhelmed the existing resources of a number of our public schools. He further stated that there are number of things that probably need to be done to address this issue and one of these is addressed in the proposed legislation of **HB 2436**. The bill addresses the provision of related services and includes services of "behavior management and applied behavior analysis which is provided by a licensed or certified behavior analyst." (Attachment 4)

Mike Wasmer, DVM from Olathe, Kansas is the father of a child with autism who supports **HB 2436**. He is also a member of the Kansas Governor's Commission on Autism, and cofounder of the Kansas Coalition for Autism Legislation. Dr. Wasmer related that the bill would amend the Kansas Education Statutes regarding special education to include certified behavior analysts in the definition of "special teacher." Dr. Wasmer further stated that he was able to provide his child with the services of a board certified behavior analyst to oversee a team of service providers; including para professionals, speech therapist, occupational therapist and an early child hood special educator. He feels that the passage of **HB 2436** would enhance the quality of services provided to children with autism by our public schools. (Attachment 5)

Providing testimony on behalf of the Blue Valley School District supporting **HB 2436**, was Lisa Bingham Student Service Consultant. Ms. Bingham stated that they have found the expertise of Behavior Analysts to be invaluable to their staff. They have made a tremendous impact with the students, and without their intervention, they fear that many of the children with developmental disabilities would not be able to stay in the public school setting. (Attachment 6)

Kirsten Sneid, R.N., parent and founding member, Autism Society of Johnson County, supports the passage of **HB 2436**. Ms. Sneid related that in the last five years there has been a surge in requests for Positive Behavioral Support Training from all the non-profit organizations for which she is a volunteer. She also stated that the inclusion of behavior management and Applied Behavioral Analysis will offer schools additional tools to help educate our most vulnerable population. (Attachment 7)

Written testimony supporting **HB 2436** was provided by Carol Garrison, M.D. of Shawnee, Kansas (Attachment 8), Representative Ray Merrick (Attachment 9), and United School Administrators of Kansas. (Attachment 10)

There were no other proponents for **HB 2436**, and the Chair recognized Mark Tallman of the Kansas Association of School Boards as an opponent to the bill. Mr. Tallman stated that if the intent of the bill is to allow, but not require, behavioral management, the bill is unnecessary. Second, if the intent of the bill is to require such services, the organization would oppose it on the basis of the position adopted by their members that state laws and regulations for special education should not exceed the extensive array of federal laws and regulations in this area. Third, they do not believe specific methodologies for special education services should be contained in state law or regulations. Fourth, because this bill seems to focus on services to students with autism, they note that the Senate has passed a bill, **SB 138**, establishing a task force on services for persons with autism. (Attachment 11)

Bob Vancrum, representing the Blue Valley School District, addressed the Committee as neutral to **HB 2436**. Mr. Vancrum stated that the Blue Valley School District would support adding a position to the list of special educations positions that receive categorical funding. Certified Behavior Analysts are currently not

CONTINUATION SHEET

MINUTES OF THE House Federal and State Affairs Committee at 1:30 P.M. on March 6, 2007 in Room 313-S of the Capitol.

considered a reimbursable position. There recommendation is intended to allow districts that wish to employ those professionals, based on the needs of the students served, to receive funding for those professionals. (Attachment 12)

With no other person wishing to speak to the bill, the Chair closed the hearing on **HB 2436**.

Chairman Siegfroid called attention to written testimony from Ronald Miller, Chief of Police for the City of Topeka (Attachment 13), and Sandy Jacquot of the League of Kansas Municipalities (Attachment 14) on a bill previously heard in committee, **HB 2528** - Firearms; state preemption of regulation; amendments to concealed weapon licensure law.

With no further business before the committee, Chairman Siegfroid adjourned the meeting.

Home Address:
2979 KINGFISHER RD.
HIAWATHA, KANSAS 66434
(785) 742-3780

Capitol Office:
STATE CAPITOL, ROOM 120-S
TOPEKA, KANSAS 66612
(785) 296-7379

STATE OF KANSAS
SENATE CHAMBER



COMMITTEE ASSIGNMENTS
MEMBER: ELECTIONS & LOCAL GOVERNMENT
NATURAL RESOURCES
UTILITIES
JOINT COMMITTEE ON SPECIAL CLAIMS
AGAINST THE STATE

Senator Dennis Pyle

March 6, 2007

Mr. Chairman, and members of the Committee. Thank you for giving me the opportunity to testify concerning SB 152.

It has come to my attention through the events surrounding the illness of United States Senator Johnson of South Dakota that our state's process for filling vacancies in the U.S. Congress is lacking in uniformity. Although a vacancy in the U.S. House must be filled by a special election, our current statutes require that a vacancy in the U.S. Senate be filled by appointment by the Governor. In order to ensure uniformity in procedure, the people of Kansas should determine who should fill a vacancy in the Senate in similar fashion to filling a congressional vacancy.

Such a change would benefit the people of Kansas. Aside from providing uniformity, it would promote democracy by allowing the people to choose who would represent our state in the U.S. Senate. Any extra costs associated with holding such an election would be offset by the benefits created by educating the public regarding their representation in the U.S. Senate. This bill would ensure that any vacancy would be filled promptly and in such a manner as to appropriately and accurately represent the interests of our state.

The bill was amended in the Senate Committee of the Whole. One amendment concerns the costs of a special election; the intention is to hold counties harmless. Another amendment, deals with the offices of State Treasurer and State Insurance Commissioner. As sponsor of this bill, I would point out that Federal offices and Statewide offices are two different subjects.

