

MINUTES OF THE HOUSE EDUCATION COMMITTEE

The meeting was called to order by Chairman Clay Aurand at 9:05 A.M. on January 23, 2008 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Theresa Kiernan, Office of Revisor of Statutes  
Dianne Rosell, Office of Revisor of Statutes  
Dale Dennis, Kansas State Department of Education  
Martha Dorsey, Kansas Legislative Research Department  
Sharon Wenger, Kansas Legislative Research Department  
Janet Henning, Committee Assistant

Conferees appearing before the committee:

Scott Frank, Legislative Post Audit  
Dr. Dee McKee, Kansas Autism Task Force  
Mark Tallman, Kansas Association of School Boards  
Diane Gjerstad, Wichita Public Schools

**HB 2606:** Schools; special education; catastrophic aid, amount

Theresa Kiernan, Office of Revisor of Statutes, gave an overview to Committee members of **HB 2606**. Ms. Kiernan told Committee members that of the money appropriated by the legislature, an amount of money is distributed to school districts pursuant to K.S.A. 72-983 and this is referred to as catastrophic aid. The statute provides that school districts are to receive grants of state money in an amount equal to 75% of that portion of costs over \$25,000 incurred by the district in the provision of special education or related services for a child. This is a distribution on a per pupil basis. The \$25,000 figure is the same as when the statute was enacted in 1994. (Attachment 1)

Dale Dennis, Deputy Commissioner, Kansas State Department of Education, told Committee members the Kansas Legislature provided, in 1994, that any student that met the qualifications of an exceptional child and the school district provided special education services that exceeded \$25,000 that the state would reimburse the district 75 percent above the \$25,000. This program has been quite successful and worked very well. (Attachment 2)

Scott Frank, Legislative Post Audit, told Committee members that in Kansas, the Special Education for Exceptional Children Act augments the federal law by requiring Kansas school districts to provide special education services to gifted children as well. School districts are responsible for providing appropriate educational services to their students, and they have a couple of options for doing so. These include:

- independently providing the special education services using their own teachers.
- joining other school districts to form a special education cooperative or interlocal. A cooperative is administered by a member district, while an interlocal is managed by a separate independent entity.

Districts and cooperatives pay for special education services with a mix of federal, State, and local funds. Each year, the Legislature decides how much State funding it will provide for special education, which is known as "categorical aid". For the 2006-07 school year, the Legislature appropriated almost \$334 million in categorical aid for special education services. (Attachment 3)

Mark Tallman, Assistant Executive Director/Advocacy, Kansas Association of School Boards, spoke to Committee members in opposition of **HB 2606** and said that although the KASB Delegate Assembly has not voted on the specific proposal contained in this bill, it is their belief that other policies adopted by members indicate this bill should not be passed without consideration of other issues in special education. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE House Education Committee at 9:05 A.M. on January 23, 2008 in Room 313-S of the Capitol.

Dr. Dee McKee, Chair of the finance committee, Kansas Taskforce on Autism, spoke to Committee members in opposition to **HB 2606**. Dr. McKee stated disequilizing of special education is an ever growing problem in Kansas. At a most recent regional meeting, no director attending the meeting had yet received any Medicaid reimbursements since the mid-summer redesigned Medicaid program. (Attachment 5)

Diane Gjerstad, Wichita Public Schools, spoke to Committee members in opposition of HB 2606. (Attachment 6)

A question and answer session followed the presentations.

The Chairman closed the hearing on **HB 2606**.

The meeting was adjourned at 10:25 AM. The next meeting is scheduled for January 24, 2008.

House Bill No. 2606  
State Special Education Funding

Of the money appropriated by the legislature, an amount of money is distributed to school districts pursuant to K.S.A. 72-983. This is referred to as catastrophic aid. The statute provides that school districts are to receive grants of state money in an amount equal to 75% of that portion of costs over \$25,000 incurred by the district in the provision of special education or related services for a child. This is a distribution on a per pupil basis. The \$25,000 figure is the same as when the statute was enacted in 1994.

