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memo

To: Senate Committee on Education

From: Dr. Frank Harwood, Deputy Commissioner of Education

Date: February 29, 2024

Re: Overview of Special Education Aid

- Appropriations
- Current Distribution Model
- Alternative Distribution Model for Additional Funds

Special Education State Aid: K.S.A. 72-3422

The statute governing special education state aid was first established in 1974. The enactment of K.S.A. 72-3422 put in to law the practice that had been used to provide funding for special education services in compliance with federal law. The statute has separate sections for the appropriation of special education state aid and its distribution.

Special Education State Aid Appropriations: K.S.A. 72-3422 (a)

The purpose of the state special education funding appropriations calculation is to fund 92% of the excess cost incurred on a statewide basis for the provision of special education and related services to eligible students (SPED). The term excess cost is not mentioned in the statute but refers to the net cost after regular education state aid* for special education students and federal aid has been subtracted from the total statewide actual cost of providing special education and related services. As an example, a summary of the FY 2023 special education appropriation calculation is shown:

Total estimated expenditures for all districts for providing special education and related services:	\$1,107,457,829	72-3422(a)(9)
Less per pupil cost of Regular Education* <ul style="list-style-type: none"> • Average regular education funding per pupil: \$8,150 • SPED FTE students: 29,000 	(\$236,350,000)	72-3422(a)(5)
Less Federal Aid for Special Education	(\$132,442,353)	72-3422(a)(6)
Less Medicaid Reimbursements	(\$53,536,207)	72-3422(a)(6)
Less State Hospitals Administrative Costs	(\$300,000)	72-3422(a)(7)
Total Excess Costs	\$684,829,296	72-3422(a)(10)
Excess Cost X 92%: Special Education State Aid	\$630,042,927	72-3422(a)(11)
FY 2023 Special Education State Aid Appropriation	\$522,877,065	

*Regular education state aid for this discussion is the state aide attributed to all students enrolled. It includes both General Fund and Supplemental General Fund resources but does not include weightings required to be used for other special programs.

Special Education State Aid Distribution: K.S.A. 72-3422 (b)

Special education state aid helps with the cost of implementing Individualized Education Program (IEP) services above and beyond the general education that all students are entitled to receive. All expenditures claimed for reimbursement under categorical aid must have been paid from the Local Education Agency's (LEA's) special education funds. All categorical aid money received by the LEA must be deposited in its special education fund.

Special education state aid is also referred to as categorical aid because funding is distributed based on four different categories: Catastrophic Aid (K.S.A. 72-3425), Medicaid Replacement (K.S.A. 72-3440), Transportation Reimbursement (staff and student), and Special Teacher Reimbursement (K.S.A. 72-3422(b)(4)).

Catastrophic Aid - (K.S.A 72-3425)

The general requirements to receive catastrophic state aid are below:

- Students are only eligible for catastrophic aid if the costs of providing services exceed twice the per teacher entitlement for categorical aid from the prior school year after deducting all other state and/or federal aid for the student.
- Reimbursement is 75% of the costs exceeding the amount of twice the prior year's teacher entitlement.
- Amounts requested under this act can be used only to reimburse costs for the excessive expenditures in providing special education services for students qualifying for catastrophic aid and must be documented in the student's IEP or supporting IEP documentation.
 - For school year 2022-23, \$1,172,824 was distributed in support of 43 students.

Medicaid Replacement State Aid – (K.S.A. 72-3440)

A portion of state special education state aid, not to exceed \$9,000,000 in any school year, is designated as Medicaid replacement state aid. Allocations are based the number of special education students that have been approved for Medicaid reimbursement. Medicaid claims are submitted to the Kansas Department of Health and Environment (KDHE), Division of Health Care Finance (HCF), through the Medicaid billing portal for Medicaid eligible students. KDHE provides to the Kansas State Department of Education no later than May 15 in any school year, the student counts of paid Medicaid claims for each organization. The Medicaid replacement state aid is included in the final June 1 special education state aid payment.

For school year 2022-23, \$8,991,864 was distributed in support of 17,528 students.

Transportation Aid – (K.S.A. 72-3422(b)(1))

Special education transportation, whether involving a special teacher or pupil travel, is only reimbursable if it is specified as a related service in the student's IEP. All transportation costs are reimbursed at 80% of the actual travel expenses incurred.

For school year 2022-23, \$80,516,171 was distributed in support of 13,323 students.