Again, Mr. Chairman and members of the committee, thank you for the opportunity to testify on behalf of SB 152. I will be happy to stand for questions.

Federal and State Affairs
Attachment 1
Date 3-6-07

1 party whose candidate for governor received not less than 5% of the votes
 2 cast at the next preceding election of the governor shall be called by the
 3 state chairperson of the party, or if there is no state chairperson, by the
 4 party's candidate for governor at the next preceding general election.
 5 Such convention shall be called for a date not less than 25 days after the
 6 proclamation of election is issued by the governor in the cases to which
 7 section 3, and amendments thereto, does not apply, and within 15 days
 8 in cases to which subsection (a) or (b) of section 3, and amendments
 9 thereto, apply. In accordance with the rules of the statewide party and
 10 the provisions of this act, each such statewide convention shall nominate
 11 a candidate to fill the vacancy which has occurred and shall file a certifi-
 12 cate of the nomination so made with the secretary of state immediately.
 13 Every such certificate shall be signed by the presiding officer and sec-
 14 retary of the convention making such nomination. Independent candi-
 15 dates may be nominated by petition of registered voters of the state equal
 16 in number to 4% of the number of qualified voters of the state. Any such
 17 petition shall be filed with the secretary of state not later than the time
 18 for state party convention certificates to be filed. No candidate shall be
 19 nominated to fill such vacancy by any means other than provided by this
 20 section.

21 New Sec. 5. The secretary of state shall furnish to each county elec-
 22 tion officer, the form for the ballot to be used at the election. The ballot
 23 shall contain the names of the candidates and their political parties or
 24 designations, and these shall appear upon the ballot in substantially the
 25 same form as is provided by K.S.A. 25-616, and amendments thereto, and
 26 the provisions of such statute shall apply to ballots used at such election
 27 to the extent that the same are consistent with the provisions of this act.
 28 The ballot shall indicate that the vote is for the unexpired term.

29 New Sec. 6. Elections held under the provisions of this act shall be
 30 conducted by county election officers. Laws relating to registration of
 31 voters shall apply to such election. *[The state shall reimburse each*
 32 *county for the expenses incurred when conducting any election held*
 33 *pursuant to this act.]*

34 New Sec. 7. In all other cases to which this act applies, intermediate
 35 canvass of the election shall be made by the county boards of canvassers
 36 at 10 a.m. on the second day following the election, unless such day is a
 37 Sunday or holiday, in which case such canvass shall be on the next fol-
 38 lowing day which is not a Sunday or holiday. County election officers shall
 39 dispatch the abstract of the intermediate canvass to the secretary of state
 40 immediately upon completion of the canvass by the board of county can-
 41 vassers. The state board of canvassers shall meet in the office of the
 42 secretary of state on the fourth day following the election, unless such
 43 day is a Sunday or holiday, in which case such canvass shall be on the

OK *[Signature]*

except that if the election held pursuant to this act
 coincides with a regularly scheduled election, the
 reimbursement shall be limited to only those expenses
 directly attributable to holding the election held pursuant
 to this act

RON THORNBURGH
Secretary of State



Memorial Hall, 1st Floor
120 S.W. 10th Avenue
Topeka, KS 66612-1594
(785) 296-4564

STATE OF KANSAS
House Committee on Federal and State Affairs

Testimony on Substitute for Senate Bill 152

Brad Bryant, Deputy Assistant Secretary of State
Elections and Legislative Matters

March 6, 2007

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 152. This bill would establish procedures for holding elections to fill vacancies in the office of United States Senator, replacing the current statutory requirement that such vacancies be filled by appointment by the Governor. The bill contains scenarios for the election to be held on various dates depending on the time the vacancy occurs. The special election would be held:

- in conjunction with the regularly-scheduled state primary held in August of even-numbered years,
- in conjunction with regularly scheduled local primary or general elections in odd-numbered years for city officers and school board members, or
- on a special date when no other regularly scheduled elections are to be held.

The Senate added a floor amendment to include a procedure for holding an election in the event of a vacancy in the office of state treasurer or commissioner of insurance (Sections 11-13).

The Secretary of State is neutral on the central policy question of Sub. SB 152, regarding whether vacancies should be filled by special election or by appointment. However, we wish to pose the following questions regarding the administration of the elections required by the bill.

1. New Section 3, page 1—

There is no provision for the election to be held in conjunction with the state general election held in November of even-numbered years. Is this the intent?

2. New Section 6, page 2—

a. What is the process for state payment of the counties' expenses?

If not set out in the act, the process could be based on procedures for the presidential preference primary in K.S.A. 25-4508. If that process is used, the Secretary of State would (1) request a state general fund appropriation, (2) collect itemized lists of direct election expenses from the county election officers, (3) review the counties' submissions with the Division of Accounts and Reports, and (4) reimburse the counties.

b. It is not clear to us whether New Section 6, which requires state payment of counties' costs, applies to the elections to fill vacancies in the offices of state treasurer and commissioner of insurance.

New Section 9 entitles Sections 1-9 as the Vacancy in the United States Senate Act for Kansas, which indicates the state payment requirement in New Section 6 does not apply to other offices. However, New Section 13(d) does appear to say that New Section 6 applies.

3. New Section 13, Subsection (c), page 4—

- a. How does the state party chair notify the party members?
- b. Where and with whom do the candidates file certificates of nomination?
- c. Is it intended that candidates pay a filing fee?

New Section 8 may answer some of these questions since it applies other election laws to the procedures in Sub. SB 152.

