Approved: February 14, 2008
Date

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 1:35 p.m. on January 31, 2008, in Room 123-S of the Capitol.

Committee members absent:

Committee staff present: Sharon Wenger, Kansas Legislative Research Department

Carol Toland, Kansas Legislative Research Department

Theresa Kiernan, Revisor of Statutes Office Matt Todd, Revisor of Statutes Office Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Representative Dick Kelsey

Larry Patrick, USD 327 (Ellsworth) and Smoky Hill

Education Service Center

Introduction of bills

Senator Marci Francisco requested the introduction of a bill which would allow a grant for healthy weight education programs in middle schools.

Senator Teichman moved to introduce the bill, seconded by Senator Lee. The motion carried.

Senator Barbara Allen moved to introduce a bill which would increase the weighting for non-proficient pupils, seconded by Senator Apple. The motion carried.

SB 401 – School districts; pupils receiving education services while residing at a psychiatric residential treatment facility

Theresa Kiernan, Revisor of Statutes Office, explained that <u>SB 401</u> was introduced by the Legislative Educational Planning Committee (LEPC) at the request of the 2010 Commission for a technical amendment to correct a mistake in a bill passed the 2007 Session. She noted that the words "or a youth residential center" should be reinserted on page 2 and page 6 after the phrase "psychiatric residential treatment facility." (Attachment 1)

Representative Dick Kelsy testified in support of <u>SB 401</u>. He explained that the passage of <u>SB 95</u> during the 2007 Session resulted in an unintended consequence. When the bill passed, it was assumed that all Level V and Level VI home facilities would become psychiatric residential treatment facilities (PRTFs). However, the PRTF system did not work as expected, and most of the youth ended up being placed in Youth Residential Centers II (YRC II). He recommended that <u>SB 401</u> be amended to include YRC II facilities so that funding in some districts would not be reduced. (Attachment 2) Representative Kelsy noted that he was not aware that the bill had been amended on page 6, subsection (f), regarding the certification of the number of pupils residing in psychiatric residential treatment facilities who are provided educational services.

Larry Patrick, representing USD 327 (Ellsworth) and the Smoky Hill Education Service Center, testified in support of **SB 401**. He explained that the Smoky Hill Education Service Center provides the educational services for the St. Francis Academy at Ellsworth. He noted that, with the passage of **SB 95**, 26 beds at the Saint Francis Academy at Ellsworth were certified as PRTF, and the 12 Emergency Treatment Center beds were now considered YRC II beds. Smoky Hill Education Center had no idea that the reclassification of the Emergency Treatment Center would come with no education funding until application for funding for 38 beds through the grant program was made in January 2008. Certification had been reduced to 26 beds, causing a \$52,488 shortfall for education on the Saint Francis Academy-Ellsworth campus. Without a retroactive change, the shortfall will increase to \$104,976 by June 2008. Mr. Patrick urged the Committee to support a provision increasing the funding for the Saint Francis Academy, retroactive to July 1, 2007. (Attachment 3)

Senator Schodorf commented that perhaps the Committee needed more information on PRTF and YRC II facilities. There being no others wishing to testify, she closed the hearing on $\underline{SB\ 401}$.

CONTINUATION SHEET

MINUTES OF THE Senate Education Committee at 1:35 p.m. on January 31, 2008, in Room 123-S of the Capitol.

Action on bills previously heard:

SB 421 - School districts; concurrent enrollment; pupils in grade 10

Senator Steineger moved to recommend SB 421 favorably for passage, seconded by Senator Vratil. The motion carried.

SB 420 - School districts; notice of non-renewal or terminiation of teachers' contracts

As the author of the bill, Senator Vratil noted that the bill was a clean-up bill; however, a KNEA representative expressed some concerns about passage of the bill. One concern was that the penalty provisions in K.S.A. 72-5412 might be rendered ineffective. Senator Vratil explained that, although he did not agree with the KNEA representative, he requested that the Office of the Revisor of Statutes prepare a balloon amendment which repealed K.S.A. 72-5412 and moved the provision into K.S.A. 72-5437.