After subtracting the amount distributed as catastrophic aid and amounts allowed for travel and transportation from the total amount appropriated by the legislature, the SBOE distributes the balance of the money to all school districts, interlocals and cooperatives based on the number of special education teachers and paraprofessionals as provided by K.S.A. 72-978. This is the reimbursement to school districts for 92% of excess cost of providing special education and related services.

The proposed amendment adjusts the 1994 amount \$25,000, based upon the CPI-U, to \$36,000. Without the adjustment, more and more pupils qualify for the catastrophic aid leaving less special education money to be distributed under 72-978.

In school year 1998-1999, \$219,000,000 was appropriated for special education. Of that amount, \$980,000 was distributed to school districts for catastrophic aid for ?? pupils.

In school year 2000-2001, \$247,600,000 was appropriated for special education. Of that amount, \$1,473,000 was distributed to school districts for catastrophic aid for 60 pupils.

In school year 2006-2007, \$334,000,000 was appropriated for special education. Of that amount, \$3,331,000 was distributed to school districts for catastrophic aid for 185 pupils.

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July 29, 2007

FROM: Dale M. Dennis, Deputy  
Commissioner of Education

SUBJECT: Special Education

In 1994, the Kansas Legislature provided that any student that met the qualifications of an exceptional child and the school district provided special education services that exceeded \$25,000 that the state would reimburse the district 75 percent above the \$25,000. This program has been quite successful and worked very well.

The number of students qualifying for this program is increasing substantially. The 2010 Commission may want to consider increasing the \$25,000 limitation.

If you applied the consumer price index to the \$25,000 each year since 1994, the limitation would be approximately \$36,000 in fiscal year 2007.

Another second option would be to evaluate the limitation each year and increase by the consumer price index to make it more appropriate.

Listed below is a history of this program.

Fiscal Year	No. of Students Qualifying for Catastrophic Aid	Catastrophic Aid
2001	60	\$ 1,473,441
2002	62	1,513,457
2003	84	1,665,069
2004	85	1,242,160
2005	87	1,100,192
2006	131	2,168,805
2007	185	3,330,818

## Overview of Special Education in Kansas

***Federal and State Laws Require School Districts To Offer Special Education Services*** The federal Individuals with Disabilities Education Act (IDEA), passed in 1975, requires states to provide special education services to all children between the ages of 3 and 21 with disabilities. It defines “children with disabilities” as those children who need special services because of conditions such as mental retardation, hearing or visual impairment, emotional disturbance, or autism.

In Kansas, the Special Education for Exceptional Children Act augments the federal law by requiring Kansas school districts to provide special education services to gifted children as well. *Figure OV-1* shows the number special education students in Kansas for the 2006-07 school year, categorized by their primary disability or condition.

<b>Figure OV-1 Special Education Students, by Headcount and FTE 2006-07 School Year</b>				
Type of Exceptionality	Headcount		Full-Time Equivalent (FTE)	
	Enrollment	% of Total	Enrollment	%
Learning Disability	24,192	30.3%	8,397.8	33.1%
Gifted	14,739	18.5%	1,045.9	4.1%
Speech / Language	13,109	16.4%	1,676.0	6.6%
Developmentally Delayed	8,674	10.9%	3,680.2	14.5%
Other Health Impairment	7,436	9.3%	3,081.4	12.2%
Mental Retardation	4,593	5.8%	3,042.2	12.0%
Emotional Disturbance	3,741	4.7%	1,996.2	7.9%
Autism	1,776	2.2%	1,209.1	4.8%
Multiple Disabilities	564	0.7%	456.5	1.8%
Hearing Impairment	519	0.7%	362.3	1.4%
Orthopedic Impairment	410	0.5%	163.4	0.6%
Traumatic Brain Injury	235	0.3%	122.7	0.5%
Visual Impairment	212	0.3%	108.6	0.4%
Deaf-Blindness	16	0.0%	15.2	0.1%
<b>TOTAL</b>	<b>79,733 (a)</b>	<b>100.0% (a)</b>	<b>25,357.5</b>	<b>100.0%</b>
(a) This is the number of students receiving Special Education services. Enrollments in individual categories add to 80,216 because 473 gifted students also have one of the other exceptionalities. Because these students are counted in multiple categories, the percents add to just more than 100%. Source: Unaudited data from the Department of Education				

School districts are responsible for providing appropriate educational services to their students, and they have a couple of options for doing so. These include:

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- independently providing the special education services using their own teachers
- joining other school districts to form a special education cooperative or interlocal. A cooperative is administered by a member district, while an interlocal is managed by a separate, independent entity.

