

Approved: February 11, 2010
Date

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 1:30 p.m. on February 3, 2010, in Room 152-S of the Capitol.

All members were present.

Committee staff present:

Theresa Kiernan, Office of the Revisor of Statutes
Sharon Wenger, Kansas Legislative Research Department
Dorothy Gerhardt, Committee Assistant

Conferees appearing before the Committee:

Bruce Givens, Director of Special Services, Derby USD #260
Mike Bilderback, Director, Special Services Cooperative, Wamego
Bill Reardon, Kansas City, KS Public Schools
Jennifer Barnhart, Director, Three Lakes Educational Cooperative
Ronald L. Sarnacki, Ph.D., Director of Special Education,, Cowley County Special Services Cooperative
Dr. Robert Balsters, II, Deputy Superintendent, Seaman USD #345
Mark Hauptman, Asst. Superintendent of Special Services, USD #489
Chris Hipp, Special Education Director, North Central Kansas Special Education Cooperative
Kathy Kersenbrock-Ostmeyer, Director of Special Education, Northwest Kansas Educational Service Center
Dale Dennis, Deputy Commissioner, Kansas Department of Education

Others attending:

See attached list.

Approval of Minutes

Senator Ruth Teichman moved to approve the minutes of January 28, 2010 as written. The motion was seconded by Senator Bob Abrams. Motion carried on a voice vote.

Hearing on SB 358 - State aid for special education; catastrophic state aid; and SB 359 - Special education; catastrophic state aid

Chair Schodorf stated that due to the similarities of the two bills and that proponents and opponents were similar on each bill, the hearings would be held simultaneously. She stated that the audit performed by Legislative Post Audit was fairly self-explanatory and that there was a need to reform the provisions of catastrophic aid.

Theresa Kiernan, Office of the Revisor of Statutes, appeared before the committee and provided brief explanations of the provisions in **SB 358** and **SB 359**. A chart (Attachment 1) was provided which detailed the differences in the two bills. She stated both bills were introduced by Legislative Educational Planning Committee; **SB 359** at the request of the 2010 Commission. The first change addresses the current law whereby there is one class of special education money where catastrophic aid comes off the top and what is left is allocated based on the per teacher, transportation, and paras. New section 1 provides that appropriations for catastrophic aid and categorical aid would be made line items. The threshold is raised from \$25,000 to \$36,000 and would increase annually based on the Consumer Price Index. Districts would continue to receive 75% over the base amount; finally, if the district is reimbursed under categorical aid they could not also be

CONTINUATION SHEET

Minutes of the Senate Education Committee at 1:30 p.m. on February 3, 2010, in Room 152-S of the Capitol.

Administrators (KASEA) and United School Administrators of Kansas (USA/Kansas) he appeared on behalf of each organization in support for either bill. He stated that a majority of the membership indicated a need for change while favoring the 2010 Commission bill, **SB 359**, which does not create a separate appropriation.

Mike Bilderback, Director, Special Services Cooperative, Wamego (Attachment 3), appeared as a proponent of each bill. He pointed out that in 1994 when the original regulation was written, a cap was not placed on the funding formula. An annual cost-of-living index was not placed on the threshold amount of \$25,000, and it was not made clear that "double dipping" was not allowed. He also stated that it was important that a change in the regulation be made for this school year correcting the flaws in the current legislation and deducting all state aid prior to reimbursing catastrophic aid claims submitted.

Bill Reardon, Kansas City, KS Public Schools (Attachment 4), appeared in support of both **SB 358** and **SB 359**. He pointed out that the Kansas City, Kansas district is currently funded for 4 students to receive catastrophic aid. Without legislative action, the Post Audit report projects the Kansas City district could legally claim 240 students for next year. He stated that projected increases in the cost of catastrophic aid are clearly unsustainable and jeopardize Kansas' capacity to fund Special Ed programs in the future. Both bills would curb costs for funding catastrophic aid, **SB 359** would be their preferred choice.

Jennifer Barnhart, Director, Three Lakes Educational Cooperative (Attachment 5), spoke in support of both bills, preferring **SB 359**. Major points of her testimony included requesting a stable and predictable funding source for special education; the threshold of \$25,000 should be increased; the loophole allowing "double dipping" should be closed; and further, there should be a cap on the total amount of catastrophic aid. She also requested this be made retroactive to the beginning of this school year.

Ronald L. Sarnacki, Ph.D., Director of Special Education, Cowley County Special Services Cooperative (Attachment 6), spoke as a neutral conferee on **SB 358** and as a proponent on **SB 359**. Points of his testimony included:

When comparing the number of students in a district eligible for catastrophic aid with the total number of students with disabilities in that district, USDs 229, 233, and 512 have a prevalence ranging from 3.87% to 10.87%. The average for the state is 1.16%. Wichita USD 259, which is larger than any of these three USDs, has a prevalence of 0.93%. He stated it is ludicrous to think that any district of size has over 10% of its students with disabilities classified as catastrophic.

If the catastrophic state aid is left in its present form, school districts throughout Kansas will lose an additional \$1,100 per teaching unit for the 1009-2010 school year.

The money lost directly impacts the amount and quality of services available to students with disabilities throughout the state of Kansas. These three USDs have found a loophole and not only exploited the system, but have exploited students with disabilities from other school districts in Kansas.

Dr. Robert Balsters, II, Deputy Superintendent, Seaman USD #345 (Attachment 7), testified in support of **SB 359**. He stated the intent of the original catastrophic funding law was to provide additional financial support for districts providing services to extremely high-cost students. He pointed out the threshold should be increased, "double dipping" should be disallowed, catastrophic aid should be dealt with as a separate issue from special education funding and any changes should be retroactive to include this school year.

Mark Hauptman, Assistant Superintendent of Special Services, USD #489 (Attachment 8), speaking in support of **SB 359** reiterated points previously made including an increase in the threshold, eliminate "double dipping", and make any changes retroactive to include the current 2009-2010 term.

Chris Hipp, Special Education Director, North Central Kansas Special Education Cooperative (Attachment 9), also spoke in support of **SB 359** making the same points as previous speakers in support of a change in legislation.

