

Chairperson Baumgardner and Members of the Committee,

We appreciate this opportunity to provide information for your consideration of special education funding and services.

Funding may be the primary focus of the Special Education Task Force, but we encourage you to also consider how special education services are provided. This is not a new idea. A few years ago, the chairs of the House and Senate Education Committees – Rep. Ron Highland and Senator Steve Abrams – conducted a listening tour in which they heard several parental concerns about the delivery of special education services.

The most prevalent concern voiced by parents was that mainstreaming students was not in the best interests of special education students or other students. Some parents said their children would be better served by getting more training in life skills in a separate setting rather than general education academics. They also noted that having special education students in the classroom who cannot help being disruptive is often detrimental to other students. I must stress, these ideas were voiced by parents of special education students themselves. You'll likely hear the opposite from many parents throughout this process. But, the idea is to empower parents, students, and educators to reach each child where they are not through some bureaucratic procedure whereby one-sized-fits-none.

We know that school officials have limited discretion under federal requirements on placing students in the least restrictive environment (LRE). Still, it may be possible to modify LRE over time if states can show strong evidence of parents asking for change. In that regard, it may be helpful for the Task Force to recommend that school districts formally survey parents to learn their thoughts on the matter.

Districts' inconsistent positions on statutory compliance

This task force exists because education officials say the Legislature is not reimbursing 92% of excess costs as stated in statute, but accusing the Legislature of violating state law while school districts ignore statutory requirements is a measure of hypocrisy that must be noted. A 2019 state audit determined that districts were not spending at-risk funding as required by state law, and another audit in 2023 found at-risk funding is still not being spent as required by state law.

Some superintendents refuse to allow school board members to participate in – let alone conduct – the needs assessment meetings. Many school boards are just given staff-prepared summary reports to approve.

Many school districts refuse to comply with state laws designed to improve student achievement but don't loudly cry foul if they believe they are being denied funding.

The fact that their financial records indicate that many districts do not need more special education funding further compounds the irony.

District financial records indicate that special education funding isn't impacting service delivery

School officials have repeatedly said they must transfer other funding to special education, implying that that diminishes other education services. Their financial records tell a different story, however.

Education expenditures are recorded in a collection of funds that function much like a personal checkbook. If the ending fund balance is larger than the beginning balance, it means that deposits in the fund exceeded the expenditures.

School districts began the 2008-09 school year with \$190.8 million in special education cash reserves and \$410.9 million in other operating cash reserves. (Cash held for capital outlay, debt service, and federal funds are not part of operating reserves.) Fifteen years later, school districts had \$254.1 million in special education cash reserves and \$992.6 million in other operating reserves.

15-Year Change In Operating Reserves (millions)			
Date	SPED + SPED Co-Op	Other Operating	Total Oper. Reserves
1-Jul-23	\$ 254.1	\$ 992.6	\$ 1,246.7
1-Jul-08	\$ 190.8	\$ 410.9	\$ 601.6
Increase	\$ 63.3	\$ 581.7	\$ 645.0

Source: KSDE

There are only three possible explanations for the increase in both categories of cash reserves:

1. School officials did not provide some general education and special education services and used some of their state and local tax dollars to increase cash reserves.
2. School officials did not provide some general education and special education services but didn't know they could have used some of their cash reserves.
3. School officials provided all the general education and special education services they believed were needed and had money left to increase cash reserves.

It is hard to imagine that any superintendent or school board member would think it more important to increase cash reserves than to provide a necessary education service, and changes in cash reserves are in district budgets. We believe #3 is the only plausible explanation; school officials want more money, but current funding is more than adequate to provide necessary education services.

Many districts hold more cash in reserve than is necessary

Every entity needs some cash reserves, but again, school districts' financial records demonstrate that many districts hold more cash than is necessary.

On average, school districts had cash reserves equal to 12% of operating expenses at the beginning of the 2006 school year, totaling \$468 million.¹ For the 2023 school year, school districts would

have needed \$734 million to maintain the 12% carryover ratio, but actual operating reserves totaled \$1.179 billion, or \$444 million more than necessary to match the 2006 ratio.

Sixty-six school districts had less than 12% in reserve at the beginning of the 2023 school year, demonstrating that it can be done with good cash management.

Examining special education spending and cash reserves also shows that some districts have more set aside than is necessary. On average, school districts had 21% of their 2023 special education expenses in reserve at the beginning of the year.² However, 11 districts had zero special education cash reserves, and another 55 districts had less than 12% reserve. This demonstrates that some districts could significantly reduce reserves by making smaller transfers of local money and spending the balance down.

State transfer of special education aid should be made sooner than October

Historically, the first special education aid transfer was not made until October because of state cash flow issues. That is no longer an issue with a \$4.5 billion surplus, so the payment should be made in July or August.