In 2005-06, 30 districts independently provided special education services, while 270 districts were members of either a cooperative or interlocal. For simplicity, throughout the rest of this report, we'll use the term "cooperative" to refer to both cooperatives and interlocals.

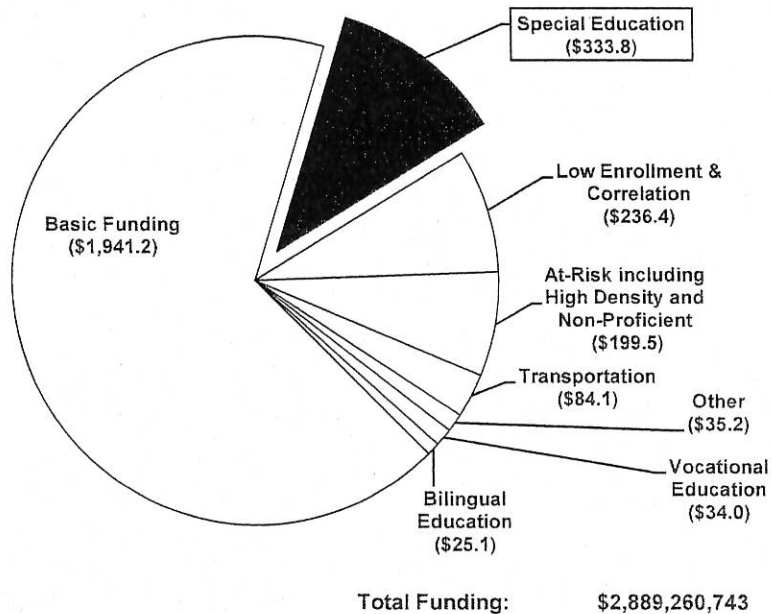
### KANSAS SPECIAL EDUCATION PROGRAM AT A GLANCE

**Authority:** Mandated by the federal Individuals with Disabilities Education Act (IDEA), which was enacted in 1975. The Act requires states to provide a free and appropriate education to all children between the ages of 3 and 21 with disabilities. The federal Act defines children with disabilities as those who need Special Education based on such conditions as mental retardation, emotional disturbance, or autism.

K.S.A. 72-961 et seq provides Kansas' statutory provisions, and augments federal law by requiring school districts to provide Special Education services to gifted children as well.

**Budget:** In 2006-07, Kansas public school districts received a total of \$2.9 billion in education funding. Almost \$334 million of that amount was for special education, which accounted for about 12% of all State education funding. The following chart shows the proportion of funding distributed to the major educational categories:

**State Education Funding, by Category (2006-07) (a)**  
(in millions)



(a) State funding includes the mandatory Statewide 20-mill property tax assessed by each school district.

Source: Unaudited data from the Department of Education

***In 2006-07, the Legislature Provided Almost \$334 Million In Special Education Categorical Aid for Districts and Cooperatives***

Districts and cooperatives pay for special education services with a mix of federal, State, and local funds. Each year, the Legislature decides how much State funding it will provide for special education, which is known as "categorical aid." For the 2006-07 school year, the Legislature appropriated almost \$334 million in categorical aid for special education services.