Kathy Kersenbrock-Ostmeyer, Director of Special Education, Northwest Kansas Educational Service Center

CONTINUATION SHEET

Minutes of the Senate Education Committee at 1:30 p.m. on February 3, 2010, in Room 152-S of the Capitol.

(Attachment 10), provided written testimony in support of **SB 359**.

Due to a lack of time available for further testimony, the Hearings on **SB 358** and **SB 359** remained open with testimony to be continued on Monday, February 8, 2010.

The next meeting is scheduled for February 8, 2010.

The meeting was adjourned at 02:30 p.m.

SENATE EDUCATION COMMITTEE GUEST LIST

DATE: February 3, 2010

NAME	REPRESENTING
Scott Frenic	LEG POST AUDIT
Mark Hauptman	USD 489
Chris Hipp	Worth Central Ks Sp Ed Coop #636
Ron Sarnacki	Cowley Cnty Sp. Serv. Coop #465
Gene Johnson	Shawnee Mission 512
Tim Rooney	"
Deb Halton	"
TERRY FORSYTH	KNEA
MARK DEBETTI	KNEA
Angie Feary	Olathe Schools
Mark Tallman	KASB
Gene Aldrich	Keystone #608
Cassie Sparks	Intern - Sen. Brownlee
KATTY COOK	Ks FAMILIES FOR EDUCATION
Shannon Bell	LGR
Bice Reardon	USA 500
Tracy Russell	SQE
Dennis Sproge	USD 613 Empire, KS
Mike Tillman	Dir. of Sp. Ed - Wamego

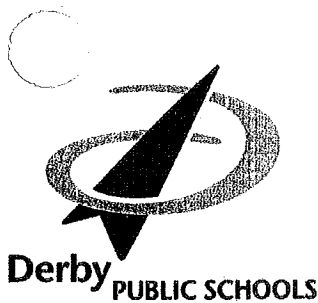
SENATE EDUCATION COMMITTEE GUEST LIST

DATE: _____

NAME	REPRESENTING
Susan Gipe	MTSS Core Team
Sue Denny	Blue Valley USD 229
Rob Balsters	USA & USD 345
Jennifer Barnhart	Three Lakes 620
Kathy Mickelson	Three Lakes Ed. Corp. #620
Susan Christensen	ECKCE #614
Leri Henry	Sandstone Group LLC
Doug Bowman	CCECOS
Tom Kuhl	KASD

	Senate Bill 358	Senate Bill 359 (recommended by the 2010 Commission)
Threshold	\$36,000	\$57,520 *
Accounts for inflation	Yes	Yes
Eliminates double-dipping	Yes	Yes
Separate appropriation	Yes	No
Estimated # of Claims	130 - 140 at a cost of \$1.2 - \$1.4 million (depending upon the amount appropriated)	10 - 40 claims at a cost of \$420,000 - \$650,000

* This amount is tied to the prior year's special education aid per teacher. The 2008-09 aid amount per teacher was \$28,760, so the threshold for 2009-10 would be \$57,520. Because special education aid will be less this school year, the threshold for the 2010 - 2011 school year would be about \$46,000.



Senate Education Committee

Testimony on SB 358 and SB 359

February 2, 2010

Presented by:

Bruce Givens, Director of Special Services, Derby Public Schools USD 260
Representing USA|Kansas and the Kansas Association of Special Education Administrators (KASEA)

My name is Bruce Givens. I am the director of special services for Derby Public Schools, USD 260. I am here today as a proponent of SB 358 and SB 359, but more importantly as a proponent to change. I want to share some of the history regarding catastrophic aid and the discussions that have occurred throughout the state this past year.

In the early 1990's (1993, I think) I served on a committee with Dale Dennis and others that proposed the language that led to the "catastrophic aid" mess we have today. Actually, it has been a great law and helped many school districts provide necessary services to children with the greatest need. We could not anticipate the problems we now have.

As a member of the Kansas Association of Special Education Administrators (KASEA) and United School Administrators of Kansas (USA|Kansas), I volunteered to lead special education directors in looking at the "catastrophic aid" issue this past August. Throughout Kansas, we convened and argued the complex issues of special education funding. While not everyone agreed, a proposal was drafted and overwhelmingly endorsed by the membership. I have presented the KASEA proposal to the 2010 Commission, the USA|Kansas Legislative Committee and School Finance Task Force and to the Legislative Education Planning Committee. The USA|Kansas Legislative Committee and Executive Board have endorsed the KASEA proposal.

SB 358 and SB 359 meet all the requirements that KASEA members were looking for. In reality, KASEA's proposal and these two bills have limitations, each a bit different.

As the KASEA Legislative Chairperson and member of the USA|Kansas School Finance Task Force, I am here to convey support for either bill. Administrators' preference, however, is for a bill that does not create a separate fund. If these bills are approved by the Legislature, effective for FY 2010, the majority of school districts in Kansas will have an increase in revenue to support special education services.

On behalf of USA|Kansas and KASEA, I thank you for considering these bills as they will have a positive effect on our students and the majority of Kansas schools.

*Senate Education
2-3-10
Attachment 2*

February 3, 2010

**Re: Testimony on the Topic of Catastrophic Aid
Presented by Mike Bilderback, Director of The Special Services Cooperative of
Wamego**

Ladies and Gentlemen of the committee and other guests present I am Mike Bilderback, Director of The Special Services Cooperative of Wamego.

In my testimony today, I wish to share **four (4) themes** to the topic of catastrophic aid. **First, we must learn from our mistakes and move on.** In 1994 when the original regulation was written, we did **not** place a cap on the funding formula. We did **not** set an annual cost of living index to the threshold amount of \$25,000. We did **not** make it abundantly clear that one cannot double dip other state aid funds received. If members of the original committee knew what they know now, I believe it is reasonable to say they would have included these essential components in the formula. In 1994 the committee would have considered it to be good public policy to extend a hand to a district needing to spend \$ 100,000 or more on a child in need. Everyone then was praying it didn't happen to them. Today, however the alarming rate of applications is controversial within the context of what is good public policy. Today, I believe that most tax-payers would consider double dipping to be a less than good practice.