4. New Section 13, Subsection (d), page 4—

- a. Who may vote in the election?
- b. Is there intended to be a limit on the number of candidates on the ballot?
- c. Is the election limited to only one party's candidates? There does not appear to be a provision allowing independent candidates, Libertarians, Reform Party candidates or candidates from the major party that did not previously occupy the vacant office to be on the ballot. Again, New Section 8 may answer these questions.

Substitute for SB 152 grants the Secretary of State the authority to adopt rules and regulations as needed to administer the elections to fill vacancies in the offices of state treasurer and commissioner of insurance. If it is the Legislature's intention to allow all the questions cited above in Questions 2, 3 and 4, among others, to be determined by regulations, there is no need for amendments to the bill to address these three questions, If, however, the Legislature wishes to determine some of the policy questions in law, some amendments may need to be considered. Our office offers its assistance if needed.

Thank you for your consideration.

Statement presented in support of HB 2436 on Tuesday, March 6, 2007

My name is James Sherman. I am a Professor in the Department of Applied Behavioral Science at the University of Kansas. I also am a member of the Board of Directors and a consultant to a community program, Community Living Opportunities that provides services for over 300 people (children and adults) with developmental disabilities living in the community. I say this so I can make it clear that my testimony is being given as a professional in the field of developmental disabilities, not as someone representing the official views of either the University of Kansas or of Community Living Opportunities.

Over the last decade, additional and ever-increasing burdens have been placed on our public schools. One of the major burdens is to provide an appropriate and effective education for an increasing number of children with developmental disabilities including mental retardation, autism and the autism spectrum disorders, as well as children with serious emotional and behavioral disorders. Many of the children who need to be served have serious behavioral limitations in areas such as language and communication, following instructions, social interaction, and self-care skills. Many of the children who need to be served also display serious behavioral challenges such as tantrums, aggression, self-injurious behavior, and self-stimulatory behavior that not only disrupts the classroom environment and other children but also interferes with their own learning of new skills. Simply put, the need to provide an appropriate education for many of these children has overwhelmed the existing resources of a number of our public schools. There are a number of things that probably need to be done to address this issue. One of these things is addressed in the proposed legislation, HB 2436. One part of HB 2436 addresses the provision of related services and includes services of "behavior management and applied behavior analysis which is provided by a licensed or certified behavior analyst."

The terms behavior management and applied behavior analysis have slightly different meanings, but essentially both terms refer to the use of what we know about human learning to address socially important problems – problems like the serious skills deficits and the many challenging or problem behaviors that a number of children with developmental disabilities display. Over the past 30 years, applied behavior analysts have developed sophisticated methods for analyzing and assessing problem behaviors and skill deficits as well as positive and effective methods for both teaching new skills and reducing problem behaviors. It is not simple, it is not easy, and it is not quick. But, it can be done, and children who previously were unable

to participate in typical classrooms, after behavioral interventions, often can do so.

Many of the professionals trained in applied behavior analysis have earned their doctoral degree and teach at universities, some provide services to various organizations as consultants, others are employees or directors in business corporations and organizations that provide human services. One type of applied behavior analyst is called a Certified Behavior Analyst. Certified Behavior Analysts are people who have an educational background that includes a substantial number of courses in behavior analysis and include topics such as ethics, principles of behavior change, assessment and selecting intervention outcomes, experimental and empirical evaluation of interventions, measurement of behavior, behavior change procedures, as well as content areas in basic principles of learning, developmental disabilities, human development, and language and other social behaviors. Certified Behavior Analysts must have earned a Masters degree or higher in the field, and have completed at least 750 to 1500 hours of supervised practicum experience. The national board that certifies behavior analysts is the Behavior Analyst Certification Board (website: www.BABC)

Why should the public schools be encouraged to use Certified Behavior Analysts to provide services in the schools? There are several reasons. First, children with serious behavioral challenges need to be educated. It is their right and we know ways that can markedly improve the likelihood that children who do not now participate in effective learning opportunities in school can be taught to do so. Second, it makes long-term economic sense. As the advertisement for a chain of auto repair shops says: "You can pay me now or you can pay me later." And I can assure you that the cost for addressing the needs of children with serious behavioral challenges and getting them to start participating in the normal learning process is a lot, lot cheaper than paying for the cost of providing services for that child throughout his or her adolescence and adulthood. For example, our work with adults with developmental disabilities where we provide learning experiences for them in the community is both an effective and humane method for keeping them out of more restrictive and much more expensive facilities such as the state institutions. And we know that effective early intervention with children with autism, although expensive, is cheap in comparison to the cost of providing care and services for them throughout their entire life. It is the same with children with severe learning and behavior challenges in school. And the cost now will be much less than the cost later.

March 6, 2007

**Testimony to the House Committee on Federal and State Affairs
in Support of House Bill No. 2436**

Michael L. Wasmer, DVM
14617 S. Garnett St.
Olathe, KS 66062
913-233-9101

My name is Mike Wasmer and I appreciate the opportunity to speak in support of House Bill 2436. I am the father of a child with autism, a member of the Kansas Governor's Commission on Autism, and cofounder of the Kansas Coalition for Autism Legislation.

House Bill 2436 would amend the Kansas Education Statutes regarding special education to include board certified behavior analysts in the definition of "special teacher." As the parent of a child with autism, I can speak to the value of applied behavioral analysis (ABA) for children with autism. Other conferees will address additional applications of ABA in the public school system.

