

SESSION OF 2002

**SECOND CONFERENCE COMMITTEE REPORT  
HOUSE BILL NO. 2094**

As Agreed to May 11, 2002

**Brief \***

Senate Sub. for HB 2094 concerns provision of educational services at juvenile detention facilities, distribution of state special education services aid to school districts and districts' local option budget (LOB) authority, use by a school district of money in its contingency reserve fund, and school district transfer of territory criteria.

**Educational Services at Juvenile Detention Facilities**

School districts which provide educational services at juvenile detention facilities receive state aid equal to the lesser of actual costs of educational services provided to children in juvenile detention facilities or two times Base State Aid Per Pupil.

The amendments modify the definition of the term "juvenile detention facility" to mean:

- A secure public or private facility, but not a jail, used for the lawful custody of accused or adjudicated juvenile offenders;
- A level VI treatment facility licensed by the Kansas Department of Health and Environment which is a psychiatric residential treatment facility for individuals under the age of 21, and which conforms with the regulations of the Centers for Medicare/Medicaid Services and the Joint Commission on Accreditation of Health Care Organizations governing such facilities.
- A facility specifically identified in the statute.

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\*Conference committee summary reports are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree.

(The present law applies to community juvenile corrections facilities and other facilities specifically named in the law.)

### **Distribution of State Special Education Aid to School Districts**

The law that prescribes the method of distribution of state special education services aid to school districts is amended as it pertains to the distribution of this aid to school districts which participate in interlocal agreements or special education cooperatives.

The new provisions specify that each school district which has paid amounts for special education and related services pursuant to one of these types of agreements (interlocals or cooperatives) is entitled to special education services aid in proportion to the amount paid by the district in the current school year for the provision of special education and related services to the aggregate of all amounts paid by all school districts participating in the interlocal or cooperative entity in the current school year.

A two year "hold harmless" provision applies to school districts which sponsored a special education cooperative in the 2000-01 school year and which adopt a 25.0 percent LOB in either or both the 2002-03 and 2003-04 school years. The amount of the 25.0 LOB the district adopts in the 2002-03 school year is subtracted from the amount of the district's 2001-02 LOB. If the amount of the district's LOB in the 2002-03 school year is less than the 2001-02 school year amount, two-thirds of the amount of the difference may be added to the 2002-03 LOB. Using the 2001-02 school year as the base, this same provision also applies in the 2003-04 school year, but the add-on amount is one-third of the difference. Another "hold harmless" provision applies to school districts which sponsored a special education cooperative in the 2000-01 school year and which adopt an LOB equal to the district prescribed percentage of the district in the 2002-03 school year. If the district's LOB in the 2002-03 school year is less than the 2001-02 school year amount, one-third of the difference may be added to the 2002-03 LOB.

### **School District Contingency Reserve Fund**

The bill amends the school finance law as it pertains to use by a school district of money in its contingency reserve fund. Under current law, a school district may spend money from this fund for financial contingencies which were not anticipated at the time its general fund budget was adopted. The amendment removes this restriction and leaves to the school board the determination of when a financial contingency exists prompting expenditures from this fund.

### **Transfer of School District Territory**

Prior to issuing a transfer of territory order, the State Board of Education would be required to consider at least the following criteria:

- City boundaries and the area within three miles surrounding any city with more than one district in the area;
- Available capacity of districts involved in the transfer to serve existing or additional students;
- Condition and age of buildings and physical plant;
- Overall costs, including renovation of existing buildings versus construction;
- Cost of busing;
- Food service;
- Administration and teachers;
- Areas of interest, including access and distances for parents to travel to participate in student activities;
- Matters of commerce, including regular shopping areas, meeting places, community activities, and youth activities;
- Districts that are landlocked with changing demographics that cause declining enrollment; and
- Effect on students living in the area.

## **Background**

***The Second Conference Committee confirmed the content of the First Conference Committee's agreement.***

### **Educational Services at Juvenile Detention Centers**

During the 2001 Session, HB 2094, as amended by the Senate Committee on Education, would have added three facilities to the statutory listing of juvenile detention facilities—Liberty Juvenile Services and Treatment (Wichita USD 259), King's Achievement Center (Goddard USD 265), and Clarence M. Kelly Transitional Living Center (Topeka). Even though HB 2094 did not pass in 2001, the three facilities were added to the statutory listing of juvenile detention facilities with the passage of Senate Sub. for HB 2336.

During the 2002 Session, the Senate Committee on Education amended HB 2094 by substituting the content of HB 2759. HB 2759 (assigned to the House Committee on Education) had been recommended by the Legislative Educational Planning Committee pursuant to its review of the law during the 2001 Interim. In recent years there have been several proposals to expand the list of facilities to which this provision of law applies. Those have been evaluated on a case-by-case basis. When these proposals are being discussed, the issue has been raised as to whether a generic definition might be placed in the law describing the types of facilities to which the law applies as an alternative to legislative consideration of each request. A study of this issue had been recommended by the Conference Committee on Senate Sub. For HB 2336.