Senator Steineger moved to recommend SB 420 favorably for passage, seconded by Senator Teichman. The motion carried.

The meeting was adjourned at 2:25 p.m.

The next meeting is scheduled for February 5, 2008.

SENATE EDUCATION COMMITTEE GUEST LIST

DATE: January 31, 2008

NAME	REPRESENTING
Marci Francisco	Senator
Larry Patrick	USD327 Ellswith & Smok, Hill Ed. Serv. Cnt.
mure Sterck	Jederica Consulting
Scott Frank	ULPA
Val Detever	508
Descho Grujksle	KS HISpanio ELahra Potering
Dista Karolin	SRS
La Mul	LITTLE GOT RELATIONS
TERRY FORSYTH	KNEA
BILL Fredy	SFFF
Stuart little	Shanne Missin SD 572
Beth Bailey	Flant Hills Reg (Leade-ship Program
Cassie Williams	Welkhear Gov. Relections
LARRY BERG	KACCT
Sue Hample	KAT Brd of Ed
Mark Tallman	KAP
Don's Koliey	
Biel Readon	KCKs. Pub. Schools
mach C Sloc	Topeka Independent Living
	RARC

Session of 2008

SENATE BILL No. 401

By Legislative Educational Planning Committee (By request of the 2010 Commission)

1-3

AN ACT concerning school districts; relating to school finance; amending K.S.A. 2007 Supp. 72-6407 and 72-8187 and repealing the existing sections.

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Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2007 Supp. 72-6407 is hereby amended to read as follows: 72-6407. (a) (1) "Pupil" means any person who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 maintained by the district or who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 in another district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, or who is regularly enrolled in a district and attending special education services provided for preschool-aged exceptional children by the district.

(2) Except as otherwise provided in paragraph (3) of this subsection, a pupil in attendance full time shall be counted as one pupil. A pupil in attendance part time shall be counted as that proportion of one pupil (to the nearest 1/10) that the pupil's attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as ½ pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil's postsecondary education enrollment and attendance together with the pupil's attendance in either of the grades 11 or 12 is at least 5% time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest 1/10) that the total time of the pupil's postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil's vocational education enrollment and attendance together with the pupil's attendance in any of grades nine through 12 is at least 5% time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest 1/10) that the total time of the pupil's vocational education attendance and attendance in any of grades nine through 12 bears to full-

time attendance. A pupil enrolled in a district and attending special education and related services, except special education and related services for preschool-aged exceptional children, provided for by the district shall be counted as one pupil. A pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district shall be counted as ½ pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as ½ pupil. A pupil in the custody of the secretary of social and rehabilitation services or in the custody of the commissioner of juvenile justice and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddel Boys Ranch, shall be counted as two pupils.

(3) A pupil residing at the Flint Hills job corps center shall not be counted. A pupil confined in and receiving educational services provided for by a district at a juvenile detention facility shall not be counted. A pupil enrolled in a district but housed, maintained, and receiving educational services at a state institution or at a psychiatric residential treatment facility shall not be counted. A pupil enrolled in a virtual school in a district but who is not a resident of the state of Kansas shall not be counted.

(b) "Preschool-aged exceptional children" means exceptional children, except gifted children, who have attained the age of three years but are under the age of eligibility for attendance at kindergarten.

(c) "At-risk pupils" means pupils who are eligible for free meals under the national school lunch act and who are enrolled in a district which maintains an approved at-risk pupil assistance plan.

(d) "Preschool-aged at-risk pupil" means an at-risk pupil who has attained the age of four years, is under the age of eligibility for attendance at kindergarten, and has been selected by the state board in accordance with guidelines consonant with guidelines governing the selection of pupils for participation in head start programs.

