

SESSION OF 2016

**CONFERENCE COMMITTEE REPORT BRIEF
SUBSTITUTE FOR SENATE BILL NO. 323**

As Agreed to April 29, 2016

Brief*

Sub. for SB 323 would enact the Jason Flatt Act, establish a language assessment program coordinated by the Kansas Commission for the Deaf and Hard of Hearing (KCDHH), and amend the capital improvement state aid formula.

Jason Flatt Act

The Jason Flatt Act would require the board of education of each school district to provide suicide awareness and prevention programming to all school staff. The bill would require such programming to include at least one hour of training each calendar year based on programs approved by the Kansas State Board of Education (KSBE), which could be satisfied through independent self-review of suicide prevention training materials and a building crisis plan developed for each school building, including steps for recognizing suicide ideation, appropriate methods of interventions, and a crisis recovery plan. The bill also would require each school district to notify parents or legal guardians of students enrolled in such district that the training materials provided under such programming are available.

The bill would prohibit a cause of action from being brought for any loss or damage caused by an act or omission

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resulting from the implementation of the provisions of the bill, or resulting from any training, or lack of training, required by the bill. Further, the bill would state nothing in this section shall be construed to impose any specific duty of care.

The bill would require KSBE to adopt rules and regulations necessary to implement the Jason Flatt Act by January 1, 2017.

Language Assessment Program

The bill would establish a language assessment program coordinated by the KCDHH with the purpose of assessing, monitoring, and tracking the language developmental milestones of children who are deaf or hard of hearing from birth to age eight. In addition to defining other key terms, the bill would define “language” as a complex and dynamic system of conventional symbols used in various modes for thought and communication. The recognized languages used in the education of children who are deaf and hard of hearing would be English and American Sign Language (ASL). The scope of the program would include children who may use one or more communication modes in ASL, English literacy, and, if applicable, spoken English and visual supplements.

On and after July 1, 2018, the bill would require an annual language assessment to be given in accordance with the bill’s provisions and any rules and regulations adopted pursuant to the bill to each child who is deaf or hard of hearing and who is younger than age nine. The assessment would be provided either through early intervention services administered by the Kansas Department of Health and Environment (KDHE) or, if the child is age three or older, through the school district in which the child is enrolled.

The bill also would establish a 16-member advisory committee on the language assessment program (Advisory

Committee) within the KCDHH. The Governor would appoint nine members with the following qualifications:

- A credentialed teacher of the deaf who uses both ASL and English during instruction;
- A credentialed teacher of the deaf who uses spoken English with or without visual supplements during instruction;
- A credentialed teacher of the deaf who has expertise in curriculum development and instruction of ASL and English;
- A credentialed teacher of the deaf who has expertise in assessing language development in both ASL and English;
- A speech language pathologist who has experience working with children from birth to age eight;
- A professional with a linguistic background who conducts research on language outcomes of children who are deaf or hard of hearing and use ASL and English;
- A parent of a child who is deaf and uses both ASL and English;
- A parent of a child who is deaf or hard of hearing and who uses spoken English with or without visual supplements; and
- A member who is knowledgeable about teaching and using both ASL and English in the education of children who are deaf and hard of hearing.

The remaining seven members, or their designees, would be *ex officio* members:

- The executive director of KCDHH;
- The coordinator of the Sound Start Program;
- The KCDHH member representing the State School for the Deaf;
- The KCDHH member representing KDHE;
- The KCDHH member representing the KSBE;
- The coordinator of the KDHE Early Intervention Program; and
- The coordinator of the Kansas State Department of Education (KSDE) Early Education Program.

The executive director of KCDHH would call an organizational meeting of the Advisory Committee on or before August 1, 2016, where the members would elect a Chairperson and Vice-chairperson. The bill would authorize the Advisory Committee to meet at any time and at any place within the state on the call of the Chairperson. The bill would specify a quorum would be nine members and all actions of the Advisory Committee would be by motion adopted by a majority of members present when there is a quorum.

