

MINUTES

LEGISLATIVE EDUCATIONAL PLANNING COMMITTEE

July 28-29, 2009
Room 545-N—Statehouse

Members Present

Senator Jean Kurtis Schodorf, Chairperson
Representative Deena Horst, Vice-Chairperson
Senator Marci Francisco
Senator Bob Marshall
Senator Mark Taddiken (Tuesday only)
Senator Ruth Teichman
Senator John Vratil
Representative Barbara Ballard
Representative Owen Donohoe
Representative Steve Huebert
Representative Eber Phelps
Representative JoAnn Pottorff (Tuesday only)
Representative Valdenia Winn

Staff Present

Sharon Wenger, Kansas Legislative Research Department
Martha Dorsey, Kansas Legislative Research Department
Reagan Cussimano, Kansas Legislative Research Department
Theresa Kiernan, Office of the Revisor of Statutes
Kristen Kellems, Office of the Revisor of Statutes
Renaë Jefferies, Office of the Revisor of Statutes
Janet Henning, Committee Assistant

Others Present

Dale Dennis, Kansas State Department of Education
Scott Frank, Kansas Legislative Post Audit
Ron Seeber, Kansas Agribusiness Retailers Association
Stuart Little, Shawnee Mission USD 512
Missy Taylor, Kansas Families for Education
Berend Koops, Hein Law Firm
Mark Boranyk, Capitol Strategies

Kent Cornish, Kansas Association of Broadcasters
Ken Daniel, Topeka Independent Business Association
Mike Reecht, K12, Inc.
Doug Bowman, Coordinating Council on Early Childhood
Diane Gjerstad, Wichita Public Schools
Claudette Johns, Kansas National Education Association
Sue Peterson, Kansas State University
David Rowe, KU Medical Center
Bert Moore, Chautauqua & Elk County Special Services Cooperative
Gail Gillespie, High Plains Educational Cooperative
Mike Lewis, High Plains Educational Cooperative
Dr. Gary George, Olathe School District
Dodie Wellshear, United School Administrators/Kansas
Mark Hauptman, USD 489, Hays Cooperative
Mike Bilderback, USD 320, Wamego
Bruce Givens, USD 260, Derby
Larry Clark, Interlocal #618, Goddard
Ann Elliott, Auburn Washburn, USD 437
Vicki Vossler, USD 501, Topeka Public Schools
Vicki Smith, USD 336, HSEC
Judy Denton, USD 453, Leavenworth County Special Education Cooperative
Alex Gard, Legislative Post Audit
Laurel Murdie, Legislative Post Audit
Dr. Tom Trigg, USD 229
Tim Rooney, USD 512
Cheryl Semmel, United School Administrators/Kansas
Bill Brady, Schools for Fair Funding

**Tuesday, July 28
Morning Session**

The meeting of the Legislative Educational Planning Committee (LEPC) was called to order at 10:00 a.m. by Chairperson Schodorf. Senator Bob Marshall was introduced and welcomed to the Committee as the newest member of the committee.

Update on K-12 Education Budget and USD Reduction Survey

Dale Dennis, Deputy Commissioner, Kansas Department of Education, spoke to Committee members of a survey on the reductions that came about in the school districts. Three questions were asked:

- How many licensed positions were eliminated for the 2009-2010 school year?

	<u>Number</u>	<u>Est. Dollars Reduced</u>
Administrators	133	\$ 9,707,109
Teachers	1,160	53,823,567
Coaches	583	23,567
Other	<u>225</u>	<u>5,672,252</u>
Totals	<u><u>2,101</u></u>	<u><u>\$ 73,172,714</u></u>

- How many non-licensed positions were eliminated for the 2009-2010 school year?

	<u>Number</u>	<u>Est. Dollars Reduced</u>
Food Service	111	\$ 1,534,779
Bus Drivers	70	882,820
Custodians/Maintenance	278	6,647,964
Paraprofessionals	566	9,015,962
Coaches	234	616,865
Other	<u>344</u>	<u>7,650,066</u>
Totals	<u><u>1,603</u></u>	<u><u>\$ 26,348,456</u></u>

- How many other cost-saving measures were reduced/eliminated for the 2009-2010 school year (excluding salaries)?

