



KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

Mark Desetti, testimony
House Bill 2395
House K-12 Budget Committee
March 14, 2019

Madame Chair, members of the Committee, thank you for the opportunity to share our thoughts on House Bill 2395. We appear in opposition to this bill.

HB 2395 is an 81-page bill addressing the Gannon decision, funding the State Department of Education budget, and enacting a number of radical policy changes which represent a conservative wish list of items proposed over the years and routinely rejected by the legislature.

I am going to focus on just a few of the sections of this bill because frankly, it's just too big to bring up all the troubling parts in the bill.

Section 9 establishes a bullying task force. This section of the bill is a response to an annual issue before the legislature. Every year the legislature debates another bill intending to address the issue of bullying and cyber-bullying in schools. Let me give you a reminder of how this proposal came about. Once again a bullying bill was brought to the legislature; in fact this year there were three such bills.

KNEA testified on all three bills as we have done every year. We have supported some and opposed others. On some we've been neutral. But the one fact is that KNEA has been engaged in this issue year in and year out. KNEA was providing professional development to schools and school districts in how to address bullying in the classroom and how to empower students to deal appropriately with both bullies and the targets of bullying. Before there was a bullying statute on the books, KNEA was providing professional development in this area.

This year, it was KNEA that came before both the House K-12 Budget Committee and the House Education Committee and proposed the establishment of a task force to bring all parties together to draft recommendations for your consideration. We noted how this worked with the other perennial issue – dyslexia.

A bill was drafted by Equality Kansas and that bill was shared with us by their Executive Director. The membership of the task force included a principal and superintendent appointed by United School Administrators, two school board members appointed by the Kansas Association of School Boards, and three teachers appointed by KNEA. When translated for this bill, the only change to this list was the removal of KNEA. The drafter of this bill believes the organization representing administrators appoints administrators; the organization representing school boards appoints the school board members; but the organization representing teachers is dumped from the bill and instead legislators will choose the teachers.

Some of you – we assume the drafter of this bill – will assert that there are other organizations for teachers. But so are there other organizations representing administrators. While USA represents the majority of school administrators, some are represented by KNEA and others choose not to belong to any organization.

KNEA is the largest teachers organization in Kansas; the American Federation of Teachers is second. The bulk of teachers in AFT are also members of KNEA since United Teachers of Wichita is a merged organization and UTW members are all members of both KNEA and AFT. AFT and KNEA work very closely on legislative issues and we support each other's efforts. There is one other teacher organization which is very small and has never engaged on this issue. Let me repeat – there is only one teacher organization that has consistently over the years been here in the statehouse to work with legislators and other organizations on this issue. That organization is KNEA. USA and KASB know that; Equality Kansas knows that; and you know that. The decision to block KNEA from any participation in a task force that KNEA proposed in the first place demonstrates a lack of respect for teachers and their organization and was done solely because of an anti-KNEA, anti-labor ideology.

Sections 27 and 28 direct that a school board, when requesting a bid that includes new roofing, can't require that the bid include a "proprietary product, material or installation method..."

School districts are further limited as to which bid they can choose, generally being required to select the lowest bid. One should consider this part of the bill in terms of one's own experience as a home owner. When a home owner decides to put a new roof on his or her house, the home owner is likely to specify the material used. For example, one may request three roofing companies to provide estimates on the project but can decide to require a specific level of hail and wind protection and even specify what brand to use. That's because he/she wants the roof to last, to protect the home, and in the long run be more cost effective than accepting what is cheapest today.

This section of the bill requires school districts to accept "builder's grade" materials and anyone who has ever bought a new spec house understands that the builder's grade beige exterior paint will require you to repaint your home in short order; that the builder's grade sheet linoleum will soon pull away from the bathtub and expose the subflooring; that the builder's grade carpeting on your stairs will be frayed on the step edges within a couple years.

School boards need to be allowed to make these decisions based on the best research on materials and which materials will stand the test of time, protect the building, and in the long run be more cost effective.

Three proposals in the bill can be construed as the "leave these children behind" sections.

Sections 10 through 23 establish the Hope Scholarship program under which a student who has been determined to be a victim of bullying must be offered a voucher to go to a private or other public school.

Instead of dealing with the underlying issue of bullying, this proposal marginalizes and stigmatizes the target of bullying. It says to the child, "Maybe you'd be happier somewhere else. Why don't you go away?"

