

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 February 11, 2008, in Room 313-S of the Capitol.

All members were present except:  
Representative Huebert - Excused  
Representative Peterson

Committee staff present:

Katie Sparks, Kansas Legislative Research Department  
Dennis Hodgins, Kansas Legislative Research Department  
Mike Heim, Revisor of Statutes Office  
Jason Long, Revisor of Statutes Office  
Jeannie Dillon, Committee Assistant

Conferees:

Christine Ross-Baze

Others attending:

See attached list.

Moved by Representative Olson and seconded by Representative Brunk, the minutes for the January 31 and February 5 meetings were approved.

The Chair recognized Representative Wetta who requested a resolution concerning annexation. Moved by Representative Dillmore, seconded by Representative Olson, without objection, the resolution was accepted.

Representative Faust-Goudeau requested a bill to remove certain language from the Grandparents Caregivers Act. Seconded by Representative Ruiz, without objection, the bill was accepted.

The Chairman reopened the hearings on **HB 2003 - Exception allowing day care homes to have double the amount of children licensed for during limited time periods before and after school** and **HB 2053 - Licensure of child care facilities by cities, counties and school districts.**

Chairman Siegfroid welcomed Christine Ross-Baze to the Committee. Ms. Ross-Baze gave testimony opposing **HB 2003** as written. Ms. Ross-Baze informed the Committee that the Department of Health and Environment had just concluded a series of listening tours across the state in December 2007, and the need for out of school time care was identified as an area of concern in many communities. She discussed short-term as well as long-term solutions with the Committee.

Ms. Ross-Baze said that the long term solutions include increasing the number of programs serving children when school is not in session and updating the standards of care for day care homes and centers. She stated that in the short term, the Department would grant exceptions to the licensed capacity in licensed and group day care homes to permit two additional children, 5 years and older to be in care every day before and after school. She noted that exceptions would be made for a maximum of two consecutive weeks on no school days. Ms. Ross-Baze concluded her testimony on **HB 2003** by stating that current day care home regulations do not provide adequate safeguards to accommodate such a large number of children as proposed in this bill. (Attachment 1)

A Committee member asked Ms. Ross-Baze to clarify the amount of children allowed in a home provider situation and also asked if the day care providers have copies of the rules and regulations. She responded by saying that a copy is given to each day care provider and the surveyors carry extra books with them. If a child care provider is having difficulty understanding the table, the surveyor will thoroughly go over the book with them.

Responding to a Committee member, Ms. Ross-Baze stated that regulations are already available in the regulations for providers to request exceptions on an individual basis. The process is for the surveyor to

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recommend those exceptions and be very involved.

A committee member asked if things go as planned, when will these exceptions be effective . Ms. Ross-Baze said that the Department plans implementing them in March and that it would be a blanket exception.

A number of members were concerned with prior testimony from constituents regarding the manner that they were treated and asked if the Department considered that appropriate behavior. Ms Ross-Baze responded that she understood that specific hearing was a difficult one and she would not state that the case was typical. The safeguards that the agency has are similar to other agencies in which, if they issue an order to fine or suspend a license, the provider has due process. Commenting again on this issue, a Committee member asked if she found anything improper with the actions of their employees. Ms. Ross-Baze stated that she was not present at that hearing and it was an issue that she would be happy to bring back to the Department and said that she thought that this issue had been resolved.

A Committee member asked Ms. Ross-Baze to clarify the exceptions. She stated that the exceptions being discussed at the Department would pertain to the school year or maybe a week or two before the school session and a week or two after school ends. The longest time period would be two consecutive weeks.

Answering a question regarding whether this exception would really make any difference in the shortage of child care providers, Ms. Ross-Baze said that on the listening tour the comments they heard were that just a little bit of flexibility would be a step in the right direction. She further stated that their advisory committee was made up of home care providers as well as center providers and other child care programs.

A Committee member asked what the qualifications were for home care providers. Ms. Ross-Baze said that the credentials for a home child care provider is very minimal. First-aid training would be the only qualification.

Responding to a question from a Committee member, Ms. Ross-Baze explained that the group day care home was originally designed to be a bridge between what was a traditional licensed day care home, which is one care giver caring for a small group of children, to a child care center. It had some additional requirements in it to allow a different configuration of children. It was meant to have some additional children to bridge that gap so that you would not go from a one person day care to a large day care center.