The Advisory Committee would be charged with developing specific action plans and proposed rules and regulations necessary to fully implement the language assessment program by January 31, 2018, and would cease to exist after July 1, 2018. To carry out its charge, the bill would require the Advisory Committee to:

- Collaborate with the Coordinating Council on Early Childhood Developmental Services and the Kansas State Special Education Advisory Council;
- Solicit input from professionals trained in the language development and education of children

who are deaf or hard of hearing on the selection of specific language developmental milestones;

- Review, recommend, and monitor the use of existing and available language assessments for children who are deaf or hard of hearing;
- Identify and recommend qualifications of language professionals with knowledge of the use of evidence-based, best practices in English and ASL who can be available to advocate at individualized family service plan (IFSP) and individualized education program (IEP) team meetings;
- Identify qualifications of language assessment evaluators with knowledge on the use of evidence-based, best practices with children who are deaf or hard of hearing and resources for locating such evaluators; and
- Identify procedures and methods for communicating information on language acquisition, assessment results, milestones, assessment tools used, and progress of the child to the parent or legal guardian of such child, teachers, and other professionals involved in the early intervention and education of such child.

The bill would require the specific action plans and proposed rules and regulations developed by the Advisory Committee to include the following:

- Language assessments that include data collections and timely tracking of the child's development so as to provide information about the child's receptive and expressive language compared to such child's linguistically age-appropriate peers who are not deaf or hard of hearing;

- Language assessments conducted in accordance with standardized norms and time lines in order to monitor and track language developmental milestones in receptive, expressive, social, and pragmatic language acquisition and developmental stages to show progress in ASL literacy, English literacy, or both for all children who are deaf or hard of hearing from birth to age eight;
- Language assessments delivered in the child's mode of communication and that have been validated for the specific purposes for which each assessment is used, and appropriately normed;
- Language assessments administered by individuals who are proficient in ASL for ASL assessments and English for English assessments;
- Use of assessment results, in addition to the assessment required by federal law, for guidance on the language developmental discussions by IFSP and IEP teams when assessing the child's progress in language development;
- Reporting of assessment results to the parents or legal guardian of the child and the applicable agency;
- Reporting of assessment results on an aggregated basis to the House and Senate Committees on Education; and
- Reporting of assessment results to the members of the child's IFSP or IEP team, which may be used, in addition to the assessment required by federal law, by the child's IFSP or IEP team, as applicable, to track the child's progress and to establish or modify the IFSP or IEP.

The bill would require KSDE, KDHE, and the State School for the Deaf to enter into interagency agreements with KCDHH to share statewide aggregate data. Further, on or before January 31, 2019, and annually thereafter, the bill would require KCDHH to publish a report specific to language and literacy development of children who are deaf or hard of hearing for each age from birth to age eight, including those who are deaf or hard of hearing and have other disabilities, relative to such children's peers who are not deaf or hard of hearing. The report would be based on existing data reported in compliance with the federally required state performance plan on pupils with disabilities. KCDHH also would be required to publish the report on its website.

Capital Improvement State Aid for School Districts

The bill would amend the capital improvement state aid formula (bond and interest state aid) for school districts' general obligation bonds approved at an election held on or after July 1, 2016. For such bonds, the bill would place a cap on the total amount of capital improvement state aid available. This cap could not exceed the six-year average amount of capital improvement state aid as determined by the KSBE. The bill would use the same formula for calculating capital improvement state aid as currently exists under the block grant to school districts.

The bill would require the KSBE to determine this six-year average by calculating the average of the total amount of capital improvement state aid spent per year in the immediately preceding six fiscal years, but not including the current fiscal year.