And one must ask if vouchers are the answer to the problem. In the past few weeks the news and social media have been full of the story of a decision by the Catholic Diocese of Kansas City that has announced the children of same sex couples are not welcome in Catholic schools. This ruling applies to most of northeast Kansas. If the child is rejected because of the parents, will the LGBT child who has been bullied because of his/her sexual orientation be welcomed?

The gay child can be refused admission for being gay; the child with autism can be rejected because he/she is hard to teach. What happens to the child bullied for wearing her hijab?

One does not address bullying by stigmatizing the target of bullies. This section leaves the victim behind.

Section 31 repeals the statutory requirement that the state reimburse districts for 92% of the excess costs of special education.

While the 92% mark is often not met, that is due to a number of factors that influence changes in special education costs. Regardless, it is a target and an aspirational goal. The continuing attempts to reach the target demonstrate a commitment to the funding of special education programs.

This bill pretends that the State Board of Education will annually determine what the appropriate percentage is. But then the bill directs that the SBOE simply calculate what the reimbursement percentage is under the appropriation passed by the Legislature and that becomes the SBOE's recommendation. The State Board of Education is directed to establish whatever the legislature chose to adopt as the appropriate reimbursement.

So when the legislature randomly chooses a dollar amount and that calculates to be 65% of the excess costs, then the SBOE is forced to recommend 65% as the proper reimbursement.

This is simply permission to underfund special education. This section leaves the children with special needs behind.

Section 39 limits a child from being in a bilingual program getting weighting to 4 years.

This section of the bill is indicative of a lack of understanding of language acquisition and development.

Think of yourself as a new immigrant in Kansas. You speak no English and are put into a bilingual program which is usually a small portion of your school day in ESL instruction and the rest of your day simply hearing your English speaking peers – unless you are in a school with a very high percentage of language minority students where you might be hearing multiple languages spoken and much of the English you hear is coming from students who, while speaking English, have limited English proficiency.

Consider other factors including:

- The student's level of proficiency in his/her native language. The more proficiency a student has with their native language, the easier it will be to learn a new language. Children who have been in and out of school – perhaps from war-torn countries or extremely remote rural areas – will have a more difficult time learning English.
- The language the student speaks makes a difference. If the language shares some roots with English, there will be some similarities. The alphabet is nearly identical. The alphabetic sounds are similar. There are cognates. The Spanish speaking child quickly remembers "salad" when he/she knows it is "ensalada." The German speaking child notes that "hound" is very much like "hund." Now think about the child from Somalia or Syria or the Ukraine or southeast Asia. The alphabet is different, phonetic sounds are different, there are no cognates.

How many of you took a foreign language in high school? If you took that language for four years, one period a day for five days a week you totaled at best 720 hours of direct language instruction – pretty much the direct ESL instruction an immigrant student might get in the four years specified in this bill. Do you consider yourself proficient in that language?

The Defense Language Institute in Monterey, California puts their students through a 64 week program with six to seven hours of intensive study five days per week – not including homework. That's 2,240 hours in instruction only in the target language. Their students are not also trying to learn mathematics, social studies, and science using a language with which they are not proficient. The DLI program is considered one of the best in the world and yet, with all of this intensive focus, they have a 75% success rate. A full quarter of their students do not succeed.

The one size fits all approach to bilingual education in this bill is a recipe for failure. You must either be proficient in English in four years or the state simply gives up on you. You're done. We will no longer fund any specialized language instruction for you.

This section of the bill leaves second language learners and immigrants behind.

There are other troubling sections to this bill but we have chosen to focus on those that marginalize teachers and students and limit the ability of school boards to provide the best and safest facilities for the children they serve.

To conclude, however, it is important to address the most fundamental issue in the bill – if the bill purports to be a school funding bill – and that is whether or not it responsibly addresses the ruling in Gannon that our schools are not adequately funded.

To put it bluntly, no. This bill does not appropriately address the school funding decision and is also likely to jeopardize the currently constitutional funding formula.

The bill ends the attempt to reach the “Montoy Safe Harbor” by ending the commitments made in the last two years early, by not meeting even the funding request of the State Board of Education (let alone what the plaintiffs have suggested is needed), and by ending any commitment to staying up with inflation in the future.

Further, this bill reduces commitments to some of our neediest students – those in special education and bilingual students – at a time when the Court has intentionally drawn attention to the needs of those students.

If this bill were to be the Legislature's response to the Supreme Court's ruling in Gannon, we firmly believe that it will be rejected by the Court and that our schools could very well end up shuttered at the start of the 2019-20 school year.

House Bill 2395 should be rejected in its entirety. The responsible path is that being taken by the Senate in their consideration of Senate bills 142 and 147.