A Committee member commented that the testimony that was disconcerting to him was related to the testimony that came from Representative Hayzlett with respect to the way in which the service providers are treated and the nature of the misinformation that may be provided when they are facing some disciplinary proceeding. He asked if the Department had looked at that particular circumstance and the particular parties that were involved in that case to determine whether appropriate and accurate information was given to the provider regarding her legal rights with respect to the hearing, and secondly, whether there has been any kind of review with respect to the professionalism or lack thereof.

Ms. Ross-Baze responded by saying that the Department did look at that particular incident and that she agreed with a number of his statements including that whenever there is a hearing people should be treated respectfully and that they should be given accurate information. She stated that she would expect that to happen in the future. She also commented that these were not her employees and that both the Department of Administration and the Department of Health and Environment want to have processes that are above reproach.

Responding to a question by a Committee member, Ms. Ross-Baze said that as soon as it is finalized by the Department at the end of February, a day care home could add two additional children.

A Committee member asked Ms. Ross-Baze to explain the organizational structure of the appeals process. She stated that the appeals process is that the Department of Health and Environment would issue an order

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intending to perhaps fine a licensee. If the licensee wanted to appeal that order, they would send an appeal to the Department of Administration, which is a separate state agency. This is where the hearing officer is located. The Department of Administration assigns a hearing officer to hear the case. The Department of Health and Environment legal staff represents the Department and her staff, the surveyors, might testify in those hearings but that those hearings are conducted by the Department of Administration.

Answering a question from the Committee, Ms. Ross-Baze said that on the listening tour they did hear concerns about wanting to have better communications between surveyors and home providers to increase the dialogue and they did hear about issues of respect on both sides. She commented that sometimes these situations become personal in a way, but they do train the surveyors and their staff to treat people professionally and with respect and to do an objective assessment of those homes. She stated that when they do get a complaint on an individual basis, the Department looks into that case.

After answering all questions asked by the Committee, Ms. Ross-Baze gave testimony as an opponent to **HB 2053**. Ms. Ross-Baze briefed the committee on child care licensing in other states and stated that the Kansas child care licensure program partners with local health departments to inspect child day care facilities. She said that by permitting cities, counties and school districts to adopt their own licensure requirements and by permitting them to opt out of state licensure requirements, local requirements could be lower than state requirements. In closing, Ms. Ross-Baze said that **HB 2053** does not mandate required inspections as in current statute, does not mandate criminal history or child abuse registry background checks, nor does it give direction to local entities to design requirements similar to those found in KSA 65-508 that promote healthy and safe care.

A Committee member stated that we don't want a patchwork of legislation, but we need some attention to what is going on in the field.

Ms. Ross-Baze said that they are going to talk with their advisory group to get more detail. She stated that they take enforcement action on approximately 5 percent of the home day care providers. The majority of their home care providers are in compliance or substantial compliance and so the number that they are talking about is very small but obviously they need to see how they can fix the problem. The Department's focus is on compliance and not punishment.

A Committee member asked Ms. Ross-Baze if the local units of government were allowed licensing authority underneath a consistent set of rules and regulations approved by KDHE, would that change her mind about this bill. Ms. Ross-Baze replied that she would have to see what was actually being proposed but it would go a long way to remove some of the concerns about the bill.

After all questions were answered, the Chairman thanked Ms. Ross-Baze for her testimony.

The hearing was closed on **HB 2003** and **HB 2053**.

Representative Knox announced the Subcommittee was scheduled to meet February 12, 2008 in room 313-S at 1:30 pm.

The meeting was adjourned. The next meeting will be on February 13, 2008 in room 313-S at 1:30 pm.