Good public policy normally tells us to learn from our mistakes and move forward. With this in mind, Senate Bill 358 and 359, as well as the KASEA formula do reflect corrective measures learned over the past 16 years, I am a proponent of either bill submitted. Either bill is a better position than where we are currently. I am more inclined to lean towards SB 359 proposed by the 2010 Commission and the KASEA's. It should also be pointed out that the USA Board has endorsed the KASEA proposal. Members on the KASEA committee generally agreed we would rather align ourselves to student costs rather than teacher costs, given the choice between the two. I would even suggest that a hybrid bill combining the best options of the two Senate bills and the KASEA proposal, be considered.

The **second theme** is a sense of urgency to rescind the old regulation and enact a new one **FOR THIS FISCAL YEAR.** In conversation with **Mr. Brad Neuenswander, Director of School Finance at KSDE,** he has shared with me that it is the departments estimate that if catastrophic aid can be capped at \$4M dollars THIS YEAR that the remaining pool of money reserved will yield approximately \$1,100.00 per F.T.E. certified special education position. The benefit of such a windfall at the end of the year would help to off-set imminent increases in district assessments for 2010—2011. Because of the cuts already made in public school funding, especially at the district level, the reallocation of \$1,100 per F.T.E. would be a welcomed site by every district across the state. This reallocation would add approximately \$100,000 to my Cooperative which has three (3) school districts. On the other hand, Medicaid revenue has only produced 14% of expected income this year with only 5 months of payments left in the year. Unless Medicaid

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Attachment 3

payments pick up significantly within the next five months, I would estimate this revenue source to be down over \$ 105,000 for the year. This is not our fault nor is it Greenbush's fault but KMAP's fault at the state level. Therefore, new categorical aid may simply offset losses in Medicaid revenue.

The **third theme** is special education services are required by both State and Federal laws. Mrs. Colleen Riley, Director of Special Education Services at KSDE, has said on numerous occasions that there are more than 1,000 laws/regulations that special education organizations need to keep in mind when providing services locally. The risk of not meeting SPED student IEP needs can run deep into the pockets of SPED organizations for the following reasons.

- 1). Parents can take us to due process, which will cost us parent's attorney fees, our attorney fees and the recoupment cost of services to the child.
- 2). We lose the time and expense of staff and administration spent to prepare for due process when we could be spending our time serving students.
- 3). We stand to lose all of our federal aid because we are out of compliance with IDEA.
- 4). We stand to lose all of our state categorical aid for the same reason as # 3.

Given the choice, I'd rather pay for student services than attorney fees.

The **fourth theme** ties itself to the 3 (important) points offered in the Executive Summary of the Legislative Division of Post Audit (on Excess Cost) dated December 2007. It states and I quote, "**Districts and Cooperatives that spent more per special education student had less of their excess costs covered by categorical aid.**

1. *Regardless of the percent of excess costs covered, districts and cooperatives tend to receive about the same amount of primary funding per student.*
2. *Regardless of the percent of excess costs covered, State categorical aid tends to cover about half of a district's or cooperative's total special education expenditures.*
3. *As a result, for districts or cooperatives with higher expenditures per student, categorical aid will fund a smaller portion of their excess cost." (end of quote)*

Based on a two year review of this topic four themes provide rationale to reallocate as much money as evenly as possible across the state to avoid litigation and re-establish the guiding principles that established the concept of catastrophic aid to begin with. Having learned from our mistakes, I urge the committee to adopt a new regulation as soon as possible for implementation THIS YEAR. Make it transparent to our tax payers telling them that their hard earned tax dollars are being spent in their neighborhood school and in their home district.

I want to thank the committee for your decision on July 29th to allow the membership of KASEA to further study this issue and offer a recommendation. I also want to thank the committee for addressing this issue quickly as you return to session. Placing this item on

a *fast track* is critical to the stability of Special Education funding this year and for the next several years. Although the State is faced with far greater concerns than this, this is the most imminent issue needing a *fast track* decision this year pertaining to Special Education. The due date set by KSDE to receive applications for catastrophic aid is April 30th, just 3-months away. A final decision from this committee prior to April 30th would be ideal.

Thank you for the opportunity to speak today.

Attachment: 2-Region 2 Brochure

Executive Summary-Legislative Division of Post Audit (Excess Cost)
December 2007

costs covered by categorical aid were the Doniphan County Education Cooperative (204%) and the Silver Lake school district (207%).

Districts and cooperatives that spent more per special education student had less of their excess costs covered by categorical aid. We found three important points about the relationship between special education expenditures and special education funding:

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- Regardless of the percent of excess costs covered, districts and cooperatives tend to receive about the same amount of primary funding per student.
- Regardless of the percent of excess costs covered, State categorical aid tends to cover about half of a district's or cooperative's total special education expenditures.
- As a result, for districts or cooperatives with higher expenditures per student, categorical aid will fund a smaller portion of their excess costs.

In general, districts and cooperatives that had a low percentage of their excess costs covered were large districts (or cooperatives made up of larger districts), spent more per special education student on direct costs (e.g. instruction and transportation), had more certified teachers per 10 students, and paid higher average teacher salaries.

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Because some districts and cooperatives didn't report certain expenditures in their special education funds, districts will receive less categorical aid in 2007-08 than they're entitled to. We identified one district and one cooperative that had significantly underreported their special education expenditures for the 2005-06 school year. Because the Statewide special education expenditures were underreported by a little over \$712,000 in 2005-06, districts and cooperatives may lose out on \$65 per special education teacher in 2007-08.

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Capping the amount of funding a provider could receive would allow money to be redistributed, but wouldn't eliminate the variation. Because of legislative interest in seeing the effect of limiting special education funding at certain levels, we created two scenarios capping categorical aid at 110% and 100% of excess costs. These scenarios would have allowed between \$8.6 million and \$13.2 million to be redistributed to other districts. Either of these scenarios would have reduced the variation in the percent of excess costs that were covered, but a lot of variation would have remained. For example, under the 100% cap scenario, the percent of excess costs covered would have ranged between 64% and 100%, as opposed to 207% to 45% without a cap.