<u>Programs</u>	<u>Est. Reduction (excluding staff)</u>
Before School	\$ 47,500
After School	1,005,671
Summer School	2,213,672
Parents as Teachers	259,416
Fine Arts	328,623
Language Arts	78,500
Career & Technical Education	654,091

<u>Programs</u>	<u>Est. Reduction (excluding staff)</u>
All-Day Kindergarten	25,500
In-District Professional Development	3,657,528
Out-of-District Conferences	3,015,233
Extracurricular Activities	1,054,256
Shortened School Year	4,491,382
Transportation	3,344,869
Closing of Attendance Center(s)	2,454,557
Delay Purchase of Textbooks	6,606,054
Delay Purchase of School Buses	7,243,132
Other	<u>31,212,762</u>
Totals	<u><u>\$ 67,692,746</u></u>

Mr. Dennis told Committee members the survey also stated the total reductions of positions for the 2009-2010 school year are **3,704** with a total estimated reduction cost of **\$167,213,916**. Mr. Dennis told Committee members that schools started various reductions as far back as last January in anticipation of budget reductions.

The survey also stated the state aid reductions for the 2009-2010 school year were as follows:

<u>State Aid</u>	<u>Reduction</u>
General State Aid	\$ 1,160
BSAPP	4,433-4,218
Capital Outlay	25,600,000
Professional Development	1,750,000
Teacher Mentoring	200,000
Discretionary Grants	85,000
National Board Certification	240,000
Special Education	<u>4,000,000</u>
Total	<u><u>\$ 1,684,000,000</u></u>

Mr. Dennis told Committee members the State Board of Education has made the following budget recommendations for FY 2011 which follow the current law.

<u>Programs-Funds Current Law</u>	<u>Cost</u>
General State Aid-BSAPP-\$4,492	\$ 173,990,000
Supplemental General Fund State Aid (LOB)	33,900,000
Special Education-92% of Excess Cost	34,931,223
Capital Outlay State Aid	27,000,000
Parents as Teachers	460,000
Mentor Teacher	1,800,000
Professional Development	8,500,000
School Lunch	904,000
National Board Certification	295,000
<u>Programs -Not Current Law</u>	<u>Cost</u>
Agriculture in the Classroom	\$ 35,000
Communities in Schools	35,000
Kansas Assoc. of Conservation and Environmental Education (KACEE)	35,000
Kansas Historical Society	35,000
Kansas Career Pipeline	91,965
Total	<u>\$ 282,012,188</u>

Mr. Dennis also discussed the American Recovery and Reinvestment Act (ARRA) which provides tax credits, in lieu of interest, to lenders who issue bonds to eligible school districts (Attachment 1).

A question and answer session occurred during and after the presentation.

Youth Residential Centers: Are They Treated Consistently in Kansas Statutes?

Theresa Kiernan, Office of the Revisor of Statutes, spoke to Committee members and gave the statutory history of funding for educational services provided to pupils residing at certain facilities (Attachments 2 and 3).

J. Russell Jennings, Commissioner, Juvenile Justice Authority, spoke to Committee members about education funding in juvenile detection centers. Commissioner Jennings told Committee

members that constitutionally, appropriate educational services for this population simply costs more. He also advised these populations, not only in Juvenile Detention Centers (JDC) and Psychiatric Residential Treatment Facilities (PRTF) but in Youth Residential Centers (YRC), tend to be some of the most academically challenged young people in the State of Kansas.

Commissioner Jennings told Committee members that in terms of their likelihood of high school graduation compared to the population at large, these individuals would be highly unlikely to complete the high school graduation at a much higher rate than what we would find in the population of the state at large of students.

Commissioner Jennings told Committee members that in their reading and math assessments, they have found that those being admitted to the correctional facilities are 4.2 years behind in reading and 4.8 years behind in math. He further advised these are populations that are primarily 16 and 17 year olds. Therefore, the facilities are dealing with 16 and 17 year olds who are educationally functioning as 10-12 year olds.

Commissioner Jennings further discussed possible issues and changes for these facilities:

- Because of rapid turnover of students, September 20 count date becomes irrelevant in determining funding level;
- Multiple student count dates (as is done currently), contributes to duplicate student counts;
- KSDE enrollment reconciliation could be done to assure no duplicate count on September 20;
- Expanding the school year could benefit youth who are often significantly behind educationally;
- Treat all like-situated facilities and districts equally; and
- Increase quality and intensity of education for youth residents (Attachments 4 and 5).

A question and answer session followed the presentation.