My daughter Kate, who is now 7, appeared to be typically developing until 1 year of age when she started to lose the ability to speak. Over the next 6-9 months she became progressively withdrawn, expressionless and exhibited classic stereotypical behaviors associated with autism. When she was diagnosed with autism at 27 months, she was completely non-verbal and minimally responsive to interaction with our family.

My wife and I hired a board certified behavior analyst to provide service to Kate, and oversee a team of service providers; including well-trained paraprofessionals, a speech therapist, an occupational therapist, and an early childhood special educator. Based on recommendations from the National Research Council's Educating Children with Autism, Kate received 25-30 hours a week of in-home ABA for 2 and 1/2 years.

She is now in second grade and excelling in a regular education classroom without an aide. Her speech and academic skills are at, or above grade level. She still struggles in certain social situations but she is making steady gains thanks in large part to a very supportive public school and a well-written IEP.

A recent study demonstrated that 48% of children with autism who received early intensive behavioral treatment "showed rapid learning ... and at age 7, were succeeding in regular education classrooms." (Sallows and Graupner 2005) This study corroborated the findings of earlier research that demonstrated that 47% of

Federal and State Affairs
Attachment 5
Date 3-6-07

children receiving intensive behavioral intervention “achieved normal IQ scores and successful first grade performance in public schools”. In contrast, only 2% of children receiving 10 hours or less of behavioral therapy achieved normal educational and intellectual functioning. (Lovaas 1987)

Based on these findings, a 1998 study reported a cost-benefit analysis of providing early intensive behavioral therapy to children with autism. Factors considered through age 55 included the costs associated with 3 years of behavioral therapy, special education, and adult disability services; as well as the median income of a non-disabled adult, versus supported wages. The estimate of lifetime costs associated with not providing early intensive behavioral therapy to a child with autism was \$4.3 million. The overall difference between this scenario and the child with autism who receives early intensive behavioral therapy and achieves successful placement in regular education classes was \$5.8 million. (Jacobson, et. al. 1998)

My family is very fortunate. Kate received a relatively early diagnosis and we could personally finance the recommended intensity of behavioral therapy for a child with autism. Families who look to the public schools to provide this level of therapy currently discover that most districts do not employ a board certified behavior analyst, and are therefore not able to provide intensive behavioral therapy. This often leads to confrontational IEP meetings and due process hearings.

I am an advocate for applied behavioral analysis for autism because it has returned my daughter to me. By facilitating the incorporation of a board certified behavior analyst onto a child’s IEP team, House Bill 2436 would enhance the quality of services provided to children with autism by our public schools. This measure would also likely avert many due process hearings, and ultimately yield tremendous cost savings to the State of Kansas over the lifetime of a child with autism.

I sincerely appreciate the Committee’s interest in this issue and ask for your support of House Bill 2436.

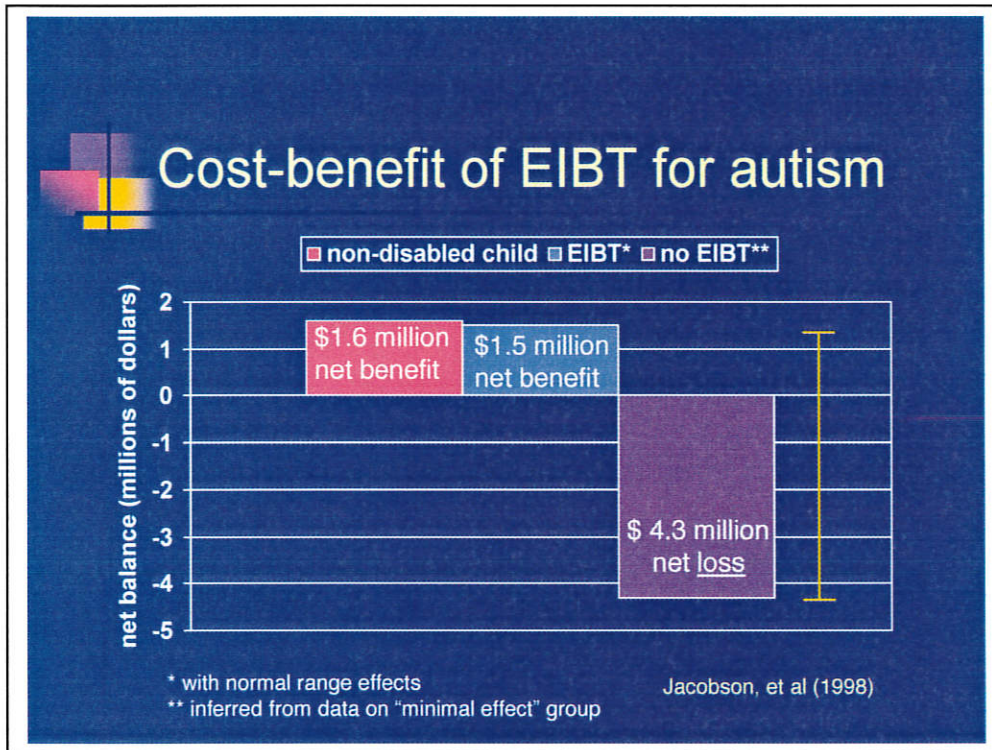
References

National Research Council (2001) Educating Children with Autism. Committee on Educational Interventions for Children with Autism. Division of Behavioral and Social Sciences and Education. Washington, DC: National Academy Press.

Sallows, Glen O, Graupner, Tamlynn D. "Intensive Behavioral Treatment for Children With Autism: Four-Year Outcome and Predictors," American Journal on Mental Retardation, Volume 110, Number 6: 417-438.