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Kansas City, Kansas Public Schools

Unified School District No. 500

SENATE EDUCATION COMMITTEE SB 358 & SB 359 February 3, 2010

The Kansas City Public Schools supports SB 358 and SB 359. Both bills would serve to reduce the recent dramatic increase in the state's catastrophic aid program. From 2008 to 2009 the number of catastrophic aid claims increased from 273 to 758. In this one year, the cost to the state to fund this program doubled, from \$6 million to \$12 million.

Even more alarming is the October, 2009 projection by Post Audit that in 2010 claims could increase from 758 to 5,500 and that the states' cost could soar from \$12 million to \$48 million.

Under current law, catastrophic aid is paid out of the categorical state aid fund for Special Education first before Special Ed funding is distributed to the school districts and Special Ed cooperatives. Left unchecked, this catastrophic aid program could, in time, swamp the entire Special Education funding program in Kansas.

SB 358 and SB 359 address the two major causes of this unprecedented increase. First, it increases the \$25,000 threshold which has not been adjusted since the catastrophic aid program was implemented in 1994.

The second key component of both bills is a provision which prohibits districts from counting the funding received from the state in the calculus to reach the threshold. Currently, the three districts with the highest number of "catastrophic" students (584 of the total of 758) count all dollars spent – state and local to reach the \$25,000 threshold. The Kansas City District believes that is a form of double dipping that would be eliminated with the passage of either of the Senate bills before you.

It should be noted that the three districts that account for 77% of the entire state expenditure for catastrophic aid are currently operating entirely within the law. It is our belief that no district is at fault. Nevertheless, catastrophic aid funding and the projected increases in the cost of catastrophic aid are clearly unsustainable and jeopardize Kansas' capacity to fund our Special Ed program in the future.

I will use our district as an example of what may happen across the state if the current catastrophic funding provisions remain in the law. Kansas City currently has 4 students receiving catastrophic aid. Without legislative action, the Post Audit report projects Kansas City could legally claim 240 students for next year.

Finally, it should be noted that while both bills would curb the costs for funding catastrophic aid, SB 359 would have a far greater impact in reducing cost than would SB 358. Therefore, while the Kansas City District supports both bills, SB 359 is our preferred choice.

Bill Reardon, KCKPS Lobbyist

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1318 Topeka Avenue
Lyndon, KS 66451

Jennifer Barnhart, Ph.D.
Director

Kathy Mickelson
Assistant Director

Three Lakes Educational Cooperative

Interlocal #620

Testimony on Senate Bills 358 and 359

February 3, 2010

Presented by Jennifer Barnhart, PhD

I would like to speak in favor of both Senate Bills # 358 and #359. The content of both of these bills would be acceptable to the majority of the special education community. Furthermore, I ask that the Education Statute #72-983 be amended, and that those amendments be retroactive to the beginning of the 2009-2010 fiscal year.

The 2008-2009 school year ended with a cruel financial shock to the majority of special education directors. In May we learned that because five large districts decided to itemize expenses for students with multiple services, the rest of the state would see a reduction in categorical aid of approximately \$1,000 per teaching unit. This does not sound significant, but in my small cooperative this amounted to an unexpected decrease of over \$130,000. Since we did not learn of the decrease until May, it was too late to reduce staff or expenses during that fiscal year. We must have a stable and predictable funding source for special education.

Second, I believe we need to go back to the intent of the original law. Catastrophic funds were to be used to offset students with catastrophic costs. Since the amount has not been raised to account for the cost of living, using the current formula \$25,000 is very close to the average cost of educating a special education student. If that is the game we are all forced to play it will be an accounting and auditing nightmare, not to mention further driving down the amount of categorical aid and further destabilizing the system.

Third, I do not believe it was ever the intent of the original law to allow for double dipping. Double dipping is getting paid twice on the same expense. Currently, we receive categorical aid to offset the cost of staff, and transportation aid to offset 80% of the cost of transportation. Those five districts double charged the state when they billed catastrophic aid for staff and transportation. This is a loophole that must be closed.

To further contain costs, the directors recommend placing a cap on the total amount of catastrophic aid at a maximum amount of \$4.1 million annually.

Both Senate Bills # 358 and #359 would provide equity and a solution to the exorbitant increase in the accessing of catastrophic aid that was witnessed in 2008-2009. Please make these changes retroactive to the beginning of the current fiscal year so we will not be confronted by any new surprises.

USD 287 West Franklin • USD 420 Osage City • USD 421 Lyndon
USD 434 Santa Fe Trail • USD 454 Burlingame • USD 456 Marais des Cygnes Valley

Equal Opportunity Employer

Senate Education
2-3-10
Attachment 5

Presentation to the Senate Committee on Education 2.3.10

Ronald L. Sarnacki, Ph.D.
Director of Special Education
Cowley County Special Services Cooperative

