

SESSION OF 2010

SUPPLEMENTAL NOTE ON SENATE BILL NO. 359

As Amended by House Committee of the Whole

Brief*

SB 359, as amended, would amend the special education catastrophic state aid law by requiring that any federal or state special education aid would be deducted when computing the entitlement for catastrophic aid, beginning in the 2009-2010 school year. In addition, the bill would increase the threshold for determining eligibility for catastrophic aid to twice the state aid paid per special teacher beginning in the 2010-2011 school year.

Beginning in school year 2011-2012, the bill would direct the State Board of Education to determine the minimum and maximum amounts of state aid paid to districts for the costs of special teachers. The minimum and maximum amounts would be calculated using a census-based approach (based upon total enrollment.)

The bill would amend a provision in the special education law which provides for the payment of Medicaid replacement aid to school districts. Under current law, during the school years of 2007-2008, 2008-2009, and 2009-2010, the State Board of Education is required to designate a portion of special education state aid as Medicaid replacement. This funding cannot exceed \$9.0 million in any school year. The bill would remove the designated school years resulting in designation on a permanent basis.

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

Background

Proponents for the original bill (which would have established a threshold of twice a special teacher's salary for determining catastrophic aid and required the deduction of federal and state aid) included representatives of the Wamego Special Services Cooperative; the Kansas City, Kansas, School District; Three-Lakes Special Education Cooperative; Cowley County Special Services Cooperative; Wichita School District; Hays School District; Seaman School District; North Central Kansas Special Education Cooperative; Northwest Kansas Educational Cooperative; and Derby School District.

Opponents of the original bill included representatives of the Shawnee Mission, Blue Valley, and Olathe school districts.

The Senate Committee on Education amended the bill to clarify the term "teacher," changing it to "special teacher," which includes special education teachers and the paraprofessionals assisting special education students. The amendment also clarified the type of aid to be deducted in computing the entitlement under catastrophic aid.

The House Committee on Education amended the bill by requiring that any federal or state special education aid be deducted when computing the entitlement for catastrophic aid, beginning in the 2009-2010 school year. In addition, the amendment would increase the threshold for determining eligibility for catastrophic aid to twice the state aid paid per special teacher beginning in the 2010-2011 school year. Finally, the Committee's amendment (beginning in school year 2011-2012) directed the State Board of Education to determine the minimum and maximum amounts of state aid paid to districts for the costs of special teachers. The minimum and maximum amounts would be calculated using a census-based approach (based upon total enrollment.)

The House Committee of the Whole amended the bill by adding the contents of SB 512 which proposes to remove the sunset on Medicaid replacement aid.

By way of background on SB 512, a portion of categorical aid is set aside to address funding disparities created by a change in school-based Medicaid in 2008. Audits performed by the federal Department of Health and Human Services found a number of issues with the way the program was administered. These issues included errors in reimbursement rates and cost reports that did not accurately reflect the services provided by school districts and cooperatives. Therefore, the Kansas Health Policy Authority (KHPA) implemented changes to address these issues. Reimbursements went to a fee-for-service rate rather than a bundled rate, services required doctor authorization in order to be eligible for reimbursement, and parents had to authorize the school to access Medicaid for reimbursement for their child's services. These changes resulted in a decrease in the amount of Medicaid funding districts and cooperatives were eligible to receive. Maintenance of effort requirements required the state to maintain the funding. Funding was added to the special education formula and allocated to all districts based on the number of special education teachers employed by the district. Therefore, districts and cooperatives experienced losses in funding and the "replacement" aid was implemented. During the school years of 2007-2008, 2008-2009, and 2009-2010, the State Board of Education is required to designate a portion of special education state aid as Medicaid replacement, which cannot exceed \$9.0 million in any school year.

Proponents of SB 512 included Diane Gjerstad, Wichita Public Schools; Robert Coleman, ANW Education Cooperative; Bill Reardon, Kansas City Kansas Public Schools; and Jennifer Crow, Topeka Public Schools. There were no opponents of the bill.

The Division of Budget fiscal note on the original (SB 359) bill indicated the bill would reduce state special education catastrophic aid from \$12.0 million in FY 2009 to \$2.0 million in FY 2010. In addition, the fiscal note stated the categorical special education aid per teacher would increase by the same amount. The fiscal note does not reflect the amendments.