

## MINUTES

### LEGISLATIVE EDUCATIONAL PLANNING COMMITTEE

October 18-19, 2004  
Room 514-S—Statehouse

#### Members Present

Representative Kathe Decker, Chair  
Senator Dwayne Umbarger, Vice Chair  
Senator Christine Downey  
Senator Lana Oleen  
Senator Mark Taddiken (October 18)  
Senator John Vratil  
Representative Barbara Ballard  
Representative Tom Holland  
Representative Bill Mason  
Representative Eber Phelps  
Representative Larry Powell

#### Members Absent

Senator Bob Lyon  
Representative Carol Edward Beggs

#### Legislative Committee Staff

Carolyn Rampey, Kansas Legislative Research Department  
Mary Galligan, Kansas Legislative Research Department  
Deb Hollon, Kansas Legislative Research Department  
Kathie Sparks, Kansas Legislative Research Department  
Theresa Kiernan, Revisor of Statutes Office  
Art Griggs, Revisor of Statutes Office

#### State Department of Education Staff

Dale Dennis, Deputy Commissioner

## Conferees

Greg Buster, Butler County School Board Council Special Education Cooperative  
Dr. Bruce Passman, Executive Director of Student Services, USD 497 (Lawrence)  
Neil Guthrie, Division Director of Special Education/Support Services, USD 259 (Wichita)  
ZoAnn Torrey, Director of Special Education, State Department of Education  
Cindy Kelly, Attorney, Kansas Association of School Boards  
Rocky Nichols, Executive Director for the Kansas Association  
Mark Tallman, Assistant Executive Director/Advocacy, Kansas Association of School Boards  
Donna Whiteman, Assistant Executive Director/Legal Services, Kansas Association of School Boards  
Kathy Hubka, Coordinator of Health Services, USD 259 (Wichita)  
Robin Marsh, School Nurse, USD 379 (Clay Center)  
Lynn Smith, School Nurse, USD 379 (Clay Center)  
Nancy Ramer, School Nurse, USD 415 (Hiawatha)  
Judy Keller, Executive Director, American Lung Association of Kansas  
Jean Higbie, School Nurse, USD 437 (Auburn Washburn); Legislative Co-Chairman, Kansas School Nurses Organization  
Representative Mario Goico  
Chris Ross-Baize, Director, Child Care Licensing and Registration Program, State Department of Health and Environment  
Dr. Robert Masters, Vice President for Academic Affairs, Kansas Board of Regents  
Dr. Andy Tompkins, Commissioner of Education, State Department of Education  
Dr. Larry D. Clark, Interim Executive Director, Jones Institute for Educational Excellence, Emporia State University  
Dr. Connie Briggs, Director, Reading Recovery Program, Jones Institute for Educational Excellence, Emporia State University  
Linda Sobieski, Director, National Board Certification Program, Jones Institute for Educational Excellence, Emporia State University  
Dr. Brian Schrader, Director of Research, Jones Institute for Educational Excellence, Emporia State University  
Dr. Larry Lyman, Chair, Early Childhood/Elementary Teacher Education Department, Jones Institute for Educational Excellence, Emporia State University

## October 18

### Special Education

Greg Buster, Butler County School Board Council Special Education Cooperative, described challenges facing teachers and other educators, such as student behavior problems, uncaring parents, and overcrowded schools ([Attachment 1](#)). In order to deal with students in the current academic climate, educators have developed interventions to use with students, which include the following:

- Function Behavior Assessment—a strategy to identify the reason a student misbehaves, develop a plan to modify the behavior, and teach appropriate replacement behaviors using positive interventions.
- Behavior Intervention Plan—using information obtained from the function behavior assessment to develop specific intervention strategies to alter specific behavior, determine periodic dates to review the plan, and develop methods to evaluate the plan's success.

- Positive Behavior Supports—strategies that focus on teaching appropriate behavior while minimizing punitive strategies. Mr. Buster explained that there is a difference between punishment and discipline. For example, punishment inflicts penalties, damages relationships, reinforces the student's sense of failure, and could result in the student leaving school. Discipline focuses on the desired behavior, takes place in an emotionally safe environment, and bolsters the student's self respect.

Because the Committee had received testimony at a prior meeting about time-out rooms, Mr. Buster addressed this intervention strategy specifically. He said the purpose of time-out is to deny students access to all sources of reinforcement as a consequence of undesired behavior. He said schools should obtain written consent from parents or care givers before using seclusionary time-out as an intervention and the use of time-out should be a part of the child's Individualized Education Program (IEP). He said time-outs should not last more than 15 minutes and should be less for younger children. Mr. Buster said time-outs are used when students are out of control and at risk of harming themselves or others, when a highly agitated student needs to be removed from stimuli in order to calm down, or there is a need to reduce severe distress for the student. He said guidelines for staff to follow include documenting the student's name, the date and time, and the reason for the time out. He said staff should continually monitor students in time-out and never leave students alone.