Lovaas, O Ivar. "Behavioral Treatment and Normal Educational and Intellectual Functioning in Young Autistic Children," Journal of Consulting and Clinical Psychology, Volume 55(1), February 1987, p 3-9.

Jacobson, John W, Mulick, James A., Green Gina. "Cost-Benefit Estimates for Early Intensive Behavioral Intervention for Young Children with Autism," Behavioral Interventions, 13, 201-226 (1998)



Using representative costs from the state of Pennsylvania, a 1998 study performed a cost-benefit analysis of providing early intensive behavioral therapy (EIBT) to children with autism. Factors considered through age 55 included the costs associated with 3 years of EIBT, special education, and adult disability services; as well as the median income of a non-disabled adult, versus supported wages.

The area in red represents the cost-benefit of providing regular education for a non-disabled child, and demonstrates a net benefit of \$1.6 million.

The area in blue represents the cost-benefit scenario of a child with autism who receives EIBT and achieves successful placement in regular education classes, and demonstrates a net benefit of \$1.5 million. Approximately 50% of children with autism that receive early intensive behavioral therapy will achieve this level of success.

The area in purple represents the net costs associated with NOT providing EIBT to a child with autism. This demonstrates a net LOSS of \$4.3 million and an overall difference of \$5.8 million between the two groups.

Reference:

Jacobson, John W, Mulick, James A., Green Gina. "Cost-Benefit Estimates for Early Intensive Behavioral Intervention for Young Children with Autism," Behavioral Interventions, 13, 201-226 (1998)

Testimony In Favor of House Bill No. 2436

Given by: Lisa Bingham, M.A. CCC-SLP
Student Services Consultant
Blue Valley School District

As a representative of the Blue Valley School District in Overland Park Kansas, I would like to explain why our district supports the need to access categorical funding for Board Certified Behavior Analysts. As a Student Service Consultant in the district, I interface with 9 center-based programs (LIFT classrooms, Learning through Intensive Function Teaching) for students who demonstrate severe difficulties as a result of Autism. These students and their parents, as well as the teams that work with them, face enormous challenges on a day to day basis.

Behavior Analysts have a different skill set than our special education teachers and other related services personnel. This skill set includes functional behavior assessment and principles of reinforcement, shaping, prompting and task analysis. We desperately need this skill set in our public schools to address the increasing population of students on the Autism spectrum.

Just in the last year, our special education department has contracted with 4 different Board Certified Behavior Analysts to provide assistance to our teams on behalf of students who demonstrate severe behaviors. We have paid for these services with no reimbursement. We have found these services to be invaluable in the treatment of our students. In addition, a grant was written last fall to bring in a BCBA to provide training in behavioral methods for our LIFT teachers and para educators. So as you can see, we value these services and are accessing this type of intervention even without reimbursement.

We have found the expertise of Behavior Analysts to be invaluable to our staff. They have made a tremendous impact with our students and most of them are able to access general education and experience successful inclusion with typical peers for the first time. Without this intervention, I fear that many of these children would not have been able to stay in the public school setting.

Currently, there are no teacher preparation programs in the state of Kansas that prepare our special education teachers or related services to design and carry out Applied Behavior Analysis. Consequently, very few students complete both a special education teacher licensure program and become a certified applied behavior analyst. I believe that including behavior analysts as members of our multidisciplinary team would increase the probability of our students being successful in special education and general education.

In summary, our special education teachers and related services personnel want to provide "best practice" to our students and their families. With increasing numbers of students on the autism spectrum in recent years, our district has

Federal and State Affairs
Attachment 6
Date 3-6-07

remained steadfast in its efforts to provide research based strategies and methodologies. Adding the skills that behavior analysts possess would allow us to add yet another piece to the puzzle. Please, give us to tools to complete the puzzle.

March 6,th 2007

Testimony -- House Bill 2436
House Committee on Federal and State Affairs

Kirsten Sneid, R.N.
4540 West 131st Terrace
Leawood, KS 66209

Parent, and founding member, the Autism Society of Johnson County -- ASA Chapter
Steering Committee for the Bi-State Autism Initiative
Liaison for the Autism Alliance of Greater Kansas City
Member -- Blue Valley Special Needs Advisory Committee
Parent Advisor – Thompson Center for Autism & Neurological Disabilities

I thank you for the opportunity to share my support for HB 2436, the proposed inclusion of behavior management and applied behavioral analysis within the definition of “related services” in our public schools.

In my 10 years as a volunteer taking calls from the developmentally disabled community, I have seen a change in who is calling: from parents to professionals. Both private and public professionals are requesting resource materials, training and support. They are now even asking to observe or volunteer at community-based or in-home behavioral programs, in order to increase their knowledge base and experiences in behavioral shaping strategies.

In the past 5 years there has been a surge in requests for Positive Behavioral Support Training from all the non-profit organizations that I volunteer for. Our last program on behavioral interventions utilizing data collection for behavioral shaping was attended by more than 300 private preschool teachers.

The inclusion of behavior management and Applied Behavioral Analysis will offer our schools additional “tools” to help educate our most vulnerable population. We will see an increase in the participation of developmentally disabled children in the general educational activities of their neurotypical peers. We will see increase in parental satisfaction with their children’s progress. And finally, we will be offering the Professional Special Educational Community the support they have been asking for.

Dr. Brenda Smith Myles has cited data showing special education teachers burn out at or near the 5 year mark. With these additional supports available to our teachers, we will see a decrease in teacher burnout, as well as an increase in teacher retention and in their job satisfaction.