Should cash flow ever again become an issue, the state should delay other spending and make the special education payment on time.

Fix the special education formulas in statute

Two special education formulas in state law should be modified to correct what are likely to be inadvertent errors. We call them ‘errors’ because former Deputy Commissioner Craig Neuenswander told legislators last year he couldn’t think of any reason for the formulas to be written as they are.³

The state is supposed to reimburse districts for 92% of their excess costs, but the distribution formula results in 135 districts receiving more than 92% for the 2023 school year. It seems that distribution should be capped at 92% to distribute state aid more evenly.

The formula for calculating state aid for special education has two errors – one that understates the amount of general education aid provided for special education students and another that understates the total amount of aid the state provides for special education.

The general education calculation includes base state aid, several weightings for extra aid, and the Local Option Budget (LOB) funding generated on the base and the weightings. According to the Kansas Department of Education, special education students are eligible for all weightings, but those for transportation, bilingual education, career and technical education, and at-risk are excluded.

The calculation to determine state aid for special education to meet the 92% threshold does not count the LOB funding that is generated by special education aid or the state aid to equalize LOB aid related to special education. For example, USD 501 Topeka received \$17,286,226 in special

education aid last year. Topeka collected \$5,517,763 in additional LOB aid from local taxpayers, and the state provided \$3,473,432 in LOB equalization aid (LOB equalization goes to districts considered property-poor.)⁴ The formula credits the state with providing \$17.3 million but not the other two pieces of LOB aid.

The adjacent table shows the impact of the formula errors for the 2022 school year (actual expenditures for 2023 were not reported as this testimony was written).

KSDE calculations show that \$513 million in state funding accounted for 78.7% of excess costs. That funding also generated \$162 million in LOB funding (average LOB authorized of 31.6%) and \$54 million of state LOB equalization aid (assuming the same ratio as KSDE calculated for 2023). We estimate that counting all weightings and the LOB related to those weightings would have credited about \$28 million more to be

Special Education Excess Costs 2022 School Year		
Description	KSDE Calculation	All Funding Sources Included
FY 2022 Actual SPED expenditures	1,059,884,948	1,059,884,948
Less general education of SPED students	(228,895,608)	(228,895,608)
Less Federal Aid	(105,549,081)	(105,549,081)
Less Medicaid reimburse	(56,352,060)	(56,352,060)
Less state hospitals admin	(300,000)	(300,000)
FY 2022 Excess Costs	668,788,199	668,788,199
FY 2022 state aid	512,892,374	512,892,374
FY 2022 LOB on state aid @31.6%		162,073,990
FY 2022 LOB equalization aid on SPED (est)		53,825,293
Additional regular aid (weightings & related LOB)		28,335,340
FY 2022 ESSER aid	13,675,007	13,675,007
	526,567,381	770,802,004
% of Excess Costs Provided	78.7%	115.3%

credited to reimbursement of excess costs. The state, therefore, would have reimbursed 115.3% of excess costs if all of the special education funding was included in the calculation.

Reconciling the inconsistencies in both formulas is the central issue. Veteran legislators will confirm that it is not uncommon for statutory language to be modified due to unforeseen issues or honest mistakes in the original drafting, and that may well be the case here.

If the Task Force can identify rational legislative intent to exclude some weightings and the related LOB funds, as well as including some LOB funds in general education but not the money generated by special education funding, then both formulas would stand as is.

Absent such evidence, the inconsistencies should be rectified by including all forms of funding related to special education.

Recommendations

In summary, we offer the following recommendations for your consideration:

1. School districts should survey parents of special education students to determine interest in modifications to the Least Restrictive Environment regulations and other pertinent matters.

2. The state should make the first payment of special education aid in July or August rather than October.
3. School districts should reduce special education cash reserves and use the money to remove barriers preventing students from being proficient in reading and math.
4. Modify the formula for distributing special education aid so that each district receives the same percentage of excess cost reimbursement.
5. Modify the formula for calculating state aid for special education to include all forms of aid related to special education as outlined above. We also suggest a maintenance of effort clause to require minimum funding at the current year level, as counting all funding would require less state aid to meet the 92% threshold for a few years.

We appreciate your consideration of our testimony and we're happy to provide any assistance you may desire.

¹ For this purpose, federal spending and KPERS pension expenses are excluded from operating expense because federal cash balances are not including in operating cash reserves and KPERS is paid by the state.

² A separate analysis shows 16% of Special Education Co-Op spending was in reserve.

³ Meeting at KSDE with the Chairs and Vice Chairs of House and Senate Education Committees, also attended by Dave Trabert of Kansas Policy Institute.

⁴ Calculation provided by KSDE.