Special Teacher Categorical Aid – (K.S.A. 72-3422(b)(4))

- The Special Teacher portion of the categorical aid distribution is based on the amount of qualified FTE (full-time equivalent) submitted for professionals (teachers and related services) and nonprofessionals (paraeducators and licensed/certified assistants) by LEAs.
- For the purposes of determining the reimbursement amount, professionals are counted as 1.0 FTE and nonprofessionals are counted as 0.4 FTE. The total amount of categorical aid funds available (after Catastrophic Aid, Medicaid Replacement, and Transportation costs have been subtracted) is divided by the FTE count for professionals and nonprofessionals to determine the Special Teacher reimbursement amount. The FTE reimbursement amount is multiplied by a LEA's qualified FTE of Special Teachers to determine the total amount of Special Teacher Categorical Aid.
 - For school year 2022-23, \$433,644,424 was distributed in support of 8,809 special teachers and 11,944 (4,778 FTE) nonprofessionals for school year programs and \$7,529,389 in support of 183 special teachers and 134 (53.6 FTE) nonprofessionals for summer programs. The Special teacher reimbursement was \$31,915 per eligible staff FTE.

Verification

KSDE audits district, cooperative, and interlocal special education budgets yearly. This audit includes verification of accuracy in reimbursements for transportation, catastrophic aid, special teacher reimbursement, and eligible special teacher contracts.

Payments

Payments to districts for Special Education Categorical Aid are distributed five times for costs incurred during the current fiscal year:

- October 15: 25% of the claimed Regular Special Teacher FTE. 100% of Extended School Year (ESY) Special Teacher FTE for the prior summer term.
- December 15: 50% of the claimed Regular Special Teacher FTE. Minus the October payment.
- March 15: 67% of the eligible Regular Special Teacher FTE. Minus the October and December payments.
- April 15: 84% of the eligible Regular Special Teacher FTE. Minus the October, December, and March payments.
- June 01: Total eligible entitlement including Transportation Aid, Medicaid Replacement Aid and Catastrophic Aid MINUS previous payments.

Federal Special Education Aid

Special Education funding from the US Department of Education (USED) is distributed to states based on the congressional appropriation. For Federal FY2022 (Kansas FY2023), the appropriation was \$13.3 billion. These funds are distributed to states based on the FY1999 allocation plus any additional funding. For funding in addition to FY1999, 85% is distributed based on student counts and 15% based on students living in poverty. The USED uses census data to make these distributions. There is also funding for the Private School Proportionate Share and Coordinated Early Childhood Services included.

For Kansas FY2023, the state of Kansas received \$111,282,253 in Federal Entitlement Special education funding for districts, coops and interlocals. Kansas used the same distribution method as USDE to distribute these funds.

Federal SPED Entitlement funding is made available to districts for reimbursement in October. Districts can draw the funds down monthly for expenditures incurred. Districts have 27 months from July 1 to draw the funds down.

District Level SPED Excess Cost Calculation

K.S.A. 72-3422 does not provide for a school district level excess cost calculation for special education funding. Due to the differences in district regular education per pupil funding, federal aid spending, proportion of catastrophic aid, proportion of transportation reimbursement and staff salaries, this type of comparison could be misleading. One important thing to consider, if a district level excess cost is calculated and a district shows an excess cost percentage above 100%, it *does not mean* the district received more funding than it had in expenses. **No district receives more state and federal funding than its SPED expenses annually.**

Alternative Distribution Method for Additional SPED State Aid

There has been a great deal of discussion about the current distribution model. Due to discussion about district level excess cost calculations, there has been reluctance to distribute additional SPED funding using the current distribution method outlined in K.S.A. 72-3422 (b).

If the Legislature is interested in distributing additional SPED funding by an alternate method, one possibility is to consider the proportion of local funding districts contribute to SPED expenses. By considering the proportion of the local contribution, the Legislature could target additional SPED state aid to districts spending relatively more local funds to support SPED expenses.

In practice, this would require the State Board of Education to calculate each district's local effort towards SPED expenses. This would be most accurately calculated using prior year information. The district's proportion of the statewide local effort could be used as a method to distribute additional funding above the FY 2024 appropriation, as shown below using a statewide average example based on FY 2023 expenditures:

1. District's Total SPED Expenses	\$3,452,159
2. Less District's State SPED Aid*	(\$1,784,267)
3. Less District's Federal SPED Aid**	(\$198,137)
4. District's Local Effort	\$1,479,755
5. Statewide Local Effort	\$423,209,178
6. District's Proportion of Statewide Local Effort (Step 4 / Step 5)	0.3497%
7. Additional Appropriation above FY 2024 Appropriation	82,236,513
8. District's Allocation of Additional SPED Funding (Step 6 X Step 7)	\$287,540

*The district's state SPED Aid would be calculated using the current distribution method (K.S.A. 72-3422) and the FY 2024 SPED State Aid Appropriation.

**The Federal Title VI-B Special education entitlement is being used. This would be the federal funding made available to the district for that year's expenses. In past examples of local contributions, the federal spending by district was used. The entitlement is a more accurate reflection of available funding for the year in question.

To illustrate how this alternate distribution model might work, printout SF24-036 uses FY 2023 funding and expenditures with the Governor's FY 2025 recommended SPED funding increase. If this type of funding method were to be used, FY 2024 information would be used for FY 2025 funding.

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