Afternoon Session

The afternoon session was called to order by Chairperson Schodorf, who introduced Jill Docking as the new Chairperson of the Kansas Board of Regents.

Update on Higher Education Budget

Reginald Robinson, President, Kansas Board of Regents, spoke to Committee members of budget reductions which have occurred with the Regents' institutions. President Robinson told Committee members the original appropriation for FY 2009 was \$853 million. However, because of

the economic downturn, the current FY 2010 allotment is now 12 percent less or a \$100 million reduction from the FY 2009 amount.

President Robinson told Committee members the impact of the budget cuts at the state universities have included:

- Employee layoffs, positions held vacant, and positions eliminated: approximately 655;
- Programs and classes eliminated: approximately 448;
- Increased class sizes and reduced course offerings;
- Reduced library resources (books, databases, and publications) and hours of operation;
- Students less likely to graduate in four years;
- Reduced operating support for equipment and technology upgrades;
- Student counseling services reduced;
- Eliminated purchases of research and educational equipment;
- Reduced or eliminated overtime and student labor budgets;
- Increased faculty teaching loads; and
- Increased tuition costs.

President Robinson also told Committee members the Board of Regents has directed that independent management audits and reviews be conducted at all six state universities. He stated that exit analyses at Kansas State University (KSU), Pittsburg State University (PSU), and University of Kansas (KU) were initiated last year due to leadership changes. The KSU review is complete, and the PSU and KU reviews will conclude in the coming months. He further stated the Board subsequently directed that independent management audits be conducted at Emporia State University (ESU), Fort Hays State University (FHSU), and Wichita State University (WSU).

President Robinson told Committee members that Kansas law requires entities that are controlled by the state universities to annually submit an independent financial audit to Legislative Post Audit. However, these financial audits do not provide the same level of either transactional analysis or review of the interplay between affiliated campus entities as the Board's recent exit analysis at KSU. The Board has taken an important additional step and asked its Fiscal Affairs and Audit Committee to develop policy regarding a regular and ongoing process for these management audits ([Attachments 6 and 7](#)).

A question and answer session followed the presentation.

Budget Impacts on Critical Training and Education at Kansas University Medical Center

Dr. Barbara Atkinson, Interim Chancellor, University of Kansas, told Committee members that, overall, the University of Kansas saw its funding reduced from an original level of \$275.5 million in FY 2009 to \$243.2 million for FY 2010 after the two percent cut was made earlier this month. When unfunded mandates are added in, the total gap grows to \$36.6 million in FY 2010.

Dr. Atkinson told Committee members that even though the Lawrence campus is not as dependent on State General Fund (SGF) funding as the Medical Center, cuts of 12 percent (121 positions) have resulted in layoffs and reductions in the courses and services offered to the students. Of the 121 positions, there will be 55 fewer faculty members and a reduction in the number of graduate teaching assistants.

Dr. Atkinson stated class sizes will be increased, which has negative effects on student learning, and the cuts also will reduce the number of lab sections offered. Additionally, some students may have difficulty enrolling in specific classes needed to meet degree requirements, increasing time to graduate.

The University of Kansas created the UKanTeach program to increase the number of math and science teachers in Kansas. Unfortunately, UKanTeach will confront particular challenges staffing its core pedagogy classes. Extra sections usually are opened to accommodate additional students and ensure timely progress toward degree completion, but such flexibility has been removed with the current budget cuts.

Engineering is another field that is seeing its capacity constrained by budget cuts. Kansas legislative and business leaders have asked the Regents' institutions to increase the number of engineering graduates; however, budget cuts will result in an expected 10-15 percent decline in the size of the freshmen engineering class, which will have a large impact on the workforce four years from now.

Dr. Atkinson told Committee members that the University of Kansas Medical Center (UMKC) relies on the State General Fund for a much greater percentage of its budget than does Lawrence. She told Committee members that UMKC has eliminated 79 faculty and staff positions as a result of the cuts, 46 of which were filled. The FY 2010 allotment gap is being treated as permanent and essentially covered by one-time Recovery Act funding. Therefore, permanent reductions and necessary actions are being taken to be put in place by the end of the fiscal year, but this will almost certainly result in the elimination of 40 - 50 additional positions and will have programmatic impacts on the academic, research, and service programs (Attachment 8).

A question and answer session followed the presentation.