(e) "Enrollment" means: (1) (A) Subject to the provisions of paragraph (1)(B), for districts scheduling the school days or school hours of the school term on a trimestral or quarterly basis, the number of pupils regularly enrolled in the district on September 20 plus the number of pupils regularly enrolled in the district on February 20 less the number of pupils regularly enrolled on February 20 who were counted in the enrollment of the district on September 20; and for districts not specified in this paragraph (1), the number of pupils regularly enrolled in the district on September 20; (B) a pupil who is a foreign exchange student shall not be counted unless such student is regularly enrolled in the district on September 20 and attending kindergarten or any of the grades one

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through 12 maintained by the district for at least one semester or two quarters or the equivalent thereof;

- (2) if enrollment in a district in any school year has decreased from enrollment in the preceding school year, enrollment of the district in the current school year means whichever is the greater of (A) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled, plus enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled, or (B) the sum of enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled and the average (mean) of the sum of (i) enrollment of the district in the current school year minus enrollment in such school year of preschoolaged at-risk pupils, if any such pupils are enrolled and (ii) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled and (iii) enrollment in the school year next preceding the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled; or
- (3) the number of pupils as determined under K.S.A. 72-6447 or K.S.A. 2007 Supp. 72-6448, and amendments thereto.
- (f) "Adjusted enrollment" means enrollment adjusted by adding atrisk pupil weighting, program weighting, low enrollment weighting, if any, density at-risk weighting, if any, nonproficient pupil weighting, if any, high enrollment weighting, if any, declining enrollment weighting, if any, school facilities weighting, if any, ancillary school facilities weighting, if any, special education and related services weighting, and transportation weighting to enrollment.
- (g) "At-risk pupil weighting" means an addend component assigned to enrollment of districts on the basis of enrollment of at-risk pupils.
- (h) "Program weighting" means an addend component assigned to enrollment of districts on the basis of pupil attendance in educational programs which differ in cost from regular educational programs.
- (i) "Low enrollment weighting" means an addend component assigned to enrollment of districts pursuant to K.S.A. 72-6412, and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such districts in comparison with costs attributable to maintenance of educational programs by districts having to which high enrollment weighting is assigned pursuant to K.S.A. 2007 Supp. 72-6442b, and amendments thereto.
- (j) "School facilities weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to commencing operation of new school facilities.
 - (k) "Transportation weighting" means an addend component as-

 signed to enrollment of districts on the basis of costs attributable to the provision or furnishing of transportation.

- (l) "Cost of living weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2007 Supp. 72-6449, and amendments thereto, apply on the basis of costs attributable to the cost of living in the district.
- (m) "Ancillary school facilities weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 72-6441, and amendments thereto, apply on the basis of costs attributable to commencing operation of new school facilities. Ancillary school facilities weighting may be assigned to enrollment of a district only if the district has levied a tax under authority of K.S.A. 72-6441, and amendments thereto, and remitted the proceeds from such tax to the state treasurer. Ancillary school facilities weighting is in addition to assignment of school facilities weighting to enrollment of any district eligible for such weighting.
- (n) "Juvenile detention facility" has the meaning ascribed thereto by 72-8187, and amendments thereto.
- (o) "Special education and related services weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to provision of special education and related services for pupils determined to be exceptional children.
- (p) "Virtual school" means any kindergarten or grades one through 12 course offered for credit that uses distance-learning technologies which predominantly use internet-based methods to deliver instruction and for which the course content is available on an "anytime, anyplace" basis, but the instruction occurs asynchronously with the teacher and pupil in separate locations, not necessarily located within a local education agency.
- (q) "Declining enrollment weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2007 Supp. 72-6451, and amendments thereto, apply on the basis of reduced revenues attributable to the declining enrollment of the district.
- (r) "High enrollment weighting" means an addend component assigned to enrollment of districts pursuant to K.S.A. 2007 Supp. 72-6442b, and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such districts as a correlate to low enrollment weighting assigned to enrollment of districts pursuant to K.S.A. 72-6412, and amendments thereto.
- (s) "High density at-risk pupil weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 2007 Supp. 72-6455, and amendments thereto, apply.
 - (t) "Nonproficient pupil" means a pupil who is not eligible for free

meals under the national school lunch act and who has scored less than proficient on the mathematics or reading state assessment during the preceding school year and who is enrolled in a district which maintains an approved proficiency assistance plan.

(u) "Nonproficient pupil weighting" means an addend component assigned to enrollment of districts on the basis of enrollment of nonproficient pupils pursuant to K.S.A. 2007 Supp. 72-6454, and amendments thereto.