When asked by Senator Vratil if there is a need for legislation to list intervention strategies for use by schools and to establish parameters for the strategies, Mr. Buster responded that schools already have developed appropriate strategies and guidelines and no legislation is necessary. Mr. Buster responded to a question about whether special education teachers are prepared to deal with behavior problems by saying that newly certified teachers usually have taken at least one course in behavior management, but there are many special education positions filled by individuals on waivers who have not had behavior management as part of their academic preparation.

Dr. Bruce Passman, Executive Director of Student Services, USD 497 (Lawrence), prefaced his remarks by addressing Senator Vratil's question to the prior conferee. He said dealing with special education students requires good judgment and that is something that cannot be legislated. He proceeded with his prepared remarks and discussed changes that have occurred in dealing with special education children in recent decades ([Attachment 2](#)). Dr. Passman told the Committee that the Individuals with Disabilities Education Act (IDEA) has six key provisions: appropriate evaluation, free appropriate public education, individualized education programs, parent and student participation, procedural safeguards, and least restrictive environment. "Least restrictive environment" is a concept that formerly was described as "inclusion" or "mainstreaming." According to Dr. Passman, "inclusion" means that a child with disabilities will attend a home and neighborhood school and be placed in a regular classroom to the extent possible. "Least restrictive environment" means the determination of how services will be provided that child within the inclusive setting. For example, least restrictive environment could involve the use of assistive devices to help the child in a regular classroom setting. Dr. Passman concluded his prepared remarks by saying that, while the concepts of inclusion and least restrictive environment have been in federal law since 1975, the law has been strengthened to create the presumption of general education placement as the first option for children with disabilities. In addition, resources and support for teachers have been expanded to make inclusion more achievable.

Dr. Passman was asked by a Committee member what he, as an administrator, does to help special education teachers. Dr. Passman responded that, first, he supports building principals because they bear an increasing responsibility for special education students as the result of more special education students being in regular classrooms. Second, he supports professional

development opportunities for regular and special education teachers because many of them do not graduate from teacher education institutions fully prepared. In this regard, he noted the relatively small amount of money available to school districts for professional development activities.

Neil Guthrie, Division Director of Special Education/Support Services, USD 259 (Wichita), told the Committee that federal and state law requires the participation by parents in decisions affecting their special education child (Attachment 3). He said the Wichita school district has 85 social workers who work with parents to be sure that they are informed and understand their rights and the services being provided their child.

If parents disagree with the school district, they have several alternatives for resolving disputes:

- The IEP meeting, which gives parents, and representatives of their choice, the chance to talk to teachers, administrators, and other individuals about their child in a relatively informal setting.
- A formal complaint, which is filed with the State Department of Education and initiates a formal investigation.
- Mediation, which allows parties to resolve differences with litigation. A state-appointed mediator presides over the process.
- A due process hearing, conducted by state-approved hearing officers. Both parties have the right to be represented by legal counsel. Appeals of due process hearings may be made to the State Department of Education, whose review officer's decision is final unless either party brings civil action in state or federal court. If the parents prevail in the due process hearing or upon appeal, the court can award attorney fees to the parent.

Mr. Guthrie said that 113 actions were filed in Wichita in school year 2003-04 which could have required a due process hearing. The actions were resolved as follows:

- in 25 cases, parents agreed with the district prior to or at a pre-hearing conference;
- in 36 cases, the district agreed with the parent prior to or at the pre-hearing conference;
- in 21 cases, the hearing officer dismissed the case prior to or at the pre-hearing conference;
- in two cases, the student moved out of the district;
- in 20 cases, the conflicts were resolved through mediation; and
- nine cases are pending.

ZoAnn Torrey, Director of Special Education, State Department of Education, distributed the following material to the Committee: *Information about the KSDE Monitoring Process (Attachment 4)*, two letters from officials with the United States Department of Education (one dated November 18, 1998, and the other dated September 29, 2004) informing the State Department of Education that

its corrective action regarding areas in which Kansas was noncompliant with federal special education regulations had been approved and that the state was considered to be compliant (Attachments 5 and 6), a chart entitled *Systemic Progress Monitoring* (Attachment 7), a copy of a school district self-assessment form (Attachment 8), a copy of results of a statewide surveys of special education parents for school years 2000-01 through 2003-04 (Attachment 9), a copy of information given parents of special education students by school districts entitled *Parent Rights in Special Education (Procedural Safeguards)* (Attachment 10), and information on the current system used by the State Department of Education to monitor school district special education activities called "Kansas Continuous Improvement Monitoring" (Attachment 11).