It’s a “WIN-WIN” for our students and their educational teams!

Thank you,

Kirsten Sneid, R.N.
913-897-1234
dsneid@endo-doc.com

Federal and State Affairs
Attachment 7
Date 3-6-07

March 5, 2007

**To the House of Representatives
Federal and State Affairs
IN SUPPORT of HOUSE BILL No. 2436
By Representatives Merrick and Judy Morrison**

Carol B. Garrison, M.D.
13509 W. 57th St.
Shawnee, KS 66216
913 268 7960

I am writing in support of House Bill No. 2436 to amend K.S.A. 2006 Supp. 72-962 to include as a "special teacher" and individual *qualified to provide behavior management and applied behavior analysis and who is a state-licensed or national board-certified behavior analyst.*

I am a Neurodevelopmental Pediatrician, with Board Certification in Pediatrics, Neurodevelopmental Disabilities, and also in Developmental Behavioral Pediatrics. I evaluate children for developmental disabilities at Children's Mercy Hospitals and Clinics in the Section of Developmental and Behavioral Sciences. I am presently the Fellowship Director for our accredited Developmental Behavioral Pediatrics Fellowship. I have been in this field for 17 years.

I write on behalf of children with developmental disabilities, particularly those with autism, their families, and the professionals who serve them.

I have been a member of the Governor's Commission on Autism since January 2001. Throughout this time, we have discussed concerns related to individuals with autism and their families. Through yearly updates, the Commission advises and makes recommendations to the Governor. This has been a satisfying process, yet at times frustrating – due to the limited scope of the Commission. House Bill 2436 allows action beyond the scope of the Governor's Commission. This action is necessary to improve the quality of services and ultimately the functional outcome of individuals with autism and their families.

Autism is a neurologic developmental disorder. The brain does not process information in a normal manner. The nature of the primary treatments/ interventions for individuals with autism is consistent with the concept of "rewiring" the neuronal networks of the brain – thus impacting the outcome of the individual. Yet, the primary treatments for these individuals are outside of the traditional medical model.

Federal and State Affairs
Attachment 8
Date 3-6-07

To date, one of the strongest, evidence-based methods to treat these children is through applied behavioral analysis¹. Some districts incorporate some of these methods in their teaching. However, presently, the professionals with this very specific expertise, those who have received extensive training in applied behavioral analysis and have received certification or licensure, are not considered eligible to work with our children in the public schools (not included in “related services”). This excludes the very professionals with the greatest expertise to work with these children who have very unique learning styles. This would be like excluding speech and language therapists or occupational therapists from providing direct services to those children who need those specific services.

Presently, though the field continues to emerge with new research, there are solid evidence-based recommendations for treatment of young children with this disorder¹. As a professional in the field, it is frustrating to know that in other areas of the country, children with this diagnosis are receiving evidence-based intervention from the time of diagnosis. At this time, interventional services are inconsistent across the state of Kansas. Funding concerns, personnel issues, and “Turf wars” regarding which intervention to use preclude optimizing needed therapies for these children. Allowing behavioral management and applied behavioral analysis by a certified or licensed behavioral analyst is a critical step in optimizing services for these children.

It is important to recognize that children with autism are not the only population of children who can benefit from the services of a behavioral analyst. Many children with special education needs have behavioral challenges because of their unusual learning profiles. Any child with behavioral challenges that are not responding to “typical” behavioral strategies can benefit from the unique expertise of a behavioral analyst.

I respectfully appreciate the Committee’s interest in this issue and ask for your support of House Bill Number 2436.

Carol B. Garrison, MD
Neurodevelopmental Pediatrician
Children’s Mercy Hospitals and Clinics

1: National Research Council (2001) *Educating Children with Autism*. Committee on Educational Interventions for Children with Autism. Catherine Lord and James P. McGee, eds. Division of Behavioral and Social Sciences and Education. Washington, DC: National Academy Press. This may be accessed at: www.nap.edu

REPRESENTATIVE 27TH DISTRICT
6874 WEST 164TH TERR.
STILWELL, KANSAS 66085

STATE OF KANSAS
HOUSE OF
REPRESENTATIVES

STATE CAPITOL— 381-W
TOPEKA, KANSAS 66612
(785) 296-7662
1-800-432-3924



RAY MERRICK
MAJORITY LEADER

March 6, 2007

To: Members of the House Federal and State Affairs Committee

Re: HB 2436

Mr. Chairman and Members of the Committee:

HB 2436 is a bill that I am co-sponsoring along with Rep. Judy Morrison. This bill was requested by the Blue Valley School District to include Behavioral Analysis as a related service that is a reimbursable expense. In order to receive this reimbursement, the legislation expands the definition of "special teacher" to include a qualified behavior management professional who is certified as a state or nationally licensed behavior analyst.

Applied behavior analysis is a research based intervention that has been used successfully with children and young adults with autism to significantly reduce or eliminate severe interfering behaviors and aggression.

Our teacher preparation programs in the state of Kansas do not prepare students to design and carry out Applied Behavior Analysis. At best, current programs provide an overview of the process.

By expanding this definition, it allows qualified Behavioral Analysts to provide services that are beneficial to the student and gives the district the opportunity to be reimbursed for them. Currently, very few students complete both a special education teacher licensure program and a certified behavioral analysis program.

This bill would provide an expansion of services for special education students and provide schools with the incentive to provide these services. I urge your support of this bill.