Chairperson Schodorf told Committee members the next meeting was scheduled for 9:00 a.m. on Wednesday, July 29, 2009. The meeting was adjourned at 3:30 p.m.

Wednesday, July 29 Morning Session

The meeting was called to order at 9:00 a.m. by Chairperson Schodorf who also advised the Legislative Educational Planning Committee has been authorized to have a total of four meetings during the interim. (The two days of the current meeting are counted as two of the four approved days.) She advised there will be two additional meetings and the dates will be announced at a later time.

Catastrophic Special Education Aid

Dale Dennis, Deputy Commissioner, Kansas Department of Education, gave an overview of Catastrophic Special Education Aid to Committee members. Mr. Dennis told Committee members that concerns are being expressed about the catastrophic special education law and the major issue centers on what is "catastrophic." The law, passed in 1994 and still current, states that a student

eligible for catastrophic state aid "is any student whose special education services cost \$25,000 or more including transportation" ([Attachment 9](#)).

2010 Commission Recommendation Regarding Catastrophic Aid

Sharon Wenger, Kansas Legislative Research Department, told Committee members the 2010 Commission had recommended the catastrophic state aid amount be based upon twice the previous years' categorical state aid per teacher less special education state aid ([Attachment 9-2](#)).

Mrs. Wenger also gave an overview of the scope statement entitled *K-12 Education: Reviewing Issues Related to Catastrophic Funding for Special Education* and stated the audit should be completed in October, 2009 ([Attachment 10](#)).

Presentations Regarding Catastrophic Aid

Mark Hauptman, USD 489 Assistant Superintendent of Special Services, Hays West Central Special Education Cooperative, spoke to Committee members and stated he agrees with the 2010 Commission recommendation for changing the catastrophic aid formula; however, he would recommend the Commission consider setting a specific cap, such as \$66,750, that can be renewed annually based upon increases in the consumer price index. He also stated that establishing the cap based upon the previous year's categorical aid per teacher could result in a cap that is lower than it needs to be. In addition, an overall cap of \$2.0 million on the catastrophic aid fund should be established, increasing annually based upon the consumer price index changes. If annual requests exceed the cap, then requests would be filled via pro-rated amounts ([Attachment 11](#)).

A question and answer session followed the presentation.

Mike Bilderback, Director, Special Services Cooperative of Wamego, USD 323, spoke to Committee members and outlined four themes to the problem solving dilemma of how to fund catastrophic aid to Special Education organizations across the state.

- In the current year, the districts "seeking the highest reimbursement ... should remit a substantial amount of funds back to KSDE" so they can be redistributed to the other school districts, following a KSDE audit of every funded catastrophic aid application in the highest reimbursement districts.
- Adopt a census-based approach to catastrophic aid, that is, based upon numbers or percentages of special education students for each district.
- The KSDE should edit its "Special Education Reimbursement Guide" making it more specific.
- Create a separate pool of funds for catastrophic aid with a capped amount that would not be exceeded.

Mr. Bilderback also recommended establishment of a safety-valve fund for appealed cases ([Attachment 12](#)).

A question and answer session followed the presentation.

Larry N. Clark, Director of Special Education, Sedgwick County Area Educational Service Interlocal Cooperative #618, described to Committee members how the increase in catastrophic aid applicants decreased his Cooperative's categorical aid by \$475 per student or a total reduction of \$230,000 in categorical aid. His recommendations included:

- Refine the criteria used to define a student eligible for catastrophic aid;
- Develop a threshold per student (rather than the \$25,000 threshold) based upon the average excess cost per FTE special education student and double that amount for the final threshold amount;
- Deduct state aid received for a student from the gross cost of educating a special education student who is eligible for catastrophic aid; and
- When developing a new catastrophic aid formula, consider the implications for various size special education budgets (Attachment 13).

Judy Denton, Director, Leavenworth County Special Education Cooperative, spoke to Committee members and stated the cut in categorical special education aid, as a result of the increase in catastrophic aid, caused the Cooperative to increase the Cooperative's assessment to its six school districts from three percent to four percent.

Ms. Denton recommended a different catastrophic aid cost cap be developed (Attachment 14).

Dr. Ron Sarnacki, Director of Special Education, Cowley County Special Services Cooperative, spoke to Committee members and recommended that the 2010 Commission recommendation regarding a change in the catastrophic aid formula be adopted (Attachment 15).

A question and answer session followed the presentation.