Ms. Torrey presented the information in order to demonstrate to members of the Committee that the State Department of Education has procedures in place to monitor special education activities at the school district level, that the process is data-based and relies on information provided by the districts, and that the State of Kansas is compliant with federal special education regulations. She acknowledged that Kansas has been cited in the past in areas such as transition services and attendance by students in their own IEP meetings. She said letters from the United States Department of Education indicated that areas of noncompliance had been addressed and that, particularly in the case of transition services, part of the problem was poor documentation of existing activities, which school districts were directed to correct.

Cindy Kelly, an attorney with the Kansas Association of School Boards, made a general response to testimony presented at a prior meeting which indicated dissatisfaction with the current special education system (Attachment 12). Ms. Kelly made the point that state and federal law protect the rights of parents and children and, on the whole, indications are that most students are receiving benefits from the system and parents are satisfied. To illustrate her point, Ms. Kelly cited the number of students with disabilities who score at the proficient level on the state assessments; the number of parents who express satisfaction with special education services, based on parent satisfaction surveys; and the number of accountability mechanisms that are built into the law itself, such as required parental notice regarding their child's special education placement.

Ms. Kelly concluded that the special education process is extremely complicated, but most indications are that the process is working well. Ms. Kelly said her organization opposes changes in the current law which would increase the cost of providing services, would exceed existing federal requirements (with the exception of the gifted mandate), or likely would increase special education litigation.

At the request of the Committee, Dr. Passman was asked to respond to a letter to the Committee from Rocky Nichols, Executive Director of Kansas Advocacy and Protective Services. In his letter, Mr. Nichols suggested language for the Committee report in support of his association's position and requested that issues raised by school districts and by the disabled community be examined by the 2005 Legislature (Attachment 13). The letter included pictures of seclusion rooms used by the Lawrence school district.

Dr. Passman explained that time-out rooms are built according to specifications and parents are involved in the process as to whether their child will be placed in such a room. He pointed out that the time-out room pictured in the letter was in a building that housed a number of severely disturbed autistic students who normally are in small classrooms of seven to eight students with a paraprofessional assigned to each student. He noted that a parent of a special education student in his district had expressed dissatisfaction with the system to the Committee, but had not made a similar effort to express dissatisfaction to him directly so that he could have the opportunity to address the parent's concerns.

## **Student Self-Medication Policies**

Staff presented information about 2004 SB 304 which contains a section that requires school districts to adopt policies authorizing self-administration of medication by students in grades 6 through 12 (Attachment 14). The legislation authorized school districts, on an optional basis, to develop policies for students in grades 1 through 5. The student self-medicating sections of SB 304 will sunset (terminate) June 30, 2005, unless extended by the Legislature.

Mark Tallman, Kansas Association of School Boards, told the Committee that the Kansas Association of School Boards would present a recommendation to its Delegate Assembly when it meets in December 2004 that the sunset provision be removed (Attachment 15). He said the Association had developed a model policy for school boards to consider when they developed policies for their districts. Mr. Tallman told the Committee that his organization would be concerned about any changes to the law which would limit the ability of local boards to establish local policies. He also asked the Committee not to change the provision which says that parents or guardians must sign a statement acknowledging that the school would not be liable for any injury resulting from the self-administration of medication.

In discussion with Committee members, Mr. Tallman said some school districts had contacted the Association with questions about specific aspects of policies they are required to develop, but districts had not contacted him because they are opposed to the legislation.

Donna Whiteman, Kansas School Board Association, responded to questions about school district liability by saying it is a good thing that the limited liability protection is in the law. She cautioned that, if the Legislature were to remove the liability protection, it would send mixed messages to districts and to the courts as to what the Legislature's intent is in this area.

Committee members raised questions about whether students who are dually enrolled in secondary and postsecondary programs are covered by school district policies when they are on a postsecondary institution's campus. Questions also were asked about the applicability of the policy to children who are diabetic and must check their blood sugar levels regularly. Mr. Tallman said diabetes is not specifically mentioned in SB 304 and some school districts have expressed concerns about the applicability of the policy to children with the condition. Ms. Whiteman explained that federal law requires that school officials meet with parents of a child who is not a special education student but who has a medical condition that affects the child's ability to learn. The school and parents meet to develop a plan for the child's education.

Kathy Hubka, Coordinator of Health Services for the Wichita school district, responded to the question raised with the previous conferee by explaining that children who are diabetic are identified as soon as school starts and all the staff who need to know about the child's condition are informed. She said the school nurse always is informed and involved when such children are enrolled. Beginning her prepared remarks, Ms. Hubka emphasized the role school nurses play with children who have chronic or serious illnesses. (Attachment 16 is a copy of Ms. Hubka's presentation. Attachment 17 is the Wichita school district's policy on administration of medication during school hours. Attachment 18 is a copy of the form given to parents who wish to request that their child be allowed to self-medicate. Attachment 19 is a copy of the district's self-administration medication nursing care plan, including an assessment by the nurse of whether the student is capable of administering the prescribed medication, and Attachment 20 is a form used when the school nurse delegates supervision of a self-medicating student to another staff member).

