

## MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 1:40 p.m. on March 22, 2005, in Room 123-S of the Capitol.

Committee members absent: Barbara Allen- excused  
Pat Apple- excused

Committee staff present: Deb Hollon, Kansas Legislative Research Department  
Carolyn Rampey, Kansas Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Representative Bill Otto  
Jane Rhys, Kansas Council on developmental Disabilities  
Karen Snell, Families Together, Inc.  
Kevin Siek, Topeka Independent Living resource Center  
Cynthia Kelly, Kansas Association of School Boards  
Josie Torrez, Statewide Independent Living Council of  
Kansas  
Jackie Miller, parent from Emporia  
Jennifer Schwartz, parent from Lawrence  
Kirk Lowry, Disability rights Center of Kansas

Continued hearing on:

**HB 2331—Special education complinace with federal law (IDEA)**

Representative Bill Otto offered amendments to **HB 2331** which would take the gifted program out of federal regulations. (Attachment 1) He explained that House Education Committee did not approve his original amendment because it was not clear that his intent was to eliminate unnecessary paperwork, not to kill the gifted program. Therefore, New Section 23 was added to make it very clear that expenditures for gifted children programs and services would not be decreased. He explained that his amendment was an attempt to ensure that the money is spent on children instead of being spent on paperwork and extra compliance with federal regulations.

Senator Teichman asked if the amendment would result in the funding for gifted children remaining at the current level and never being increased. Representative Otto responded, "That's a good question. It might need a little tweak." Senator Schodorf asked what the difference between gifted classes and enrichment classes would be. Representative Otto said, "Right now, definitions tie us more into IQs and things like that. My special education directors say that we could save possibly as much as half our money that is going to things that are not helping kids and change it to helping kids. I think that's a little high, but we could surely save a fourth." Carolyn Rampey, Legislative Research Department, clarified, "Two of the major changes mean you do not need to have a special education teacher. So, that would be one requirement. And you would not subject a gifted child to an IEP or the due process procedures—those kinds of things which are time consuming with heavy report requirements. So, you would have a regular teacher and you wouldn't have an IEP." Senator Lee commented that, in most schools, regular teachers would not have the time to teach gifted classes and that, without a teacher for gifted students, there would be no gifted program in most cases. In addition, she noted that an IEP is important for a gifted student because it provides a framework for their progress.

On behalf of Jane Rhys, Executive Director of the Kansas Council on Developmental Disabilities (KCDD), Kim Strunk, KCDD, testified in support of **HB 2331** as amended by the House Education Committee. She noted that the House amendment would keep the age that Kansas schools begin planning for transition services at 14. She also noted that KCDD strongly opposes any changes to parental consent, the so called 25% rule. She pointed out that the Division of Budget determined that the bill would have no appreciable effect on special education state aid. (Attachment 2) Ms. Strunk informed the Committee that KCDD was in support amendments proposed by Rodney Bieker, General Counsel for the State Department of Education.

## CONTINUATION SHEET

MINUTES OF THE Senate Education Committee at 1:40 p.m. on March 22, 2005, in Room 123-S of the Capitol.

Karen Snell, Families Together, Inc., testified in support of **HB 2331** as amended in the House without any additional substantive amendments. (Attachment 3) She noted that Families Together did not object to the amendments offered by Mr. Bieker but had some concerns that the amendments might slow the passage of the bill.

Kevin Siek, Topeka Independent Living Resource Center, testified in support of **HB 2331** as amended in the House and with no additional amendments. (Attachment 4)

Cynthia Kelly, Kansas Association of School Boards (KASB), testified in support of **HB 2331**. She emphasized that it was very important that the bill be passed this year because, without it, there will be numerous conflicts between state and federal special education requirements, which will make compliance with either law much more difficult. She pointed out that passage of the bill would allow teachers and service providers to spend more time with children and less time with paperwork, and schools would be given more flexibility needed in disciplinary situations. (Attachment 5) Ms. Kelly confirmed that KASB supports the amendments suggested by Mr. Bieker.

Josie Torrez, Statewide Independent Living Council of Kansas (SILCK), called attention to written testimony she prepared for the March 21 meeting in which she requested that **HB 2331** be held so that a stakeholder group would have time to meet with the State Department of Education to go over the changes that would affect Kansas students with disabilities. (Attachment 6) She went on to respond to Mr. Bieker's testimony of March 21. She disagreed with Mr. Bieker's statement that the bill must be passed this year. In her opinion, the State Department of Education should take more time to thoroughly review the federal law before taking action with state law. As to Mr. Bieker's request for two pilot programs, she noted that the first pilot program would reduce paperwork; however, paperwork is the only documentation parents have regarding their child's special education services. She emphasized that SILCK adamantly opposes the second pilot program for a three-year IEP because it would be difficult to see where the student may be in three years. As to Mr. Bieker's amendment to change the transition age from 14 to 15, she requested that the transition remain at age 14 because one year can make a significant difference in planning for transition and obtaining the services the student will need at age 16. In conclusion, she urged the Committee to keep students with disabilities in the forefront when considering legislation concerning Special Education. (Attachment 7)

Jackie Miller, the mother of three gifted children, testified in support of **HB 2331** and in opposition to amendments which would remove gifted children from the definition of "exceptional children." She noted that procedural safeguards, including the parents' rights and due process, are critical in ensuring that children's needs are met in the classroom. She emphasized that, without appropriate educational programs, all gifted students are at risk of not achieving their full potential. In her opinion, it is imperative that society acknowledge that gifted children have specific needs. (Attachment 8)