The fiscal note on HB 2759 was estimated at \$774,000. However, the view expressed by the conferees was that the FY 2003 appropriation for this program, as contained in SB 517, should not be increased due to enactment of this provision. Rather, if necessary, underproration should apply.

***The Conference Committee adopted the Senate-passed version of HB 2094.***

## **Distribution of State Special Education Aid to School Districts**

*The Conference Committee added the content of SB 483, as passed by the Senate, to Senate Sub. for HB 2094, but did modify somewhat the LOB "hold harmless" provision of that measure. This measure also was recommended by the Legislative Educational Planning Committee for the purpose of resolving an anomaly resulting from provisions of Senate Sub. for HB 2336, enacted by the 2001 Legislature.*

Among other things, that legislation changed the way school districts account for the state special education services aid they receive. The sole purpose for making the change was to increase the size of a school district's general fund budget in order that LOBs, a percentage of the general fund budget ranging up to 25.0 percent, would be increased. Under this enactment, the amount of state special education aid a school district receives during the current school year is converted to a pupil weight for purposes of determining the State Financial Aid of a school district (the school district's general fund budget). An amount equal to the weight is defined as "local effort" and, therefore, as a deduction in computing the district's general state aid entitlement. The amount of state special education services aid the district receives is deposited in the school district general fund and then is transferred to the district's special education fund. The problem with this procedure is that a school district which sponsors a special education cooperative receives all of the special education services state aid for which the cooperative qualifies, while the other participating districts receive none of the aid. This then benefits only the sponsoring district. Also, school districts belonging to interlocal agreements do not benefit from this legislation at all, at least to the extent of their involvement in the interlocal, because the special education aid flows directly to the interlocal and not to the participating districts.

The amendments now contained in Senate Sub. for HB 2094 resolve this matter by prescribing an equitable means of allocating state special education services aid directly to school districts which participate in interlocal agreements and special education cooperatives.

The Superintendent of Salina objected to the impact that the bill (SB 483), as introduced, would have in Salina, the sponsor of a special education cooperative. He explained that the school

district gained about \$844,000 more in LOB authority in the 2001-02 school year than if the provisions of this bill had been in place. He urged inclusion of some form of a “hold harmless” provision for school district special education cooperative sponsors. The Senate Education Committee responded by adding such a provision. The hold harmless provision described in the brief (above) was fashioned by the Conference Committee.

The fiscal note explained that the bill would increase LOB authority for school districts by placing special education moneys that now are paid directly to interlocal cooperatives in school districts’ general funds. The Department of Education estimated that, statewide, LOB authority would increase by about \$10.0 million due to the legislation, some \$2.5 million of which would be from the State General Fund. The State Department of Education estimates that the hold harmless provisions add in the range of \$625,000 to the original fiscal note.

### **School District Contingency Reserve Fund**

*The Conference Committee added the provision regarding school district use of the contingency reserve fund. The language used is from SB 409, as passed by the Senate. SB 409 had been introduced by the Senate Ways and Means Committee in connection with its consideration of SB 385, commonly referred to as the FY 2002 “rescission bill,” which subsequently was abandoned. The bill was designed to provide school districts an alternative means of maintaining their general fund budgets and LOBs in FY 2002 in the face of a reduction in Base State Aid Per Pupil (BSAPP) projected at the time to be about \$39 per pupil. This would have been accomplished by:*

- Giving school districts greater flexibility in using moneys in their contingency reserve fund;
- Permitting school districts to issue no-fund warrants in order to obtain revenue needed to maintain the general fund spending at the budgeted level, after taking into account money available in the contingency reserve fund; and
- Preserving school district LOBs at the level legally adopted for the school year.

The Senate Committee on Education, having determined that the provision designed to give greater flexibility to school districts

regarding the use of moneys in the contingency reserve fund had merit even though the balance of the bill appeared no longer to be relevant, amended the bill to retain that provision. That version was passed by the Senate.

### **Transfer of School District Territory**

*The Conference Committee added the provisions of HB 2953, as amended by the House Committee of the Whole, concerning the matter of transfers of school district territory.*

HB 2953, as introduced, is one of seven bills that were introduced by the House Committee on Education at the request of Representative Bill Mason. Subsequently, these seven bills were assigned to a subcommittee composed of Representatives Bill Mason (chair), Marti Crow, Ralph Ostmeyer, Ethel Peterson, and Dan Williams. The House Committee on Education adopted the subcommittee's recommendation that the bill be passed.

The purpose of the original measure is to provide a series of specific matters that the State Board of Education must consider when it is considering a school district transfer of territory petition. Under current law, items the State Board must consider are not enumerated. The House Committee of the Whole amendment to this feature of the bill was designed to ensure the State Board could consider other transfer of territory matters as well as those listed in the bill.

The Kansas National Education Association, State Board of Education, and Kansas Association of School Boards commented on how the proposed amendment in the bill would be applied and raised no objection to it.

The fiscal note states the HB 2953 would have no fiscal effect on the State Department of Education.