Ms. Hubka told the Committee that the Wichita school district has a long-standing policy allowing students to administer their own medicine. She said it is important for the school nurse and other staff to know which children need medication. According to Ms. Hubka, an important consideration is the maturity of the student and an assessment of individual cases to make sure each student recognizes specific symptoms and understands appropriate dosages and how the medication

needs to be administered. She mentioned problems with which the district must cope, such as students mixing up their inhalers, and inhalers and other medical devices not being properly labeled.

In response to a question, Ms. Hubka said that, although some school districts do not have school nurses, through the use of phones, e-mail, and faxes, it is possible for a school nurse in another district or other qualified medical person to delegate responsibility for students who self-medicate to other school personnel.

Robin Marsh and Lynn Smith, school nurses in Clay Center, described the demographics of their district, which covers the entire county and serves 1,400 students ([Attachment 21](#)). They said they support SB 304. The policy in their school district (USD 379) covers students kindergarten through the 12<sup>th</sup> grade. They, too, expressed concern about students using inhalers belonging to other students and other problems, such as students carrying medication in unlabeled bottles.

In response to a question about how their school district is dealing with students who are allergic to peanut butter, Ms. Marsh and Ms. Smith said the district has no official policy. Ms. Hubka said the Wichita district first adopted a policy of not serving peanut butter, but now serves it on certain days, having gone from a “peanut free” to a “peanut controlled” environment.

## **Special Education**

Rocky Nichols, Executive Director of Kansas Advocacy and Protective Services, was given the opportunity to summarize his organization’s position on the Committee’s special education study. Mr. Nichols reiterated the request made in his letter to Committee members which had been distributed earlier ([Attachment 13](#)) and asked the Committee to consider establishing guidelines for the use of seclusion rooms.

## **Student Self-Medication Policies, continued**

The hearing on SB 304 as it related to student self-medication resumed. Nancy Ramer, a school nurse for USD 415 (Hiawatha), described some of the difficulties school nurses face, such as the failure of parents to submit the required forms granting permission for their child to self-medicate, students sharing medication, and medication falling into the wrong hands ([Attachment 22](#)). She said she believes the number of students who are permitted to self-medicate should be limited.

Jean Higbee spoke on behalf of the Kansas School Nurses Organization ([Attachments 23 and 24](#)). The Nurses Organization supports requiring the self-medication policy to extend to all students grades kindergarten through 12. The Organization also supports removing the sunset provision.

Representative Mario Goico explained that he became involved in the issue of self-medication by students when a 16-year old friend of his son’s died as the result of an asthma attack. He provided Committee members with a copy of information on asthma prepared by the State Department of Health and Environment and copies of United States House and Senate versions of pending federal legislation related to student self-medication ([Attachments 25, 26, and 27](#)). Representative Goico asked the Committee to consider patterning the Kansas law after legislation being considered by Congress, which has as its major features the following:

- Require school districts to develop student self-medication policies for elementary as well as secondary students.

- □ Require the student to demonstrate to the health care practitioner and the school nurse (if available) the skill level necessary to use the medication.
- □ Require that the school keep backup medication, if provided by a student's parent or guardian, in case of a health emergency.

Judy Keller, Executive Director of the American Lung Association, spoke in support of the self-medication portion of SB 304 and also in support of incorporating aspects of United States HR 2023 ([Attachment 28](#)). She said that states that have self-medication policies that extend to elementary children would have preference with regard to federal grants that are asthma related. Ms. Keller's recommendations are:

- Expand the age from the current grades 6-12 to include elementary school children.
- Add a requirement that the student demonstrate to the school nurse (or designee) the skill level necessary to use the medication.
- Add a statement that the school district reserves the right to withdraw permission at any time if the student is unable to demonstrate responsible behavior in carrying and/or taking this medication.
- Delete the sunset provision.

Senator Vratil requested that the Revisor's Office respond to the Committee in writing as to whether any of Ms. Keller's recommendations could be implemented by local board of education policy.

### **Child Care Programs Offered by School Districts**

Chris Ross-Baize, Director, Child Care Licensing and Registration Program, State Department of Health and Environment, presented updated guidelines developed by the State Department of Health and Environment pertaining to the regulation of child care programs operated by school districts ([Attachments 29 and 30](#)). The former guidelines, developed in 1996, had been challenged by at least one school district because they were considered to be unnecessary for schools that already had to meet regulations imposed by the State Board of Education and other entities. Legislation introduced during the 2004 Session would have provided some relief to school districts, but that legislation did not pass.