- No “silver bullet” has been found by states for determining the best method for funding a state’s special education program. Each approach to funding has its own advantages and disadvantages depending on the perspective of the viewer. That, however, is not and should not be the subject of this hearing.
- State catastrophic aid is the subject of this hearing. State catastrophic aid has been used in Kansas since 1994. It has not become an issue until recently due to the exponential increase in number of cases submitted primarily by three school districts in Kansas: USD 229 Blue Valley, USD 233 Olathe, and USD 512 Shawnee Mission. These three school districts
 - Added 85% of students newly eligible for catastrophic aid in 08/09
 - Have 77% of students in the state who are eligible for catastrophic aid
 - Three years ago had 36% of students in the state who were eligible for catastrophic aid.
 - The dramatic increase in money paid for state catastrophic aid in the 08/09 school year resulted in each Kansas school district or cooperative receiving \$480/FTE teacher less than originally projected.
- The original purpose of the Legislature when it created state catastrophic aid in 1994 was to provide a means of keeping school districts and cooperatives from being financially devastated when serving a handful of students with extremely expensive needs. The intent was never for school districts to develop a spreadsheet including large numbers of students qualifying for this unique state financial assistance.
- When comparing the number of students in a district eligible for catastrophic aid with the total number of students with disabilities in that district, USDs 229, 233, and 512 have a prevalence ranging from 3.87% to 10.87%. The average for the state is 1.16%. Wichita USD 259, which is larger than any of these three USDs, has a prevalence of 0.93%. It is ludicrous to think that any district of size has over 10% of its students with disabilities classified as catastrophic.
- If the catastrophic state aid law is left in its present form, school districts throughout Kansas will lose an additional \$1,100 per teaching unit for the 2009/2010 school year.
- The money lost directly impacts the amount and quality of services available to students with disabilities throughout the state of Kansas. These three USDs have found a loophole and not only exploited the system, but have exploited students with disabilities from other school districts in Kansas.
- **The 2010 Commission** recommended a formula for catastrophic state aid in which the school district, cooperative, or interlocal would have to spend twice the amount of categorical aid per teacher in the preceding year and also subtract any special education state aid for teachers, paras, and/or transportation (i.e., no

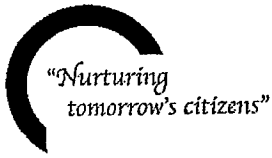
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Attachment 6

double payments from the state). This formula or another **formula that was developed by special education directors** (setting the threshold at two times the prior year's average cost per special education student FTE - \$59,550, and eliminating double dipping) should take the place of the one presently in place. The system presently in place also allows double dipping for state aid and is based on wage information that is fifteen years old. It must be changed.

- **Position Statements:**
 - **In support of SB 359:** it does the following:
 - Eliminates double-dipping of state funds
 - Brings the threshold higher than the 1994 standard
 - Has a built in inflation adjustment for the future
 - Sets a threshold amount that is more in line with what one would consider to be catastrophic
 - Redirects \$10,000,000 back into state categorical aid per teacher
 - **Neutral on SB 358:** it does the following:
 - Eliminates double-dipping of state funds
 - Brings the threshold higher than the 1994 standard
 - Has a built in inflation adjustment for the future
 - Sets the threshold amount higher but not necessarily what one might consider catastrophic
 - Redirects \$8,000,000 back into state categorical aid per teacher

Conclusion

The present state of the economy at the national, state, and local levels calls for all school districts to tighten their belts. All school districts, cooperatives, and interlocals must participate in reducing expenditures and doing their fair share to help the state and nation get through the economic crisis that presently exists. Educational entities must find ways to do more with less. Finding loopholes in the system (i.e., exploiting others by over identifying the number of students with catastrophic disabilities) is not the way to solve issues in school finance. The intent of the law governing state catastrophic aid as originally passed in 1994, in my opinion, was to protect students with catastrophic disabilities and the districts that served them, guaranteeing that those students would receive an appropriate education, and ensuring that school entities would have the financial capability to provide those services. There are really a very small percentage of students whose disability should be considered as catastrophic. It is absurd to think that a district of size would have four, seven, or in excess of ten percent of its students with disabilities classified as catastrophic. Because this situation does presently exist, the situation must be changed so that appropriate amounts of money follow the students who are appropriately identified as having catastrophic disabilities. This then will allow the rest of students with disabilities throughout the state to continue to receive their appropriate share of special education funding so that they, too, are able to receive an appropriate education.



Seaman Unified School District #345

SEAMAN EDUCATION CENTER

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Senate Education Committee Testimony on SB 359

February 3, 2010

Presented by:

Dr. Robert Balsters, II

Deputy Superintendent, Seaman USD 345 and Past-President, USA|Kansas

Madam Chair and Members of the Committee:

BOARD OF EDUCATION

Keith Sowards
President

Frank Henderson
Vice President

James Andrews

Mark Boyd

Susan Fowler-Hentzler

Mike Lesser

Fred Patton

I am here to testify in favor of SB 359.

As shown in the October 2009 Post Audit Report on Catastrophic Funding, the cost of maintaining the current law will soon spiral out of control. The intent of the original Catastrophic Funding law was to provide additional financial support for districts providing services to extremely high-cost students. It's time to close the large loophole in the law that threatens to disrupt the entire Special Education funding system.

Part of the problem leading to the current situation is that the December 2007 Post Audit Report on Special Education Funding compared "excess" cost reimbursement on a per student basis. This comparison showed rather wide disparities in percentages of excess cost reimbursed to districts. A close examination of the data in that report shows that the greatest predictors of the disparity have to do with special education class size and the level of salaries paid to teachers and para-educators. These are both items related to decisions made by local administrations and boards of education.

In addition, it is mixing apples and oranges for per-teacher reimbursement to be used in an evaluation of disparity that is based on a per-student comparison.

I believe a more telling example of any disparity can be found on the attached spreadsheet. It shows that the range of special education reimbursement percentage for teachers is directly related to the level of salaries paid by each district.

In closing, I urge you to support SB 359 because it will restore to original intent of the Catastrophic Aid law.