(v) "Psychiatric residential treatment facility" has the meaning ascribed thereto by K.S.A. 72-8187, and amendments thereto.

Sec. 2. K.S.A. 2007 Supp. 72-8187 is hereby amended to read as follows: 72-8187. (a) In each school year, to the extent that appropriations are available, each school district which has provided educational services for pupils residing at the Flint Hills job corps center, for pupils housed at a psychiatric residential treatment facility or for pupils confined in a juvenile detention facility is eligible to receive a grant of state moneys in an amount to be determined by the state board of education.

(b) In order to be eligible for a grant of state moneys provided for by this section, each school district which has provided educational services for pupils residing at the Flint Hills job corps center, for pupils housed at a psychiatric residential treatment facility or for pupils confined in a juvenile detention facility shall submit to the state board of education an application for a grant and shall certify the amount expended, and not reimbursed or otherwise financed, in the school year for the services provided. The application and certification shall be prepared in such form and manner as the state board shall require and shall be submitted at a time to be determined and specified by the state board. Approval by the state board of applications for grants of state moneys is prerequisite to the award of grants.

(c) Each school district which is awarded a grant under this section shall make such periodic and special reports of statistical and financial information to the state board as it may request.

(d) All moneys received by a school district under authority of this section shall be deposited in the general fund of the school district and shall be considered reimbursement of the district for the purpose of the school district finance and quality performance act.

(e) The state board of education shall approve applications of school districts for grants, determine the amount of grants and be responsible for payment of grants to school districts. In determining the amount of a grant which a school district is eligible to receive, the state board shall compute the amount of state financial aid the district would have received on the basis of enrollment of pupils residing at the Flint Hills job corps center, housed at a psychiatric residential treatment facility or confined

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in a juvenile detention facility if such pupils had been counted as two pupils under the school district finance and quality performance act and compare such computed amount to the amount certified by the district under subsection (b). The amount of the grant the district is eligible to receive shall be an amount equal to the lesser of the amount computed under this subsection or the amount certified under subsection (b). If the amount of appropriations for the payment of grants under this section is insufficient to pay in full the amount each school district is determined to be eligible to receive for the school year, the state board shall prorate the amount appropriated among all school districts which are eligible to receive grants of state moneys in proportion to the amount each school district is determined to be eligible to receive.

(f) On or before July 1 of each year, the secretary of social and rehabilitation services shall submit to the Kansas department of education a list of facilities which have been certified and licensed as psychiatric residential treatment facilities.

- (g) As used in this section:
- (1) "Enrollment" means the number of pupils who are: (A) Residing at the Flint Hills job corps center or who are, confined in a juvenile detention facility and or residing at a psychiatric residential treatment facility; and (B) for whom a school district is providing educational services on September 20, on November 20, or on April 20 of a school year, whichever is the greatest number of pupils;
- (2) "juvenile detention facility" means any public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders and which shall not be a jail; and
- (3) "psychiatric residential treatment facility" means a facility which provides psychiatric services to individuals under the age of 21 and which conforms with the regulations of the centers for medicare/medicaid services is licensed by the Kansas department of health and environment and is certified by the Kansas department of social and rehabilitation services pursuant to subsection (f).
 - Sec. 3. K.S.A. 2007 Supp. 72-6407 and 72-8187 are hereby repealed.
- Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

(f) On or before September 30, November 30, and April 30, of each school year, the secretary of social and rehabilitation services in consultation with the commissioner of the juvenile justice authority shall certify to the Kansas department of education the number of pupils residing in each psychiatric residential treatment facility and each youth residential center who were being provided educational services on the 20th day of each such month. If the number of such pupils cannot be determined as required by this section, the maximum bed-capacity of each such facility shall be certified to the department of education.

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(4) "youth residential center" means a residential facility which is licensed by the Kansas department of health and environment for individuals between the ages of six and 22 who have an established pattern of behavior or conduct which is antisocial, oppositional, defiant, aggressive, abusive, impulsive or high risk in nature or who are in police protective custody.