Ms. Ross-Baize told the Committee that the updated guidelines had been developed with input from the State Department of Education and the Emporia school district, which was the district that had objected to the former guidelines. The new guidelines, quoted from material provided by Ms. Ross-Baize, are the following:

- If a preschool program for children 3 years of age and older is instructional in nature, and is operated by the local school district, the program is considered educational and is not required to be licensed by KDHE [Kansas Department of Health and Environment].
- If a program for school age children is Summer School or an Extraordinary School day, which are both educational in nature, the program is not required to be licensed by KDHE. After school programs operated by Boards of Education are

not required to be licensed unless they meet the definition of a Drop-In Program or a School Age Program as defined in KDHE regulations. Generally speaking most after school programs operated by Boards of Education will not meet this definition.

- If a program for infant and toddler children is operated by a local school district, it is child care and is licensed by KDHE.
- If a Board of Education contracts with a private entity or public entity that is not a Board of Education, then that entity will be subject to KDHE licensure.

**(Staff Note:** Following the meeting, Committee staff contacted Dr. John Heim, Superintendent of USD 253 (Emporia), to ask if the district is satisfied with the new guidelines developed by the Department of Health and Environment. Dr. Heim said the district is happy with the guidelines and pleased with how the issue has been resolved.)

## **Bill Drafts and Final Report**

The Committee worked from a memorandum prepared by staff entitled *Preliminary Instructions to Staff for Bill Drafts and Final Report* ([Attachment 31](#)) and made preliminary recommendations, as follows:

### Special Education

- Include in the report the fact that Kansas exceeds federal requirements in the areas of gifted education, due process rights for parents, and services to private schools and note that these additional services or provisions add to the cost of special education.
- In the report, commend the State Department of Education, noting that special education services in the state are generally well-run and appropriate for the majority of students who receive services.
- Draw attention to the fact that attention needs to be paid to how special education services are provided to children who are placed in foster care homes.

With regard to foster care placement of special education students, a motion was made by Senator Vratil, seconded by Senator Umbarger, to request an audit by the Legislative Division of Post Audit to examine standards used by the Department of Social and Rehabilitation Services (SRS) to select foster care parents for special education students and the extent to which consideration is given to the capacity of school districts where the foster care parent resides to provide special education services. Following Committee discussion, the motion was withdrawn in favor of asking SRS to meet with the Committee and respond directly to the questions listed below. For purposes of receiving the response, the Committee will ask the Legislative Coordinating Council for an additional meeting day.

Questions SRS will be asked to respond to are the following:

- Are the standards for selecting a foster care parent for a special education child the same as for a child who does not need special education services?

- What consideration is given to the school district's ability to deal with a special education child who is placed in foster care? (This question relates to the concern that some districts have a disproportionate number of foster care special education students.)
- Is there any information that would support or refute the contention that many special education foster care children are cared for by foster care parents during the school year but not during the summer when the foster care parent would have more responsibility for their care?
- Is there a correlation between the number of foster care placements in a school district and the district's number of at-risk pupils?

At the suggestion of Senator Vratil, it was recommended that a "hybrid" special education funding formula that would combine the current plan with a census-based approach be reviewed by the Committee at a later meeting (subject to approval by the Legislative Coordinating Council). The purpose of the review would be to give school districts, educational associations, and others the opportunity to comment on the desirability of changing the existing resource-based formula. Features of the plan to be reviewed are the following:

- Fund 100 percent of special education excess costs.
- Distribute half of the money for special education through the current formula, with transportation and catastrophic aid being the first aid distributed and the remainder being distributed on the basis of special education teaching units.
- Distribute the remaining half of the money on the basis of a uniform amount per full-time equivalent student (regular and special education).
- In the report, note that Kansas is at the national average incidence rate for students with disabilities, but below the national average in expenditures by category for disabled children, as well as expenditures for regular education students.

Committee members discussed whether they wanted to make a recommendation on funding special education to the Select Joint Committee on School Finance and concluded that, while any recommendation it makes would be known to other committees, the Legislative Educational Planning Committee was charged with studying special education and authorized to make its own recommendations, not to be advisory to other committees.

Senator Oleen suggested that the funding proposal described by Senator Vratil be phased in over a three-year period. (The suggestion was withdrawn the following day.)

Staff was asked to provide additional information on how special education is funded in Missouri. (The state uses a combination resource-based and census-based formula, which is the same combination suggested by Senator Vratil for consideration by the Committee.)

