

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 1:40 p.m. on January 24, 2008, in Room 123-S of the Capitol.

Committee members absent: Janis Lee- excused

Committee staff present: Sharon Wenger, Kansas Legislative Research Department
Theresa Kiernan, Revisor of Statutes Office
Matt Todd, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Dale Dennis, Deputy Commissioner, Kansas Department of Education
Heidi Zimmerman, Legislative Division of Post Audit

Bill Introduction

Senator Schodorf informed the Committee that she had a request to introduce a bill concerning a three-year phase in of full-day kindergarten as proposed by the Governor. Theresa Kiernan, Revisor of Statutes Office, explained that the first year, pupils attending full-day kindergarten at an attendance center with an enrollment of at least 61 percent who are eligible for free or reduced-priced meals would be counted as one pupil in school year 2009-2010. The following year, pupils attending full-day kindergarten at an attendance center with an enrollment of at least 33 percent who are eligible for free or reduced-priced meals would be counted as one pupil in school year 2010-2011. The third year, all children attending full-day kindergarten would be counted as one pupil in school year 2011-2012 and each school year thereafter.

Senator Schodorf moved to introduce the bill, seconded by Senator Teichman. The motion carried.

Senator Schodorf called attention to copies of a letter to the Legislative Division of Post Audit from Joe Flint, Superintendent, U.S.D. 495. She explained that Sen. Janis Lee, who was unable to attend the meeting, requested that the copies be distributed to committee members. The letter was in response to a recent performance audit report concerning the statewide expenditure of special education funds. (Attachment 1)

Staff Review of Legislative Educational Planning Committee (LEPC) Reports

Sharon Wenger, Kansas Legislative Research Department, distributed copies of recommendations included in the LEPC report for 2007. (Attachment 2) At the Senator Schodorf's request, she focused on the portion dealing with virtual schools (pages 12-12 and 12-13). Ms. Wenger noted that the LEPC did not recommend any legislative proposals for virtual schools. Instead, LEPC requested that the Kansas Department of Education work with school district superintendents in the districts containing virtual schools and develop a proposal for funding the schools more in line with actual costs, as well as discuss attendance policies. In this regard, she distributed copies of a memorandum prepared by Dale Dennis, Deputy Commissioner, Kansas Department of Education. Mr. Dennis reported the results of a conference call with 20 superintendents and service center directors conducted on December 6, 2007, to discuss the counting of virtual school students, the computation of budget authority, and the compulsory school attendance law. (Attachment 3)

Following several questions from committee members concerning the consensus reached in the conference call, Senator Schodorf suggested that a subcommittee be appointed to discuss the findings and to consider what the direction should be taken with regard to virtual schools – such as standardized guidelines or statutory language. For the Committee's information, Mr. Dennis distributed copies of guidelines for virtual schools in Kansas regarding the responsibilities of the Department of Education, personnel requirements, program requirements, and student/parent responsibilities. (Attachment 4) He also responded to questions regarding virtual school funding.

Review of Legislative Division of Post Audit Report on Special Education

Heidi Zimmerman, Legislative Division of Post Audit, distributed copies of a school district performance audit report to the Legislative Post Audit Committee entitled, "K-12 Education: Reviewing Issues Related to Special Education Funding." Copies of the report may be obtained at the Legislative Division of Post

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Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas. Ms. Zimmerman pointed out that the audit answers the question, "What percent of special education excess costs are school districts reimbursed for, and why do those percentages vary?" She noted that the audit also addressed a secondary question, "How will school districts and cooperatives be affected by changes to school-based Medicaid funding?"

At the outset, Ms. Zimmerman explained that the federal Individuals with Disabilities Education Act (IDEA) requires states to provide special education services to all children with disabilities between the ages of 3 and 21. She noted that Kansas school districts provided special education services to approximately 80,000 students in school year 2006-2007. She explained that school districts can either provide special education services independently or they can join with other school districts to form a cooperative or interlocal. She further explained that special education has two distinct components: (1) calculating the amount the Legislature will fund and (2) distribution of that funding. In this regard, she referred to a table on page 5 of the report which showed the statewide calculation and distribution of state categorical aid for the 2006-2007 school year. In the 2006-2007 school year, the Legislature appropriated almost \$334 million in categorical aid for special education services. Ms. Zimmerman noted that, in 2005-2006, the state categorical aid for special education covered between 45 percent and 207 percent of the excess costs for districts and cooperatives. The lowest percent was for Mulvane, and the highest percent was for Silver Lake. She referred to a table on page 8 of the report which showed the special education excess costs covered by categorical aid in the top ten and bottom ten districts in the 2005-2006 school year. In discussing the reasons for the variation in the percent of special education excess costs that were covered by categorical aid, she explained that Post Audit calculated the average special education expenditures, primary funding, and state categorical aid for districts with low percent of excess costs covered, moderate percent of excess costs covered, and high percent of excess costs covered. Post Audit determined that the more a district or cooperative spends per special education student, the lower its percent of excess costs are covered by categorical aid. Comparative information about school districts and cooperatives that had higher and lower percents of their excess costs funded with state categorical aid is shown on a chart on page 12 of the report. With regard to the statistics concerning enrollment levels, she noted that, for districts that had a lower percent of excess costs funded, the average total cost per FTE was almost \$30,000.00 per FTE; while districts that had a higher percent of excess costs funded, had an average which was a little less than \$18,000.00 per FTE. She went on to discuss the estimated effect of two scenarios which Post Audit developed to cap special education categorical aid at 110 percent and 100 percent of excess costs as outlined in chart on page 15 of the report.

With regard to the second question addressed in the report, Ms. Zimmerman noted that, because some special education services provided by districts and cooperatives are health related, they are able to bill Medicaid to help pay for these services if the students are eligible. She went on to discuss several key changes made to the Kansas Medicaid plan which will make it more difficult for districts and cooperatives to access this funding beginning with the 2007-2008 school year. The changes include the requirement for a doctor's authorization for the service in order for that service to be eligible for reimbursement, parental authorization for the school to seek Medicaid reimbursement, and the return to a fee-for-service reimbursement plan from a bundled rate plan. She noted that these changes are expected to significantly decrease the amount of Medicaid funding districts and cooperatives receive. The Consensus Estimating Group estimates that these changes will reduce school-based Medicaid funding from \$35.0 million to \$11.5 million, starting with this school year. Under the current school finance formula, the Legislature will replace 92 percent, or almost \$22.0 million of the lost Medicaid revenues with state categorical aid. Districts and cooperatives will have to fund the remaining almost \$2.0 million with their own revenues, and some districts and cooperatives are likely to be affected more adversely than others. In this regard, she called attention to a chart on page 18 of the report which included a summary of the estimated effect of the Medicaid changes on districts and cooperatives. She noted that Post Audit determined that suburban districts with little poverty are likely to gain the most funding, and districts with high poverty are likely to lose the most funding. In conclusion, Ms. Zimmerman noted that Post Audit made the following recommendation: To help ensure that districts and cooperatives correctly report their special education expenditures and that statewide calculation of special education excess costs is as accurate as possible, the Department of Education should give all districts and cooperatives additional guidance on which funds they should use to report their special education expenditures.

The meeting was adjourned at 2:30 p.m. The next meeting is scheduled for January 28, 2007.

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