# HOUSE FEDEDERAL & STATE COMMITTEE GUEST LIST

2/11/08

DATE:  \_\_\_\_\_

NAME	REPRESENTING
Rachel Katzin	SR5
Judith Malar	KIAC
Mark Desetti	KNEA
Bruce Lubic	Children's Alliance





*Kathleen Sebelius, Governor  
Roderick L. Bremby, Secretary*

DEPARTMENT OF HEALTH  
AND ENVIRONMENT

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Division of Health

### **Testimony on HB 2053**

**Presented to  
House Committee on Federal and State Affairs  
By  
Christine Ross-Baze, Director  
Child Care Licensing and Registration Program  
Bureau of Child Care and Health Facilities**

**January 31, 2008**

Chairman Siegfried and members of the Committee on Federal and State Affairs, my name is Christine Ross-Baze and I am the director of the Child Care Licensing and Registration Program at the Kansas Department of Health and Environment. Thank you for the opportunity to appear before you today regarding House Bill 2053, which proposes to permit the governing bodies of cities, counties and school districts to opt out of state licensure of child care facilities when these entities develop their own local licensure programs and standards.

Most states have institutionalized their child care licensing responsibilities in a state agency. By maintaining the licensure program in a state agency, oversight is provided by the legislature and all Kansans are afforded regulatory protections regardless of socioeconomic status or where they live. When the licensing agency is in a state agency there is increased accountability to the public, and access to information and licensing requirements is a one stop shop for parents and providers. Kansas currently regulates over 11,000 child care facilities and family day care homes with a capacity to serve over 141,000 children.

Kansas is fortunate in that the state licensure program is designed as a partnership between state and local government. This partnership affords parents, child care providers and the public with the advantages of a centralized statewide system and the advantages of local involvement and local contacts.

The Kansas child care licensure program partners with local health departments to inspect child day care facilities and 24-hour residential facilities. The Kansas state and local partnership model provides for local input and involvement while providing uniformity in licensure requirements across the state.

Under the current state licensure system, parents and providers are familiar with the same basic set of requirements no matter where in the state the child care facility is located. If parents move from Johnson County to Dodge City the same forms can be transferred w

same basic requirements are met. Child care providers know that if they move their business across town, or to another part of the state the basic requirements are the same. With the existing licensure system, parents easily can identify the licensing agency if they have a complaint or want to check on a provider's compliance history.

With one child care licensing agency, statewide child care and health initiatives can be efficiently implemented and coordinated to assure the health and safety needs of all Kansas children are met and to assure the state is in compliance with federal funding requirements.

Under existing statutes local units of government in Kansas can adopt local rules for child care facilities within their jurisdiction that are more stringent and in addition to the state foundational requirements.

Permitting multiple local entities to opt out of the state licensure program and adopt their own requirements would create confusion for Kansas children, families, providers and the public. With possibly 105 counties, 296 school districts, hundreds of cities and the state all operating different licensure programs with different requirements, procedures and forms, parents, providers and the public would find it difficult to easily access information. Parents might need to go to multiple agencies to find out the compliance history of a child care provider. Noncompliant child care providers might take advantage of the various options and become licensed under different agencies, masking their poor compliance record.

By permitting cities, counties and school districts to adopt their own licensure requirements and by permitting them to opt out of state licensure requirements, local requirements could be higher than state requirements but they could also be significantly lower, negatively affecting the quality of child care and placing children at risk of harm with too few caregivers, unqualified staff or unsafe environments.

Kansas provides assurances to the federal government to access federal funding for child care services. Providing assurances that federal funding requirements are met will be more difficult with multiple licensing entities. Assurances are currently provided in state regulations, state agency policies, interagency agreements and in statutes governing child care facilities.

HB 2053 does not mandate required inspections as in current statute, does not mandate criminal history or child abuse registry background checks nor does HB 2053 give direction to local entities to design requirements, similar to those found in K.S.A. 65-508(c) that promote healthy and safe care.

The degree to which the state child care licensure program is impacted by HB 2053 would be determined by the number of cities, counties and school districts that opt out of the state licensure program and develop their own local licensure program. Managing a state licensure program with cities, counties and school districts opting in and out of the program at any given time will make for inefficient use of resources and will make it difficult to appropriately plan, budget and allocate resources from year to year. From a public policy perspective, access to statewide data to determine availability and quality of child care in Kansas would be difficult to obtain.

HB 2053 appears to anticipate and permit local cities, counties and school districts to license child care facilities owned and operated by the city, county or school district. This is a conflict of interest and does not provide children and families with an unbiased consumer protection component that is the heart of any licensing program.

For these reasons, the Department opposes passage of HB 2053 as written. Thank you for the opportunity to appear before the committee today. I will now stand for questions.