**October 19**

## **Developmental Education**

Dr. Robert Masters, Kansas Board of Regents, discussed developmental education and said all community colleges offer some type of instruction that is below the level of instruction normally involved in first and second year college-level curricula (Attachment 32). Dr. Masters explained that all community colleges require students to take some sort of placement examination to assess their need for developmental education, primarily in the areas of mathematics, reading, writing, and English skills. He quoted national data showing that 29 percent of new students who enter a traditional college need some form of remediation, as do 50 percent of students entering community colleges.

Dr. Masters said developmental education differs from traditional education in the sense that classes are smaller, there is usually more individualized student learning, and remediation is more time consuming and expensive to provide. Dr. Masters said the Kansas Board of Regents is presently conducting a survey of community colleges to determine the number of entering students who need developmental education, the number of students who successfully completed such courses, and other relevant information.

In discussion following his prepared remarks, Dr. Masters said the state universities offer very little developmental education, likely a consequence of the higher level of preparation for admission required by the qualified admissions policy. (Dr. Masters was asked to report to the Committee on the number of hours and associated costs of state university development education courses.)

Committee members discussed the fact that high school graduate students are not adequately prepared to succeed in college. Senator Downey asked that information be provided showing the high schools from which students graduated who need development coursework once they get to college. Senator Vratil asked that the information be shown by student subgroup, as well as for students who enter college with a General Educational Developmental (GED) credential. Senator Vratil also asked Dr. Masters if there is information on the number of community college transfer students who need developmental courses after they reach a state university. Dr. Masters agreed to look for the information, but did not believe it was available. He said articulation policies assume that students leave community colleges well prepared.

Dr. Andy Tompkins, Commissioner of Education, was asked to respond to questions about the preparation of high school students and the number of graduates who need developmental courses once they get to college. Dr. Tompkins said a number of students in colleges and universities have been out of high school at least several years and are rusty in certain skills, especially mathematics. Also, many high school students take their last math course when they are sophomores and need a refresher in mathematics when they get to college.

Other problems include the fact that high schools must deal with both students who are college-bound and those who are not. He said state standards are constantly being reviewed in order to reflect what students need to know, but the standards and state assessments must be designed for both students who intend to go to college and all others. He said efforts are underway to arrive at a consensus between the State Board of Education and the Kansas Board of Regents to define what standards a high school graduate should meet and whether college placement tests could be used to identify areas of student weakness that high schools could address. Dr. Tompkins concluded his remarks by saying that providing remedial education is a policy decision and policy makers need to decide whether it is a good investment to retrain students.

Senator Downey noted that, if high school students are kept in high school until they master college-level standards, the expense of high school education will grow and the state will have to pay. She wondered if perhaps the answer is two levels of high school preparation—one for students who are college bound and the other for students who are not. Dr. Tompkins observed that commonly used college placement examinations have a predictive value for only about one year.

He said that is why colleges like to rely on multiple measures, such as placement tests and grade point averages in high school, to make placement decisions.

### **Concurrent Enrollment**

Dr. Robert Masters, Kansas Board of Regents, presented information on concurrent enrollment whereby high school students in grades 11 and 12 may enroll at a postsecondary education institution and receive post-secondary education credit or credit for both the high school and college-level course (Attachment 33). Dr. Masters said concurrent enrollment policies are intended to challenge secondary school pupils, but he acknowledged that some concerns have been expressed by educators, legislators, and others regarding the “overall viability of concurrent enrollment.” He said that the Kansas Board of Regents has appointed a task force to survey general education courses taught as concurrent enrollment by community colleges to ascertain a list of the courses taught, the qualifications of faculty, the placement examinations administered, and the participating high schools in each community college service area. He said results of the survey would be available by the end of the calendar year and would provide the basis for recommendations by the task force to the Board and to the Legislature.

Senator Umbarger asked Dr. Masters to comment on the impact of legislation affecting undocumented immigrants and Dr. Masters said, as far as it has been possible to determine, the number of students taking advantage of the in-state tuition policy is small. He estimated that perhaps 30 students have enrolled under the policy.

### **Activities of the Jones Institute**

Dr. Larry Clark, Interim Executive Director of the Jones Institute for Educational Excellence, Emporia State University, introduced members of his staff who reported to the Committee on various activities of the Institute. (Presentations on the Reading Recovery Program, National Board Certification, and the Kansas Future Teacher Academy are contained in Attachment 34).

Dr. Larry Lyman discussed the Future Teacher Academy and said the Academy attracts outstanding students, many of whom become teachers in hard-to-fill areas such as mathematics and technology. According to Dr. Lyman, 65 percent of the students who participate in the Academy enter the teaching profession. Dr. Lyman said the Academy currently operates with \$75,000, which pays for speakers at the Academy, food, small stipends to help defray student tuition (students also pay part of their tuition), materials, and the salary of the director and other staff. The current level of funding provides for sites in Dodge City, in addition to Emporia, and also for a program in Wichita for middle school students.