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ADMINISTRATORS

Mr. Mike Mathes, Ed.S.
Superintendent

Dr. Robert O. Balsters II, RSBA
Deputy Superintendent

Dr. Carolyn Orozco
Assistant Superintendent

Mr. Craig Carter
Assistant Curriculum & Personnel Director

Special Education Teacher Reimbursement As a Percent of Average Teacher Salary

District Name	USD#	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
		2008-09 Avg Contr Salaries Plus Fringe	Fall 2009 Total Special Ed FTE Teachers	Running Total FTE Sp Ed Teachers	Percentile Rankings Unit = Sp Ed Teachers	Sp Ed Reimb. Amount 23,000	Reimb. as a Percent Of Avg Sal Col 7 ÷ Col 2
Shawnee Mission	512	62,529	392.8	392.8		23,000	36.8%
Blue Valley	229	57,303	351.7	744.5		23,000	40.1%
Wichita	259	57,117	827.9	1,572.5	90th Percentile = 783.2	23,000	40.3%
Olathe	233	57,008	386.3	1,958.8	75th Percentile = 1,958	23,000	40.3%
Ashland	220	55,193	0.5	1,959.3		23,000	41.7%
Andover	385	54,713	7.3	1,966.5		23,000	42.0%
Rose Hill	394	53,942	0.6	1,967.1		23,000	42.6%
Maize	266	53,166	0.4	1,967.5		23,000	43.3%
SEK Education Svc Ctr	609	51,577	217.0	2,184.5		23,000	44.6%
Haysville	261	51,464	76.3	2,260.8		23,000	44.7%
Spring Hill	230	51,173	29.6	2,290.4		23,000	44.9%
LeRoy-Gridley	245	50,872	4.0	2,294.4		23,000	45.2%
Bucklin	459	50,841	0.1	2,294.5		23,000	45.2%
Ottawa	290	50,567	32.5	2,327.0		23,000	45.5%
Gardner-Edgerton-Antioch	231	50,556	71.2	2,398.1		23,000	45.5%
Burlington Spec Ed Coop	244	50,548	23.9	2,422.0		23,000	45.5%
Hill City	281	50,482	0.0	2,422.0		23,000	45.6%
Shawnee Heights	450	50,200	50.7	2,472.7		23,000	45.8%
Derby	260	50,113	96.6	2,569.3		23,000	45.9%
Turner	202	50,105	63.1	2,632.3		23,000	45.9%
Kismet-Plains	483	50,095	1.0	2,633.3		23,000	45.9%
Liberal	480	49,937	41.5	2,674.8		23,000	46.1%
Coffeyville	445	49,916	1.0	2,675.8		23,000	46.1%
Royal Valley	337	49,866	3.0	2,678.8		23,000	46.1%
DeSoto	232	49,835	84.1	2,762.9		23,000	46.2%
Pratt	382	49,802	1.5	2,764.4		23,000	46.2%
Leavenworth Spec Ed Coop	453	49,651	199.7	2,964.2		23,000	46.3%
Dodge City	443	49,616	2.8	2,967.0		23,000	46.4%
Kansas City Spec Ed Coop	500	49,202	370.2	3,337.2		23,000	46.7%
Auburn-Washburn	437	49,119	87.0	3,424.3		23,000	46.8%
Garden City	457	48,934	112.5	3,536.7		23,000	47.0%
Columbus	493	48,863	0.0	3,536.7		23,000	47.1%
Lawrence	497	48,848	205.2	3,741.9		23,000	47.1%
Bonner Springs	204	48,738	4.0	3,745.9		23,000	47.2%
El Dorado Sped Ed Coop	490	48,708	190.2	3,936.1	50th Percentile = 3,916	23,000	47.2%
Osawatomie	367	48,653	1.0	3,937.1		23,000	47.3%
Neodesha	461	48,629	1.0	3,938.2		23,000	47.3%
Manhattan	383	48,609	114.3	4,052.5		23,000	47.3%
Valley Center	262	48,453	3.0	4,055.5		23,000	47.5%
Wellington	353	48,453	26.6	4,082.1		23,000	47.5%
Halstead	440	48,363	1.1	4,083.2		23,000	47.6%
Southeast KS Interlocal	637	48,301	162.8	4,246.0		23,000	47.6%
Hutchinson	308	48,208	65.5	4,311.5		23,000	47.7%
Fort Scott	234	48,165	18.0	4,329.5		23,000	47.8%
West Franklin	287	48,139	1.1	4,330.6		23,000	47.8%
Topeka	501	47,931	319.9	4,650.5		23,000	48.0%
Belle Plaine	357	47,922	0.4	4,650.9		23,000	48.0%
Cherokee	247	47,841	1.0	4,651.9		23,000	48.1%
Tri County Spec Ed Coop	607	47,766	117.5	4,769.4		23,000	48.2%
Washington Co Schools	108	47,657	1.0	4,770.4		23,000	48.3%
Eureka	389	47,576	8.9	4,779.2		23,000	48.3%
Lebo-Waverly	243	47,510	6.0	4,785.2		23,000	48.4%
Goodland	352	47,426	1.0	4,786.2		23,000	48.5%
Brown County Interlocal	615	47,405	28.9	4,815.1		23,000	48.5%
Paola Coop	368	47,249	131.2	4,946.3		23,000	48.7%
East Central KS Coop	614	47,198	62.3	5,008.6		23,000	48.7%
NEK Education Svc Ctr	608	47,187	105.9	5,114.5		23,000	48.7%
Sedgwick Co. Interlocal	618	47,097	288.0	5,402.5		23,000	48.8%
Douglass	396	47,067	1.0	5,403.5		23,000	48.9%
Newton Coop	373	47,065	89.5	5,493.0		23,000	48.9%
Silver Lake	372	46,815	10.7	5,503.7		23,000	49.1%
Atchison	409	46,684	30.7	5,534.4		23,000	49.3%
Skyline	438	46,628	0.9	5,535.3		23,000	49.3%
Howard USD 282 Coop	282	46,530	23.0	5,558.3		23,000	49.4%
Reno Co Coop	610	46,494	96.9	5,655.3	1	23,000	49.5%

