

SESSION OF 2016

**SUPPLEMENTAL NOTE ON SENATE RESOLUTION NO.
1798**

As Recommended by Senate Committee of the
Whole

Brief*

SR 1798 would address a response to the executive and legislative branches of the federal government regarding the recent federal directive on transgender students in schools that receive federal funding. The resolution would state that the Kansas State Senate supports the right of states and local school boards, not the federal government, to direct education policy. The resolution would specify the following additional positions of the Kansas State Senate:

- It stands steadfast in its support for the privacy and safety rights of all students in public schools, colleges, and universities in this state;
- It stands steadfast in its support for parents who send their minor children to school, expecting that public schools will not allow their children to be viewed in various states of undress by members of the opposite sex, or to view members of the opposite sex in various states of undress;
- It encourages public schools, colleges, and universities in this state to uphold their primary responsibility to protect the privacy and safety of all students, and to therefore disregard the Obama Administration Title IX guidance;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this resolution may be accessed on the Internet at <http://www.kslegislature.org>

- It strongly opposes the Obama Administration Title IX guidance as an act of executive overreach that threatens the right to privacy, safety, and education of students in this state; and
- It strongly encourages the Congress of the United States to curtail the Obama Administration Title IX guidance by using every legislative tool in their power, including:
 - Passing legislation to protect students' privacy rights;
 - Reassuring states, schools, and other educational institutions that they will not lose federal education funding by disregarding the Title IX guidance;
 - Withholding funding for the U.S. Departments of Justice and Education that would otherwise be used to implement the guidance; and
 - Holding hearings to investigate the process by which the U.S. Departments of Justice and Education developed the guidance and holding those responsible for the decision accountable for their overreach.

The resolution also would express gratitude and support for the Attorney General of the State of Kansas for joining litigation against the U.S. Departments of Justice and Education challenging the Obama Administration Title IX guidance, as well as gratitude for joining as *amicus curiae* in the petition to rehear the case en banc of *Grimm v. Gloucester County School Board* in the U.S. Court of Appeals for the Fourth Circuit.

The resolution would require the Secretary of the Senate to send an enrolled copy of the resolution to the Governor, the Attorney General of the State of Kansas, the President of the U.S., the President of the U.S. Senate, and the Speaker of the U.S. House of Representatives.

Background

On May 13, 2016, the U.S. Departments of Education and Justice (*via* their civil rights offices) issued a “Dear Colleague” letter under Title IX authority with what was termed “significant guidance” regarding transgender students. The letter states, in part:

... “[W]hen a student or the student’s parent or guardian, as appropriate, notifies the school administration that the student will assert a gender identity that differs from previous representations or records, the school will begin treating the student consistent with the student’s gender identity. Under Title IX, there is no medical diagnosis or treatment requirement that students must meet as a prerequisite to being treated consistent with their gender identity....”

Upon defining a number of related terms, the guidelines address a broad array of actions required or prohibited by schools.

Under Title IX, any federal department or agency empowered to extend federal funding is “authorized and directed” to effectuate the statute by issuing rules, regulations, or orders. Compliance may be enforced by terminating federal funding.

The resolution was introduced on June 1, 2016, and, upon proceeding directly to Senate Committee of the Whole, was considered and adopted by the Senate Committee of the Whole on June 1, 2016.

The resolution was not accompanied by a fiscal note from the Division of the Budget.