In response to questions, Dr. Lyman said the Academy is the only organized effort of its kind in Kansas. He said if the budget were increased to \$100,000, it would be possible to increase total participation by offering two sessions. (The Academy generally lasts five days and involves 50 participants.) In addition, with additional revenue the Academy could target minority students to interest them in teaching as a career.

Dr. Lyman explained that the Hubbard Foundation supported the Academy for ten years, but foundation support was intended to get the Academy started and not to maintain it indefinitely. He said the Academy also receives some support from the Emporia business community.

Linda Sobieski, Director of the National Board Certification Program, told the Committee that, even though the national rate for initial National Board certification of candidates has dropped to 39 percent, the rate in Kansas is 65 percent.

Ms. Sobieski said there are 147 teachers in Kansas who are National Board certified and some are coming to the end of their initial ten-year certification period and are wishing to renew. Emporia State University offers a Renewal Orientation to help those teachers prepare for recertification. Ms. Sobieski said scholarships from the state are available to pay \$1,000 of the \$2,300 student tuition required for initial certification, but no aid is available to pay for recertification, which she estimated to cost about \$1,000. In addition, the statutory program to award \$1,000 in bonuses to teachers who are National Board certified only applies to those teachers in the initial ten year certification period.

At the request of Senator Oleen, Ms. Sobieski agreed to provide the Committee a list of incentives offered by other states, such as bonuses and higher salaries, to encourage teachers to get their National Board certification.

Dr. Connie Briggs, Director of the Reading Recovery Program, told the Committee that the Reading Recovery Program has served 1,177 students. Presently there are 147 Reading Recovery Teachers and nine Teacher Leaders. The program is in 71 school districts. Dr. Briggs emphasized that successful completion of the Reading Recovery Program, which targets the lowest 20 percent achievement group, reduces placements in special education. According to her, only 2 percent of the students who successfully complete Reading Recovery become special education students. Based on a cost analysis of one school district in east central Kansas, Dr. Briggs concluded that savings over a five-year period would be \$1,441,986 if one-third of the students who successfully complete Reading Recovery were not placed in special education programs. The savings would increase to \$2,883,972 if two-thirds of the successful Reading Recovery completers were not placed in special education programs. Dr. Briggs said the savings are accounted for in large part because 80 percent of special education placements involve a literacy-related disability and correcting reading problems at an early age reduces the need for special education services later.

## **Kansans' Attitudes Toward Education**

Dr. Brian Schrader, Director of Research, presented the results of the most recent survey of the attitudes of Kansans toward public schools. (A copy of the study can be obtained from the Legislative Research Department.) The study, patterned after the national Gallop Poll on public education, involved mailing questionnaires to 3,000 Kansans in February 2004. A total of 523 surveys with usable data was returned, a response rate of 17.4 percent.

Among the survey results are the following:

- For the first time in more than a decade, the grades [A through D and F] for "public schools in your communities" improved after continual decline.
- Almost 72 percent of the participants gave A's or B's to their local teachers.
- Smaller communities (communities with fewer than 25,000 people) gave the most favorable grades in terms of how involved the local community was in public schools.
- Two-thirds (67.5 percent ) of the respondents felt Kansas teachers were not paid enough.
- Schools not having enough money was the problem receiving the highest percentage of "very serious" responses followed closely by lack of discipline and values among students. Buildings in poor condition, ineffective teachers, lack of student technology, and overcrowding were not perceived as primary problems

in public education as those four categories received the fewest percentage of “very serious” responses.

- Four suggestions garnered over 75 percent of a supportive vote and were clearly viewed favorably. These four suggestions were:
  - Offer more summer and after-school programs.
  - Require mentoring programs for new teachers and teachers of poor quality.
  - Give parents more voice in school decision-making.
  - Offer higher salaries to teachers particularly in challenging locations.

### **Committee Minutes**

Upon a motion by Senator Downey, seconded by Representative Ballard, the minutes of the September meeting were approved.

### **Bill Drafts and Final Report, (continued)**

The Committee resumed giving instructions to staff for bill drafts and the final report.

#### **Kansas Teacher Scholarship.**

- The Committee agreed to endorse the request by the Kansas Board of Regents for additional funding (a total of \$425,000 requested) to provide 20 new scholarships.

#### **Health Care Benefits for Adjunct Faculty.**

- The Committee requests that the Kansas Board of Regents give consideration to the situation involving adjunct faculty who teach at several institutions but whose teaching appointment at any single institution is not sufficient for them to qualify for health care benefits even though their total teaching load may be full-time. The Committee understands the reasons why it would be difficult to administer a health care program for adjuncts who work at several institutions, but points out that the passage of the Higher Education Coordination Act in 1999 (SB 345) envisions changes in service delivery and increases the likelihood that cooperative agreements among institutions will become more common. The Committee suggests that the Board work with representatives of the various educational sectors to see if there is a satisfactory way to address a problem that may confront an increasing number of faculty members.