Special Education Teacher Reimbursement As a Percent of Average Teacher Salary

District Name	USD#	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
		2008-09 Avg Contr Salaries Plus Fringe	Fall 2009 Total Special Ed FTE Teachers	Running Total FTE Sp Ed Teachers	Percentile Rankings Unit = Sp Ed Teachers	Sp Ed Reimb. Amount 23,000	Reimb. as a Percent Of Avg Sal Col 7 ÷ Col 2
Piper-Kansas City	203	46,480	3.0	5,658.3		23,000	49.5%
Clearwater	264	46,276	0.2	5,658.5		23,000	49.7%
Concordia USD 333 Coop	333	46,265	54.9	5,713.4		23,000	49.7%
Twin Valley	240	46,201	0.5	5,713.9		23,000	49.8%
Wamego Coop	320	46,152	52.0	5,765.9		23,000	49.8%
Marysville Coop	364	46,150	14.9	5,780.8		23,000	49.8%
High Plains Coop	611	45,920	117.7	5,898.5	25th Percentile = 5,874	23,000	50.1%
Parsons	503	45,862	1.4	5,899.9		23,000	50.2%
Santa Fe Trail	434	45,627	0.2	5,900.1		23,000	50.4%
Oakley	274	45,545	2.8	5,902.8		23,000	50.5%
Seaman	345	45,542	67.7	5,970.5		23,000	50.5%
South Central Ks Ed Svc	628	45,524	6.2	5,976.7		23,000	50.5%
Hesston	460	45,443	1.0	5,977.7		23,000	50.6%
SW KS Coop	613	45,395	147.0	6,124.7		23,000	50.7%
WaKeeney	208	45,329	3.5	6,128.2		23,000	50.7%
St Francis Comm Sch	297	45,300	2.0	6,130.2		23,000	50.8%
Holton USD 336 Coop	336	45,267	58.7	6,189.0		23,000	50.8%
Rawlins county	105	45,218	1.0	6,190.0		23,000	50.9%
Geary County	475	45,142	116.2	6,306.1		23,000	51.0%
Larned Coop	495	44,908	29.8	6,335.9		23,000	51.2%
Salina Coop	305	44,903	233.3	6,569.1		23,000	51.2%
Hays USD 489 Coop	489	44,806	83.0	6,652.1		23,000	51.3%
ANW Spec Ed Coop	603	44,784	120.0	6,772.1		23,000	51.4%
Hoxie	412	44,679	0.0	6,772.1		23,000	51.5%
Colby	315	44,677	5.4	6,777.5		23,000	51.5%
Three Lakes Coop	620	44,274	75.5	6,853.0		23,000	51.9%
Sumner Co Interlocal	619	43,907	37.7	6,890.7		23,000	52.4%
Nemaha Valley Coop	442	43,848	22.5	6,913.3		23,000	52.5%
Cimarron-Ensign	102	43,839	1.0	6,914.3		23,000	52.5%
Lyons Coop	405	43,616	32.7	6,946.9		23,000	52.7%
Mulvane	263	43,526	24.9	6,971.8		23,000	52.8%
Baldwin City	348	43,248	2.9	6,974.7		23,000	53.2%
Great Bend USD 428 Coop	428	42,973	67.1	7,041.8		23,000	53.5%
Winfield Coop	465	42,944	93.5	7,135.2	10th Percentile = 7,048	23,000	53.6%
North Ottawa County	239	42,902	1.1	7,136.4		23,000	53.6%
SCK Sped Ed Coop	605	42,800	114.9	7,251.2		23,000	53.7%
Valley Heights	498	42,778	1.1	7,252.3		23,000	53.8%
Mission Valley	330	42,774	10.6	7,262.9		23,000	53.8%
Axtell	488	42,651	0.0	7,262.9		23,000	53.9%
Stafford	349	42,643	0.3	7,263.2		23,000	53.9%
Emporia Coop	253	42,641	107.1	7,370.3		23,000	53.9%
Doniphan Co Coop	616	42,607	27.1	7,397.3		23,000	54.0%
South Haven	509	42,521	0.3	7,397.6		23,000	54.1%
Marion Co Coop	617	42,509	49.2	7,446.8		23,000	54.1%
Chetopa	505	42,190	0.0	7,446.8		23,000	54.5%
Rullell County	407	42,092	17.6	7,464.3		23,000	54.6%
McPherson Coop	418	42,077	84.5	7,548.8		23,000	54.7%
Beloit Coop	273	42,068	34.2	7,582.9		23,000	54.7%
North Central KS Coop	636	41,983	84.6	7,667.5		23,000	54.8%
NWK Educational Svc Ctr	602	41,890	84.6	7,752.1		23,000	54.9%
Vermillion	380	41,798	0.0	7,752.1		23,000	55.0%
Lincoln	298	40,941	1.0	7,753.1		23,000	56.2%
Golden Plains	316	40,775	0.7	7,753.8		23,000	56.4%
Clay Center Coop	379	40,562	49.9	7,803.8		23,000	56.7%
Kaw Valley	321	40,374	20.6	7,824.4		23,000	57.0%
Cheylin	103	40,360	1.0	7,825.4		23,000	57.0%
Canton Galva	419	40,268	0.6	7,826.0		23,000	57.1%
Quinter	293	39,947	3.7	7,829.6		23,000	57.6%
Triplains	275	37,783	1.0	7,830.6		23,000	60.9%
Palco	269	36,039	1.4	7,832.0		23,000	63.8%
Brewster	314	34,592	0.0	7,832.0		23,000	66.5%

Notes: All information is from KSDE information

Salary Averages for Coops and Interlocals are the average of the member district average salaries.

Further research may indicate that a different number should be used as the average,

Senate Education Committee
February 3, 2010 – 1:30 pm
Room 152-S Capitol Building

Testimony supporting SB 359, Special Education Catastrophic Aid
Mark Hauptman, USD 489 Asst. Supt. of Special Services

- A. Catastrophic aid was added to the existing special education funding formula in 1994. At that time it was designed to reimburse 75% of the cost beyond the initial \$25,000. The intent was to assist districts with the devastating costs that a handful of student services would cost in extraordinary circumstances.
- B. From 1994 through FY 2005 there were slight variances in the number and cost of students requiring this aid but it remained under \$1.7 million. FY 2005 realized 87 students qualifying with a total payout of \$1.1 million. Unfortunately there were never adjustments made in the original formula to compensate for changing student costs.
- C. From FY 2005 to FY 2009 student numbers dramatically increased to 758 students and the cost to \$12 million. Last year, 4 districts accounted for 85% of those students. Further the current system allows “double dipping” of revenues. By this I mean districts do not currently subtract state categorical aid reimbursement for teachers or the 80% reimbursement for transportation from the “cost” of students before applying the 75% catastrophic aid reimbursement. This is not a fair representation of catastrophic costs.