<b>Figure OV-2 Statewide Calculation and Distribution of State Categorical Aid 2006-07 School Year</b>		
		<b>Amounts Used in the 2006-07 Calculation</b>
<b>EXPENDITURE CALCULATION</b>	Actual Expenditures (2004-05 School Year)	\$578,595,181
	Plus Estimated Increase in Special Education Teachers & Salaries for 2005-06 and 2006-07	+ \$81,151,808
	<b>Projected Total Estimated Expenditures for 2006-07</b>	<b>= \$659,746,989</b>
<b>EXCESS COST CALCULATION</b>	Less per Pupil Cost of Regular Education	- \$172,022,832
	Less Federal Aid	- \$100,060,000
	Less Medicaid Reimbursements	- \$35,000,000
	Less SRS contribution for students in State hospitals	- \$1,500,000
	<b>Total Excess Cost</b>	<b>= \$351,164,157</b>
<b>CATEGORICAL AID CALCULATION</b>	Excess Cost x 92%	x 92%
	<b>Categorical Aid (a)</b>	<b>= \$323,071,024</b>
<b>DISTRIBUTION OF CATEGORICAL AID</b>	"Catastrophic" Aid to be distributed	\$1,700,000
	Transportation Aid to be distributed	\$52,364,000
	The remainder is distributed based on the number of special ed teachers and paraprofessionals (approximately \$23,000 X 11,700 FTE teachers)	\$269,007,024
<p>(a) This is the amount approved by the Legislature based on the estimates for that year. The amount of categorical aid actually paid that year was \$334 million. Source: Legislative Research Department and Department of Education.</p>		

The steps used in calculating the amount of categorical aid for special education are summarized in *Figure OV-2*. As the figure shows, that process involves:

- projecting special education expenditures for the budget year
- subtracting the funding that will be available from other sources to help pay for special education services. The average regular education cost per pupil is deducted because it's assumed the money that would have been spent on regular education becomes available when a student is in special education.
- multiplying the excess costs by the percentage the Legislature has agreed to fund (since 2006-07 that percentage has been 92%).

**Most of the categorical aid appropriated by the Legislature is distributed to districts and cooperatives based on the number of special education teachers they employ.** By State law, categorical aid first must be used to reimburse districts and cooperatives for the following costs:

- **transporting** special education students and mileage reimbursements for teachers (reimbursed at 80% of expenditures)
- students with "**catastrophic**" special education costs (reimbursed at 75% of expenditures above \$25,000 per year)

As shown in *Figure OV-2*, the amount of categorical aid that remains after the reimbursements for transportation and catastrophic costs is distributed to districts and cooperatives based on the number of special education teachers and paraprofessionals they employ. The amount of aid a district or cooperative receives for each FTE teacher is determined by dividing the total amount of categorical aid that remains by the total number of FTE special education teachers in the State (full time paraprofessionals count as a .4 FTE teacher).



KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS

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Testimony on **HB 2606**  
before the  
**House Education Committee**

by

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

**January 23, 2008**

Mr. Chairman and Members of the Committee;

**HB 2606** amends the “catastrophic” special education state formula, which provides districts with reimbursement for 75 percent of the cost of providing special education services to an individual student when those costs exceed \$25,000. The bill raises the threshold amount from \$25,000 to \$36,000 for the 2008-09 school year and in subsequent years would rise according to the CPI-Urban “during the preceding school year,” which presumably means the July index each year.

Although the KASB Delegate Assembly has not voted on the specific proposal contained in this bill, we believe other policies adopted by our members indicate this bill should not be passed without consideration of other issues in special education.

First, it should be stressed this bill would not change the amount of money the state provides to school districts for special education aid. Instead, it would reallocate funding among *different* special education expenditures. If this bill passes, districts would no longer receive special reimbursement for special students costing between \$25,000 and \$36,000, but would receive more for every other teaching unit. It is therefore difficult – if not impossible – to estimate exactly which districts would be “winners” or “losers.”

Second, it should be noted school district officials are in a difficult position. On one hand, public education is criticized for continually seeking more funding and charged with “over-identifying” special education and other groups of students to receive more money. In fact, the Legislature’s justification for limiting special education funding to 92 percent of “excess cost” is to discourage districts from increasing special education spending.