Bruce Givens, Special Services Director, Derby Public Schools, told Committee members that the 2010 Commission recommendation was a "good start." Although he also indicated other options Mr. Dennis had presented to the 2010 Commission would be acceptable. Mr. Givens offered to help convene a group of special education directors to reach consensus on an acceptable resolution (Attachment 16).

A question and answer session followed the presentation.

Mike Lewis, Director, High Plains Educational Cooperative #611, spoke to Committee members in support of the 2010 Commission recommendation. Mr. Lewis indicated that average teacher salary and benefits are now \$52,869, much above the average of \$33,913 from 1994 when catastrophic aid was created. Mr. Lewis told Committee members that if the catastrophic aid formula is not changed, then districts will "need to apply for catastrophic aid on every student" (Attachment 17).

A question and answer session followed the presentation.

Bert Moore, Director of Chautauqua and Elk County Special Services Cooperative (former Superintendent of West Elk School District and currently Vice-Chairperson of the Special Education Funding Task Force), spoke to Committee members and said that state aid and federal aid for special education should be deducted from an individual student's gross costs, first, when applying

for catastrophic aid. In addition, Mr. Moore indicated that the formula needed to be reviewed based on changes “that have occurred in teacher salary schedules.” Leaving catastrophic aid unchanged will allow districts with higher teacher salaries more chance to access catastrophic aid than districts with lower salaries, lowering the amount of categorical aid the lower-salaried districts can access ([Attachment 18](#)).

A question and answer session followed the presentation.

Dr. Tom Trigg, Superintendent, Blue Valley School District USD 229, spoke to Committee members and described reasons for increases in special education expenditures since 1994.

- Medical advances allowing babies who at one time would not have survived to thrive and enter school, needing significant learning supports, therapies, and specialized transportation.
- Research has informed and improved practices so that one-to-one interactions with students are more widely used, as well as early and intense intervention.

Dr. Trigg indicated that the 2010 Commission recommendation is a fiscal disincentive to serve students in their home districts, rather encouraging out-of-district placements. (Teacher FTE and transportation reimbursement would not be included in out-of-district placements.)

Dr. Trigg advocated the catastrophic aid recommendations not be singled out but be included in a package of recommendations for the whole special education funding mechanism. “The consideration of any singular part of the formula without consideration of the whole has the potential to contribute further to inequities ...”

Dr. Trigg pointed to disparities across districts regarding the funding of excess special education costs, reminding the Committee that Blue Valley only received 65.6 percent of excess special education costs, while other districts received 150 or 200 percent ([Attachment 19](#)).

A question and answer session followed the presentation.

Dr. Gary George, Assistant Superintendent, Olathe School District USD 233, advocated that the whole special education formula be reviewed and recommendations for changes involve all aspects of the formula, not just catastrophic aid. Dr. George discussed the variations in funding of special education excess costs. He described reasons more high cost students are in the Olathe School District, including the location of major medical centers in the district ([Attachment 20](#)).

Tim Rooney, Manager of Budget and Finance, Shawnee Mission School District USD 512, told Committee members that the district had submitted a large number of catastrophic aid claims for the 2008-09 school year because this was the first year district officials understood that claim submissions on a gross cost basis were allowed. In addition, the district recently completed computer software program modifications allowing the district to more accurately track costs data per special education student.

Mr. Rooney advocated the whole special education formula be reviewed and recommendations for changes be made to the whole formula, rather than singling out the catastrophic aid formula for change.

Mr. Rooney also discussed disparities in funding of excess special education costs across districts in the state.

Finally, Mr. Rooney recommended that a "hold harmless for catastrophic aid" provision should be made for the 2008-09 school year for any district that was funded under the statutory threshold (Attachment 21).

A question and answer session followed the presentation.

Written testimony was received from Deborah Haltom, Director of Special Education Services, Shawnee Mission School District, which stated she recommended the Special Education Funding Task Force continue to study the special education funding formula in its entirety before any recommendations for change are made (Attachment 22).

Committee members made various requests of meeting presenters. Those requests and their responses are included on Attachment 23.

Chairperson Schodorf told Committee members there was a possibility of a meeting in September, and they would be advised of the date in the near future.

The meeting was adjourned at 11:45 am. The next meeting is scheduled for possibly September, 2009.

Prepared by Janet Henning
Edited by Sharon Wenger

Approved by Committee on:

October 12, 2009

(Date)