Summary:

- 1. The catastrophic aid system needs to be corrected.
- 2. The “cost” per students must be increased to realistically reflect today’s student costs – including what level should be considered “Catastrophic”.
- 3. There should be provisions to eliminate the “double dipping” of reimbursement for categorical teacher and transportation aid from student costs before applying the catastrophic aid formula.
- 4. The changes should become effective during the current 2009-2010 term.
- 5. The effect of some district’s calculating all student costs under the current system has resulted in the large increase of funds allocated in catastrophic aid. This had the effect of creating another funding stream – not assisting a district with catastrophic costs.

Our mission in Special Education is to meet the needs of all eligible special education students throughout Kansas. The huge increase in catastrophic aid has resulted in many fewer revenues available to fulfill this mission. It has potentially hurt all special education services in Kansas.

SB 359 will correct many of the problems inherent in the current catastrophic aid formula. This is a separate issue from excess cost and can be corrected separate from any other changes to the current special education categorical aid funding system.

Senate Education
2.3-10
Attachment 8

North Central Kansas Special Education Cooperative

PO Box 369, 205 F Street, Suite 235
Phillipsburg KS, 67661

Interlocal #636

Phone: 785-543-2149

Fax: 785-543-6654

MEMBER DISTRICTS

USD 110 LINCOLN RIDGE, USD 211 NORTON, USD 212 NORTHERN VALLEY, USD 213 LENORA, USD 237 SMITH CENTER,
USD 269 PALCO, USD 270 PLAINVILLE, USD 271 STOCKTON, USD 324 EASTERN HEIGHTS, USD 325 PHILLIPSBURG,
USD 326 LOGAN, USD 392 OSBORNE, USD 399 NABOMA

Testimony on Senate Bill 359

Senate Education Committee - Capitol Building Room 152S 1:30pm

Testimony provided by Chris Hipp, Special Education Director

Thank you for the opportunity to testify as a proponent of Senate bill 359. As you know Catastrophic Aid was added as an amendment to the Kansas special education funding system in 1994 and from 2001 thru 2005 the average number of students claimed for catastrophic aid funding was 76, with an average cost per year of just under \$1.4 million. From 2005 to 2009 the number of students claimed for catastrophic aid funding jumped to 758, with the cost increasing to over \$12 million in 2009. Within the last three years alone the total cost of catastrophic aid nearly doubled each year. This increase in catastrophic aid claims has resulted in a significant decrease in the funds available for FTE per teacher entitlement. This has greatly impacted our ability to provide services to all students with disabilities within the state of Kansas. The legislative post audit committee was asked to look into this issue and according to their findings, if left unchanged, the catastrophic aid claims could increase to \$47.7 million for FY2010 which would result in a per teacher entitlement of \$20,026. This would result in a loss of approximately \$445,000 for the NCKSEC member districts and would devastate our ability to provide special education services to children with disabilities in North Central Kansas. Senate bill 359 would remedy this growing problem and would insure that all students with disabilities receive a free and appropriate public education.

This is accomplished by the following:

1. The threshold for catastrophic aid would increase from \$25,000 to twice the amount of categorical aid.
 - a. The threshold was established in 1994 and has not been adjusted since.
 - b. This would provide a long term fix as the threshold would adjust over time accounting for inflation and the cost of special education services.
2. Double dipping would be eliminated. Under the current Catastrophic Aid formula state aid received to provide services to a child with a disability are not "backed out".

Some will argued that the entire special education funding formula should be questioned and that the legislature should not update the catastrophic aid claiming requirements without investigating the entire system. To this I would argue catastrophic aid was added to the funding formula in 1994 and the requirements for claiming have not been updated to reflect inflation or the cost of providing special education services. Therefore it only makes sense that the legislature could and should look at it separately from the overall funding methodology. The intent of Catastrophic Aid is to offset the cost in extreme cases, in its current form it is being exploited as an alternative funding source. By passing SB 359 you would insure the intent of the law is honored and that funding is available to provide appropriate services to all children with disabilities in the Kansas.

Thank you,

Chris Hipp, Special Education Director

"All students can learn and succeed, but not on the same day in the same way" - William G. Spady

Equal Opportunity Employer

Senate Education
2-3-10
Attachment 9



Northwest Kansas Educational Service Center
703 W. 2nd Ave
Oakley, KS 67748
(785) 672-3125 (785) 672-3175 (fax)

Senate Education Committee

Testimony for SB 359

February 3, 2010

Submitted by:
Kathy Kersenbrock-Ostmeyer
Director of Special Education
Northwest Kansas Educational Service Center

Honorable Senate Education Committee members,

As the Director of Special Education at the Northwest Kansas Educational Service Center located in Oakley and serving 19 rural school districts in a twelve county area, I am submitting this testimony in support of SB359.

Last year a couple schools turned in an extremely large number of catastrophic student claims, which substantially effected the overall special education reimbursements received across the entire state. As was noted in the Post Audit Answer and Key Findings concerning the question of "Why catastrophic" special education claims increased... and how many claims are likely over the next several years?" It was made clear that:

"If the law doesn't change for 2009-10 and if all districts and cooperatives were to follow Shawnee Mission's practice of prorating costs and submitting all the claims they could, we estimated claims would jump to 5,500 and aid to nearly \$48 million for 2009-2010. This worse-case scenario representing a 625% increase over the claims filed in 2008-09."

My support of SB359 comes from the bills use of a calculation that presents a high or larger dollar amount needed before extraordinary costs could be submitted for additional reimbursement. This calculation is based upon student cost calculations supported by a large majority of special education directors and the Kansas Association of Special Education Directors (KASEA). The previous \$25,000 base amount has not increased for many years and the proposed calculation in SB359 sets forth a method for the base amount to reflect a proportional representation to other special education cost factors annually. I also feel it is imperative that any state reimbursements generated by staff, materials, etc. be deducted from the overall base calculation as to not allow duplicated state funds.

Thank you for this opportunity to provide feedback and for your attention to this matter.

Senate Education
2-3-10
Attachment 10