In fact, special education expenditures have risen far more rapidly than regular education costs. State aid for special education – which is currently only 92 percent of the “excess cost” of special education – has increased from 1 percent of school district operating budgets in 1973 to nearly 10 percent. This is due in part to the increasing number of students served, but even more so to the cost of serving students, particularly high cost students. This bill has been proposed because the number of students exceeding \$25,000 for special education services has more than tripled, and the cost has more than doubled since 2001. Responding to both state and federal law, the number of special education teachers and aides has also increased significantly – yet districts

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have long faced a shortage of qualified applicants for these positions. Yet these increases have clearly made a positive difference: there is dramatic evidence of improvement in the academic performance of many special education students on state assessments.

Yet, parents and other advocates frequently argue schools aren't providing *enough* special services for students, and this position gets considerable sympathy from legislators as well. For example, the recommendations of the Autism Task Force could substantially increase the cost of special education, and providing the level of services recommended by that group would likely place many more students in the high cost category addressed by this bill. Advocates for students with dyslexia and hearing impairment also have launched efforts to increase services – all of which will likely increase special education costs. As you may know, school districts are not only required to provide families with information regarding their rights to special education services; state and federal funding is provided to assist families in pursuing services for their children, regardless of the cost.

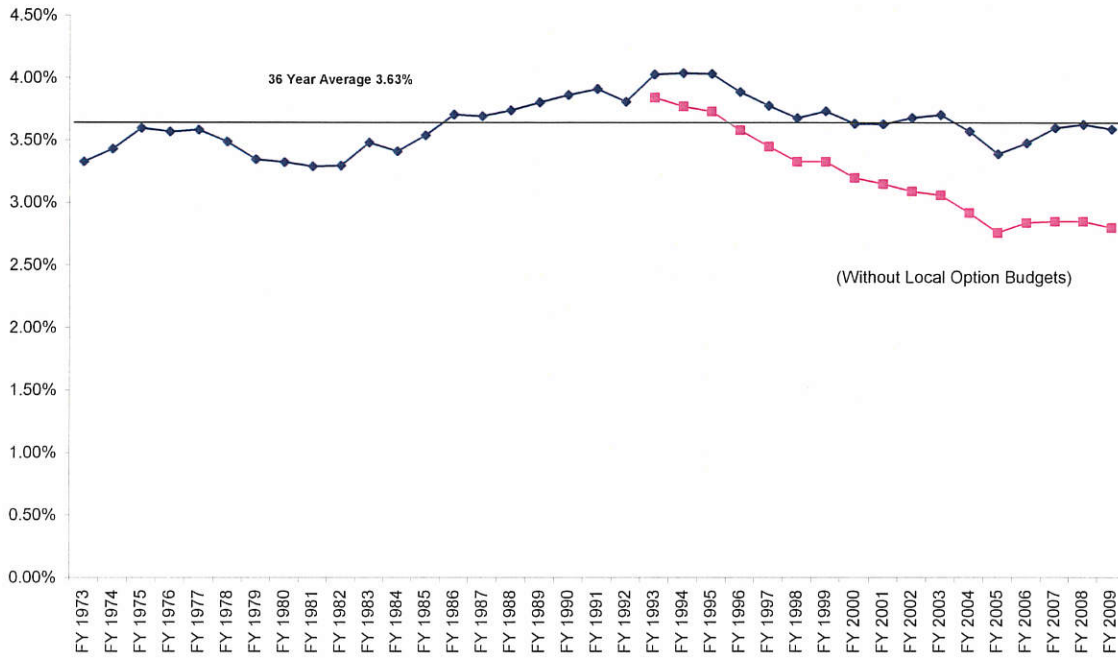
Third, while KASB has consistently advocated the state fund 100 percent of the excess cost formula, there are also many concerns about how that formula distributes those funds to school districts. KASB has long suggested that special education should be revised to more closely focus on the costs of students through a pupil weighting system, rather than the current teacher unit system. We would note the catastrophic aid system addressed in this bill already *does* reimburse districts for the costs of individual students.