Federal and State Affairs
Attachment 9
Date 3-6-07

**Testimony on HB 2463
House Federal and State Affairs Committee
March 6, 2007**

**Submitted by
Cheryl Semmel, Executive Director, United School Administrators of Kansas**

Thank you for the opportunity to present written comments in opposition of HB 2463, a bill related to special education services.

The mission of United School Administrators of Kansas (USA|Kansas*), through collaboration of member associations, is to serve, support, and develop educational leaders and to establish USA|Kansas as a significant force to improve education.

Education administrators remain committed to ensuring that each and *every* child in Kansas receives a quality education that will help them reach their potential and become successful, productive adults.

Administrators have concerns about several provisions contained in the proposed legislation. For the reasons identified below, administrators do not support HB 2463.

HB 2463, as written, appears to mandate not only specific methodology, but specific licensure for service providers. School districts and those professionals working with individual students should remain responsible for making decisions about methodology. *Administrators feel strongly that specific methodologies for special education services should not be contained in state law or policies.*

Further, administrators believe that *allowable services should be provided through the development of a student's Individualized Education Program (IEP)*. Under existing law requires an IEP team to consider the need for behavior intervention if the student's behavior is considered potentially problematic; these interventions may be included as part of the IEP or as part of the supplement

Education administrators believe that the task force on services for persons with autism, proposed in SB 138, would offer an opportunity for more comprehensive dialogue.

Federal and State Affairs
Attachment 10
Date 3-6-07

In closing, on behalf of education administrators, I would like to thank you for your continued support of education. Meeting the needs of students requires a shared commitment, collaboration, and open dialogue among all stakeholders.

*USA|Kansas represents more than 2,000 individual members and ten member associations:

Kansas Association of Elementary School Principals (KAESP)
Kansas Association of Middle School Administrators (KAMSA)
Kansas Association of School Administrators (KASA)
Kansas Association of School Business Officials (KASBO)
Kansas Association of School Personnel Administrators (KASPA)
Kansas Assoc for Supervision and Curriculum Development (KASCD)
Kansas Association of Special Education Administrators (KASEA)
Kansas Association of Secondary School Principals (KASSP)
Kansas Council of Career and Technical Education Administrators (KCCTEA)
Kansas School Public Relations Association (KanSPRA)

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

Testimony on **HB 2463 – Special Education Services**
before the
House Federal and State Affairs Committee

by

Mark Tallman, Assistant Executive Director/Advocacy
Kansas Association of School Boards

Also Representing:
Kansas National Education Association

March 6, 2007

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to comment today on **HB 2436**. The bill would add required behavioral management and applied behavioral analysis which is provided by a licensed or certified applied behavioral analyst, to the list of related services which may be required for students under the state special education law. We have several concerns about this bill.

First, if the intent is to allow, but not require, such services to be provided, the bill is unnecessary. Such services may be provided through the development of a child's Individualized Education Program. Current law requires an IEP team for each child to consider the need for behavior interventions if the child's behavior poses a problem. Behavior interventions may be part of the IEP, included in a separate behavior intervention plan for the child, or part of the supplemental service provided so a child can be educated in the least restrictive environment. Schools and IEP teams currently have flexibility in determining how behavior will be assessed and in determining which behavior interventions and supports will work best with a child on an individual basis.

Second, if the intent of the bill is to require such services, we would oppose this change on the basis of the position adopted by our members that state laws and regulations for special education should not exceed the extensive array of federal laws and regulations in this area. (The exception in our policies is the state mandate for gifted services, which we support.) In striking the difficult balance between competing interests, we believe federal requirements provide adequate safeguards for the rights of disabled students and parents.

(over)

Federal and State Affairs

Attachment 11

Date 3-6-07

Third, we do not believe specific methodologies for special education services should be contained in state law or regulations. This amendment would mandate not only a specific methodology, but specific licensure for those who provide the service. For over 30 years, cases interpreting special education law have recognized that these are decisions best left to school districts. Parents who disagree with those decisions have several avenues for recourse under both state and federal law: they can request mediation, request a due process hearing, or file a complaint with the State Department of Education

Fourth, because this bill seems to focus on services to students with autism, we would note that the Senate has passed a bill, **SB 138**, establishing a task force on services for persons with autism, which has a hearing in the House Health and Human Services Committee tomorrow. That approach would offer a more comprehensive look at this issue.

Thank you and I would be happy to answer any questions.

To Bob Van Crum

From Sue Denny

Re HB 2436

March 6, 2007

Testimony concerning HB 2436
to House Federal & State Affairs Committee
from Bob Van Crum, Blue Valley USD 229
March 6, 2007

The Blue Valley School District would support adding a position to the list of special education positions that receive categorical funding. Certified Behavior Analysts are currently not considered a reimbursable position. Blue Valley frequently contracts for the services of Certified Behavior Analysts and recently has employed two staff members with that certification. Those professionals, although they are members of a multidisciplinary special education team and provide services to students are not eligible for categorical aid.

This recommendation is intended to allow districts that wish to employ these professionals, based on the needs of the students served, to receive funding for those professionals. Just as with other special education positions, districts employ only those professionals required to meet the needs of their student population. Our recommendation does not infer that all districts be required to add Certified Behavior Analysts, only that those districts that do employ these professionals be reimbursed for that expenditure.