Jennifer Schwartz informed the Committee that she is employed by the Kansas Association of Centers for Independent Living (KACIL), and she called attention to written testimony submitted by Tanya Dorf, Chair of the KACIL Governmental Affairs Committee, requesting that the committee consider holding **HB 2331**. (Attachment 9) Ms. Schwartz went on to explain that her thirteen-year-old daughter was diagnosed with cerebral palsy and has qualified for special education services since age three. She followed with testimony in which she expressed her concern that the State Department of Education had not discussed the effect the bill with a group of stakeholders, which includes transition age students, parents, teachers and advocacy groups. In addition, she was concerned about the section of the bill which addresses transition services for students with disabilities. She urged the Committee to hold the bill until next year. (Attachment 10)

Kirk Lowry, Litigation Director for the Disability Rights Center of Kansas (DRC), noted that DRC is neutral on **HB 2331**; however, DRC does not agree that the Legislature must pass a conformity bill this year. He noted that it would be helpful to have an additional year to go over the 650 page federal law and the numerous state laws. He argued that the Legislature should delay action on the bill in order to ensure that Kansas has the best conforming special education law possible. He went on to discuss the following DRC issues with regard to **HB 2331**: (1) Transition planning at age 14 is imperative to Kansas children's success, (2) Foster parents should not be excluded, (3) Current law regarding parental consent regarding placement decision must be maintained, and (4) A statewide policy regarding the use of seclusion rooms and restraint and rules and

## CONTINUATION SHEET

MINUTES OF THE Senate Education Committee at 1:40 p.m. on March 22, 2005, in Room 123-S of the Capitol.

regulations to carry out the policy should be established. (Attachment 11)

Mr. Bieker responded to Committee questions regarding his suggested amendments to **HB 2331**. Senator Vratil asked if his suggestion was to delete lines 28 to 36, page 22, which concern transition service needs. Mr. Bieker said, "Because of the importance of transition services and the need to make sure that we are consistent with federal law, we retain the language up above and add to it that language in lines 33 through 36, which will exceed the federal requirements. So, it's a marriage of the new law and old law." Senator Vratil asked if it was his intent to change 16 to 15 at each place it occurs in the bill. Mr. Bieker said, "Beginning at age 14 may be just the way to make it crystal clear that we are talking about 14. I said, if you change it back from 16 to 15, it means 14." Senator Schodorf commented that the amendment would put stricken lines 22 through 28 on page 22 back in, changing 16 to 15, omit (8) (A) and then start at (B), lines 33 (beginning at age 14, or younger) through 36.

Mr. Beiker clarified his proposed amendment as follows:

On line 22, "beginning at age 14, and updated annually thereafter. (A) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills, and (B) the transition services, including appropriate courses of study, needed to assist the child in reaching the stated postsceondary goals, and (dropping down to line 33, B becomes C) beginning at age 16, or younger, if determined appropriate by the IEP team, a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages." He noted that changing 16 on line 33 would be something new and in addition to what has already been done for eight years. He agreed with Senator Schodorf's explanation that students begin their transition outside the school at age 16.

Senator Schodorf asked conferees why they recommended that action on the bill be delayed for a year or two. She noted, "If it doesn't work, you can come back next year and say this isn't working, and it needs to be changed." Mr. Lowry responded, "My answer is that I agree with Mr. Bieker when he says that there was much more retained than there was changed. But it is still a 650 page federal law change, and there are many issues that we would just like to have more time to go over. We've had one hearing with Mr. Bieker and then one follow up, and the rest of the folks in the disability community have not gotten our heads together and really worked over this with a fine tooth comb. As far as the conflicts and problems, I don't see that, at least in my practice, as a big problem. Federal law trumps state law. And, if there are additions in state law, then those things that go above that are what you look to, but you always go to the federal law first, and that's going to trump it. And that's the way its going to be now too. At least from my perspective in representing children and families, I would rather have the Kansas law stay the way it is now and give us another year to look over the proposed changes. I don't see the compelling mandate that we have change the law this year."

Senator Teichman asked Mr. Lowry, "If we pass this this year, what is stopping you from coming back after you have had time to look at the 650 pages and saying, this is not good, we want it changed?" Mr. Lowrey responded, "Nothing. It's just more difficult."

Ms. Kelly responded, "In my opinion it is imperative that the bill pass this year. There's a big difference between this legislation and the legislation that you passed in 1999. The fact is, right now, federal law provisions are different than state law provisions, and people are going to have to look at both. If requirements are not conflicting, they will probably have to do both. If a requirements conflict, people will not understand which they have to follow, the federal or the state law. I think, at this point of time where we have substantive provisions in our laws that are now going to be in conflict with the federal law that goes into effect on July 1, it is going to be very confusing for people in the field. This is a different situation than what we had in 1999." With this, the hearing on **HB 2331** was closed.

Senator Steineger moved to amend **HB 2331** as written and described by Rod Bieker, seconded by Senator Teichman. The motion carried.

Senator Steineger moved to recommend **HB 2331** favorably for passage as amended, seconded by Senator Vratil. The motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate Education Committee at 1:40 p.m. on March 22, 2005, in Room 123-S of the Capitol.

Senator Schodorf called the Committee's attention to the minutes of the March 7, 8, 9, 10, 14, 15, and 16 meetings.

Senator Teichman moved to approve the minutes of the March, 7, 8, 9, 10, 14, 15, and 16, 2005, meetings, seconded by Senator Vratil. The motion carried.

The meeting was adjourned at 2:25 p.m.

No further meetings are scheduled.