As a result, we would suggest the Legislature not change this one aspect of the special education funding system without considering these other issues and developing a more comprehensive plan to ensure special education funding is both adequate for covering the cost of federal and state requirements, and distributed equitably based on student need.

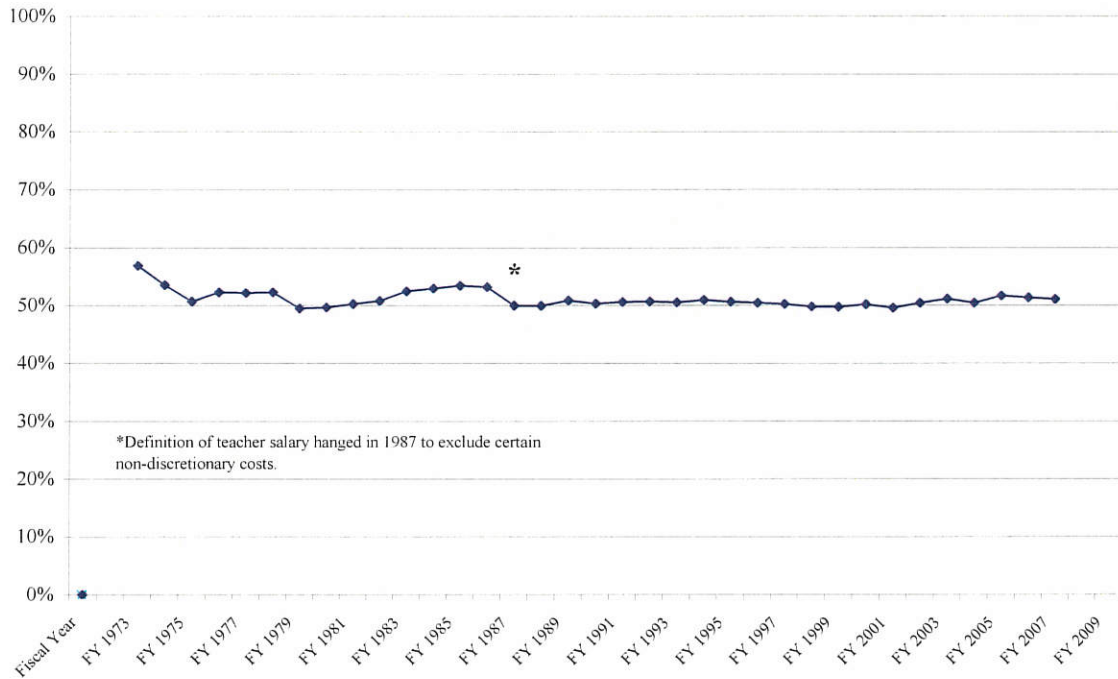
Thank you for your consideration.

4-2 -

School District Operating Budgets as Percent of Kansas Personal Income



Teacher Salaries as Percent of School District Operating Budgets



School Year	Number of "Classroom Teachers"	Total Headcount enrollment	Pupil to Teacher Ratio
1972-73	26,500.5	460,039	17.4
1973-74	26,395.6	479,344	18.2
1974-75	26,574.6	479,341	18.0
1975-76	26,795.3	465,355	17.4
1976-77	27,343.4	458,330	16.8
1977-78	27,584.5	445,604	16.2
1978-79	26,960.4	433,547	16.1
1979-80	27,413.0	422,924	15.4
1980-81	27,005.9	415,291	15.4
1981-82	26,875.4	409,909	15.3
1982-83	26,973.1	407,074	15.1
1983-84	27,359.8	405,222	14.8
1984-85	27,760.2	405,347	14.6
1985-86	28,036.0	410,229	14.6
1986-87	28,292.0	416,091	14.7
1987-88 <sup>1</sup>	28,866.3	421,112	14.6
1988-89	29,780.6	426,596	14.3
1989-90	30,399.5	430,964	14.2
1990-91	30,933.7	440,859	14.3
1991-92	31,207.7	445,390	14.3
1992-93	32,243.0	451,536	14.0
1993-94	32,842.8	457,744	13.9
1994-95	33,192.8	460,905	13.9
1995-96	33,437.8	463,018	13.8
1996-97	33,643.0	466,368	13.9
1997-98	34,003.4	468,744	13.8
1998-99	34,753.3	469,758	13.5
1999-00	35,475.6	469,205	13.2
2000-01	35,409.0	468,334	13.2
2001-02	35,434.0	468,171	13.2
2002-03	36,085.1	467,326	13.0
2003-04	35,440.6	467,387	13.2
2004-05	35,596.7	466,037	13.1
2005-06	36,741.0	465,316	12.7
2006-07	37,822.6	468,778	12.4