CITY OF TOPEKA

POLICE DEPARTMENT
320 S. Kansas Avenue, Suite 100
Topeka, KS 66603-3640
Tel: (785) 368-9551



Ronald L. Miller, Chief
Email: rmiller@topeka.org
Fax: (785) 368-9437
www.topeka.org

March 2, 2007

Representative Arlen Siegfroid, Chair
House Federal and State Affairs Committee
Room 136-N
Kansas State Capitol
10th and Jackson
Topeka, Kansas 66612

RE: HB 2528

Dear Representative Siegfroid:

I write to you today as the Chief of Police in Topeka, Kansas voicing concerns about some of the provisions in HB2528. I do not oppose the Carrying Concealed Weapons laws in Kansas nor the portions of this bill designed to fix some of the problems remaining with the existing concealed carry laws. I am concerned with provisions of this bill that will have unintended consequences that will jeopardize public safety in Kansas. I am sure that the Kansas Legislature does not want to increase crime in Kansas but that could be the unintended consequence of this legislation. There are two related, but quite different, subjects in this bill. One subject concerns the concealed carry law, the other concerns firearms statutes, city ordinances, and county resolutions that are not concealed carry related. It is these provisions that cause alarm.

The first specific area of concern is language prohibiting the prosecution of any person for a violation of local ordinance, resolution, or regulation for transporting a firearm in a vehicle if the firearm is unloaded and encased in a container which completely encloses the firearm. This seems to imply the recognition of the legislature of the need for local jurisdictions to have the ability to determine the need in their communities to regulate the carrying of loaded firearms in vehicles by persons not licensed for concealed carry. However, section 1(a) of the bill appears to be in conflict with the provisions of section 1(b). It is not clear at all whether cities can or cannot have ordinances regulating carrying weapons in vehicles. It is the ability of local government to deal with persons who may very well be on their way to commit violent crimes that is critical to crime prevention efforts in Kansas. This has nothing to do with persons licensed by the state to carry concealed weapons. This is very critical to local jurisdictions, especially those battling gangs and drug trafficking. In the past years the legislature has adopted laws addressing the increases in drive-by shootings. These situations are always committed by persons carrying loaded firearms in vehicles to the place of the attack. If we have local laws to regulate the carrying of loaded weapons that are in the control of unlicensed persons we have the ability to stop the activity before it occurs. These ordinances have resulted in that kind of positive result in many cases and we must retain the ability. This in no way interferes with the licensed persons carrying a weapon. Cities and Counties must be able to enact ordinances restricting the carrying of an unconcealed firearm or the transporting a firearm in a vehicle by any person not licensed under the act when the firearm is loaded.

Federal and State Affairs

Attachment 13

Date 3-6-07

House Federal and State Affairs Letter

Page 2

March 2, 2007

The second area of concern is with the provisions which seem to allow businesses to control carrying firearms on private premises but the language would not allow local governments the same option. Local governments should not attempt to ban concealed firearms on public property such as streets and sidewalks as that would be clearly in conflict with the intent of the state statutes allowing carrying concealed weapons. Cities and counties must have the same ability provided to businesses. Local government must be allowed the same authority as private businesses in this matter.

Lastly, the apparent removal of any employer's ability to have regulations against employees carrying a concealed weapon while at work is reckless and dangerous. Employers must be able to weigh their own concerns about armed employees and the impact that has on workplace safety and liability. As an experienced, tenured Chief of Police in Kansas I have on several occasions disciplined or terminated armed police officers for misconduct. These are potentially dangerous situations. Unarmed and untrained managers facing armed employees in these types of emotional situations could be disastrous. Local authority over these matters should not be in conflict with the state concealed carry statutes. But employers must retain autonomy in the operation of private business and local government. I am concerned about the ability of local governments to effectively determine local ordinances that address local crime and violence both inside and outside the workplace.

Local government must have authority over local issues. Crime in Kansas differs in geographical areas. We must have the authority to enact local ordinances that deal with specific types of crime.

Sincerely,

Ronald L. Miller

Ronald L. Miller
Chief of Police
Topeka Police Department

cc: Norton N. Bonaparte, City Manager

Kansas Association of Chiefs of Police

Representative Ann Mah, Kansas House of Representatives

File



League of Kansas Municipalities

TO: House Federal & State Affairs Committee
Additional Information

FROM: Sandy Jacquot

DATE: February 19, 2007

RE: Opposition to HB 2528

As additional information to the committee, the League of Kansas Municipalities on Monday morning, March 5, 2007, met with Senator Phil Journey, and Representatives Candy Ruff and Gary Hayzlett on HB 2528. It was a good discussion where the League was able to express some of our concerns, as were the legislators who support the bill. We understand that there remains a difference of opinion on what cities are able to do under the 2006 legislation and that HB 2528 is meant by its supporters to address those legislative concerns.

We understand that there may be amendments offered to address some of the topics discussed yesterday and we appreciate the committee's willingness to consider amendments to the bill. The League is unable at this time, however, to withdraw its opposition to the bill based upon the following issues: the prohibition on municipal court prosecution; the inability to have local gun ordinances; the prohibition on protecting city property, such as open spaces and parks; the inability to regulate and protect our city employees; and the removal of many of the clarifications in the transportation of firearms compromise from two years ago.

The League's Statement of Municipal Policy states, "**We support local regulation of firearms.**" This issues surrounding HB 2528 will be discussed at the League Governing Body meeting next week. We would like to thank Representatives Candy Ruff and Gary Hayzlett, and Senator Journey, for meeting with the League on this very important matter.

Again, we want to thank the committee on behalf of cities in Kansas for its consideration of the interest municipalities and our employees and citizens have in this legislation. Please do not hesitate to contact me if there are any questions.