STATE OF KANSAS

DICK KELSEY
REPRESENTATIVE, 93RD DISTRICT

24047 W. MACARTHUR GODDARD, KANSAS 67052 316-794-8537

STATE CAPITOL ROOM 446-N TOPEKA, KANSAS 66612 (785) 296-7677 kelsey@house.state.ks.us www.repdickkelsey.com



HOUSE OF
REPRESENTATIVES
MAJORITY CAUCUS CHAIRMAN

COMMITTEE ASSIGNMENTS
APPROPRIATIONS
VETERANS, MILITARY AND HOMELAND SECURITY
SOCIAL SERVICE BUDGET

Testimony to Senate Education Committee concerning SB 401 by Representative Dick Kelsey

Thank you for the opportunity to speak before your committee. Last year in SB 95 we thought we were cleaning up the law about paying for residents of group homes. Because of knowledge which we did not have at that time, we actually complicated the funding for some students in some school districts.

We believed when we passed SB 95 that all level V and level VI group home facilities would become PRTFs (Psychiatric residential treatment facility). The group homes believe at that time this was going to be the case.

For reasons I won't go into here, the PRTF system did not work and most of the youth who we believed would be in such facilities ended up in something called a YRC II – (Youth Residential Centers II). Since this language was not included in the law some districts with group homes are not receiving the double funding for certain home where they did previously when these facilities were named in the law. I do not believe it was intent of anyone in the legislature to reduce funding for some districts with said group homes. I recommend an amendment to SB 401 to include YRC II facilities in this bill.

Thank you.

Senate Education Committee 1-31-08 Attachment 2

Written Testimony concerning Senate Bill 401 Hearing – Thursday, January 31, 2008 at 1:30 pm Larry Patrick, Associate Director – Smoky Hill Education Service Center

Representing USD 327 and Smoky Hill Education Service Center, I am providing testimony to support the changes recommended in Senate Bill 401 as well as some additional changes that may be necessary. It is my understanding the changes made last year in SB 95 were to address issues regarding the language to clarify the definitions for PRTF (Psychiatric Residential Treatment Facility – which conforms to the regulations of centers for Medicare/Medicaid services, licensed by KDHE and certified by Kansas SRS) and Juvenile Detention Facility and the funding they receive for education services.

At issue on the Saint Francis Academy at Ellsworth campus is that 26 beds were certified as PRTF and the 12 Emergency Treatment Center beds are now considered YRC II (Youth Residential Center – Level 2) beds. Many of these students are waiting screening or placement in PRTF locations. While this reduces the amount of intensive psychiatric, mental health and/or behavioral health services the residential facility is required to provide, it does not reduce the costs associated with educating these students. It is necessary for us to have 8 full time employees (teachers and para-educators) to provide regular and special education services for the 38 boys.

Last year, I followed closely SB 95 to make sure changes would not be affecting education funding. The key being all previous Level V or Level VI facilities applying for PRTF status would be approved. USD 327 and Smoky Hill had no idea the reclassification of the Emergency Treatment Center to a YRC-II would come with no education funding under K.S.A. 72-8187. We did not officially find this out until January of 2008 when the application for funding of 38 beds had been reduced to 26 beds. We were expecting funding of \$323,424 (\$4,374 x 2 x 38) and instead received the first half payment \$113,724. This is a shortfall of \$52,488 for the July-December 2007 budget for education on the SFA-Ellsworth campus. This will increase to a \$104,976 shortfall by June 2008 without changes being made retroactively. We have contractual arrangements with teachers and special education providers that must be honored

Working closely with KSDE, it is possible to obtain funding for approximately \$52,488 based at a single per pupil funding level. According to the Fiscal note attached to this SB 401 as well as the one attached to last year's SB 95, there will be no fiscal effect in making this retroactive and in the future.

I would ask that this committee endorses a retroactive provision to July 1, 2007 for the Saint Francis Academy at Ellsworth campus to a funding level of two times the base per pupil expenditure for all beds on this campus regardless of the Medicare/Medicaid reimbursement for treatment.

Senate Education Committee 1-31-08 Attachment 3