#### **Developmental Education.**

- The Committee wishes to commend the Board of Regents staff for the information it is gathering on developmental education and, in addition, asks that information on the following be provided to the Committee:

- Information showing the high schools from which students graduated who need development coursework once they get to college. If possible, that information should be broken down by student subgroup and for students who enter college with GEDs.

### **National Board Certification.**

- Kansas should be informed about what other states are doing to provide incentives for teachers who are National Board certified.
- Recommend the introduction of legislation to allow teachers who are National Board certified to be eligible for the \$1,000 bonus after they renew their certification, not just for the initial ten-year certification period.
- Recommend the introduction of legislation to authorize the payment of state aid for tuition payments for National Board certified teachers who are taking Emporia State University's Orientation Program in order to renew their National Board certification.

### **Reading Recovery Program**

- Encourage school districts to utilize methods, such as Reading Recovery, which likely will reduce the number of students who need special education services.
- Request the information be developed for presentation to appropriate committees of the Legislature concerning the success rates and other measures of effectiveness of other research-based, early intervention reading programs, in addition to Ready Recovery.

### **Jones Institute for Educational Excellence**

- In the report, commend the Jones Institute and note that its activities and impact are statewide.

### **Student Self-Medication**

- Recommend the introduction of legislation to incorporate the following features of pending federal legislation:
  - Require school districts to develop student self-medication policies for elementary as well as secondary students.
  - Require the student to demonstrate to the health care practitioner and the school nurse (if available) the skill level necessary to use the medication.
  - Require that the school keep backup medication, if provided by a student's parent or guardian, in case of a health emergency.
- In the recommended legislation, extend the termination of the self-medication policy to June 30, 2006. The extended sunset provision will give the Legislature

time to review proposed changes to Kansas law and time to evaluate the impact of any federal legislation that is enacted.

- In the recommended legislation, make it clear that the self-medication policies developed by school districts would apply to secondary students who take courses on the campus of a postsecondary institution as part of a concurrent enrollment agreement.
- In the report, note the input of the Kansas Association of School Board.

### **Early Childhood Standards**

- In the report, express interest in how accountability will be measured and how it will be determined that service providers are implementing the standards. Acknowledge the difficulty in developing assessments, particularly for very young children, for the purpose of determining whether children are meeting standards and guidelines for various early childhood programs. Note areas that need to be addressed, such as sanctions for programs that do not make guidelines part of an accountability process.

### **Child Care Programs Operated by School Districts**

- Acknowledge that the State Department of Health and Environment has revised its guidelines that are applicable to school districts that operate child care programs and that the parties involved (the State Department of Education and the Emporia school district) are pleased with the new guidelines.

### **Special Education**

- In the report, summarize input, major concerns, and general comments received by the Committee from conferees, including representatives of advocacy groups, parents, school districts, and the State Department of Education.

The Committee returned to its discussion of special education funding. Senator Oleen suggested that excess cost funding should be at the 88 percent level, an increase over the estimated 82.2 percent level in the current year. Senator Oleen also said she was withdrawing her suggestion, made the previous day, that 100 percent excess cost funding be phased in over a three-year period. On the basis of consensus, the Committee agreed that its report will recommend 88 percent funding of special education excess costs. The Committee also wants the final report to state that the federal government has not fulfilled its responsibility to fund special education.

### **Requests for Information**

Questions were raised about the status of efforts to provide curriculum material to school districts for use in personal financial literacy programs. (The information will be provided by the State Department of Education.)

Representative Decker asked the staff to compile information about early childhood programs offered by the state, including the cost of the programs, number of children served, and other information.

## Other Attachments

The following information given to Committee members in written form is included as attachments to the minutes:

- Attachment 35—Letter from James Bart, parent of a special education child.
- Attachment 36—Letter from Terry Stratman, Superintendent of USD 298 (Lincoln).
- Attachment 37—Letter from Chuck Spellman, Senior Scientist, University of Kansas, Parsons.
- Attachment 38—Letter from Josie Torrez, Statewide Independent Living Council of Kansas.

## Future Meetings

The Committee will meet in Kansas City November 18 to participate in the annual commission meeting of the Midwest Higher Education Compact. The meeting has been approved as a one-day meeting of the Committee.

The Committee will meet November 22 and 23 for the purpose of considering the legislative proposals of the Kansas Board of Regents and the response of SRS to questions raised about special education children in foster care. **This will be a two-day meeting, pending approval by the Legislative Coordinating Council for the second meeting day.**

The meeting was adjourned.

Prepared by Carolyn Rampey

Approved as revised by Committee on:

\_\_\_\_\_  
November 23, 2004  
(date)