House Bill 2606

Dr. Dee McKee

Chair of the finance committee

Kansas Taskforce on Autism

In professional roles as director of special education for a rural south central cooperative (Greensburg/Coldwater) Manhattan and as principal at Heartspring in Wichita which served intensely challenging students with autism, I have had several administrative opportunities to use catastrophic aid.

It has allowed quick response in public school settings to the IEP needs of unique children. It reduces the sense of competition for resources at the local level in that staff and supports can be put in place with the knowledge that a shared support will come from the Kansas educational funding pool to assist with maintaining the local budget.

When students from other states came to Heartspring, I had broad opportunities to experience the mechanisms which were in place and found them to be surprisingly cumbersome and time consuming compared to the catastrophic aid system in place in Kansas. Directors of special education understand that the moneys come from the 'top' of a limited funding amount, but as the needs change with enrollments of different children, the most challenging have backing and can be managed for all team identified needs.

The autism task force in hearings this past year, identified catastrophic aid as one of the most effective mechanisms available to assist parents and students in getting appropriate services in public schools. It serves to assure programs, especially where there are teacher, program or support shortages, because though the positions are budgeted, if professionals cannot be hired, the schools lose aid per teacher as well as any aid per para educator in the end of the year funding distribution. Justifiable expenses.

Catastrophic Aid allows districts to do what is required to both the secure services and assure the opportunity for kids in every part of the state.

Disequilibrating of special education is an ever growing problem in Kansas. At the most recent monthly north central Kansas Association of Special Education Directors regional meeting no director attending had yet received any Medicaid reimbursements since the mid summer redesigned Medicaid program (Health Policy Group). Additionally when in 2007 session, replacement monies were channeled through the existing teacher and student funding system, many districts with large numbers of kids on medical cards, virtually got nothing, and other districts which have full staffs and practically no Medicaid population, have received a bonus of budget money.

Excess cost determined by district .....or by cooperative or inter-local?

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Attachment # 75



**House Education Committee  
Representative Aurand, chair**

**H. B. 2606 – Catastrophic Aid**

January 23, 2008  
Submitted by: Diane Gjerstad

Chairman Aurand, and members of the Committee:

Special education funding is complex. The variation in what districts receive in special education funding is illustrated in the recent Legislative Post Audit “*K 12 Education: Reviewing Issues Related to Special Education Funding*,” December 2007. While many legislators (and the public) believe each district receives the same amount of the “excess cost” to fund the education of special education students, the audit points out the amounts vary widely. For the year of the audit the target funded by the legislature was 89.3% -- yet what districts actually received ranged from a low of 45% to a high of 207%.

The audit also points out those districts losing Medicaid reimbursements due to changes in federal rules are still losing ground even though the legislature added about \$16m to cover Medicaid. Why? The distribution is based on the number of special education teachers and para-professionals which has nothing to do with Medicaid eligible students. As a result the districts with large numbers of Medicaid eligible special education students are still required to provide services while the funding is dispersed to all districts (with or without Medicaid eligible students) based on sp ed teachers.

We don't know what would happen if catastrophic aid was increased to \$36,000. Those districts required to educate these high cost students might be held harmless – yet they might not. We don't know the impact if this bill is passed.

The audit raises a number of policy issues this committee may well want to review. Then we could discuss all the nuances and interconnecting parts of special education funding, including catastrophic aid.

Thank you, Mr. Chairman – I would stand for questions.

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Attachment # 6