The bill would instruct the KSBE to use the following priorities (from highest to lowest priority) when allocating capital improvement state aid:

- Safety of the current facility and disability access to such facility as demonstrated by a State Fire Marshal Report, an inspection under the federal

Americans with Disabilities Act, or other similar evaluation;

- Enrollment growth and imminent overcrowding as demonstrated by successive increases in enrollment of the school district in the immediately preceding three school years;
- Impact on the delivery of educational services as demonstrated by restrictive inflexible design or limitations on installation of technology; and
- Energy usage and other operational inefficiencies as demonstrated by a district-wide energy usage analysis, district-wide architectural analysis, or other similar evaluation.

The bill would further instruct KSBE, when allocating capital improvement state aid, to give a higher priority to school districts with a lower assessed valuation per pupil compared to other districts who are to receive capital improvement state aid. Further, the KSBE would be required to provide approval of the amount of capital improvement state aid a district could expect to receive before the district holds a bond election.

At the beginning of the 2017 Legislative Session, and each year thereafter, the KSBE would be required to submit a report to the Legislature including information on school district elections held on or after July 1, 2016, and the amount of capital improvement state aid approved.

Conference Committee Action

The Conference Committee agreed to the contents of Sub. for SB 323, except for the House amendment regarding at least two hours of training. The Conference Committee agreed to at least one hour of training.

The Conference Committee also agreed to add the contents of Senate Sub. for HB 2441 related to establishment of a language assessment program for children who are deaf or hard of hearing. Finally, the Committee agreed to add the contents of Sub. for HB 2486 related to capital improvement state aid, and replaced the provision regarding the prioritization of payments to school districts with the prioritization from Sub. for SB 356.

Background

SB 323 Background – Jason Flatt Act

At the Senate Committee on Education hearing on SB 323, Senator Smith; representatives of the Association of Community Mental Health Centers of Kansas, Inc., Greater Kansas City Mental Health Coalition, Headquarters, Inc., Jason Foundation, Kansas Chapter for the American Foundation for Suicide Prevention, Kansas National Education Association, and National Alliance on Mental Illness; several family members of students who committed suicide; and other private citizens offered testimony in support of the bill. Representatives of the KSDE, Office of the Attorney General, and United School Administrators of Kansas offered neutral testimony. There were no opponents.

The Senate Committee replaced language requiring all teachers and principals licensed or certified by the KSBE to receive at least two hours of suicide prevention training annually that uses best practice-based programs recommended by the KSBE with language requiring school districts to provide a minimum of one hour of programming to all school staff. The Senate Committee also adopted amendments requiring school districts to notify parents that materials are available and concerning liability. The Senate Committee recommended its amendments be incorporated into a substitute bill.

The House Committee on Education amended the bill by increasing the training requirement from one hour to two hours per calendar year. The Committee also removed language relating to willful and wanton misconduct from the section related to causes of action brought for any loss or damage brought because of requirements of the bill.

The House Committee of the Whole amended Sub. for SB 323 by adding HB 2534 into the bill.

According to the fiscal note prepared by the Division of the Budget, the introduced bill would have no fiscal effect for the state. Any costs would be borne by local school districts. No fiscal note was provided related to bill amendments.

HB 2441 Background – Language Assessment Program Establishment

HB 2441, as introduced, would have extended the sunset of a statute requiring the Legislative Division of Post Audit to conduct three school district efficiency audits each fiscal year from June 30, 2017, to June 30, 2020.

The Senate Committee adopted a substitute to SB 444, which was offered by a group of stakeholders who had collaborated to reach consensus on the bill. The substitute modified the makeup of the Advisory Committee, its charge, and the required components of the specific action plans and proposed rules and regulations developed by the Advisory Committee; added a sunset for the Advisory Committee; required KSDE, KDHE, and the State School for the Deaf to enter into interagency agreements with KCDHH to share statewide aggregate data; and amended definitions. The Committee then agreed to strike the contents of HB 2441 and recommend the SB 444 substitute as a Senate Sub. for HB 2441.

SB 444 Background

At the Senate Committee on Education hearing on the bill, representatives of the Deaf Cultural Center, Kansas Association of Centers for Independent Living, KCDHH, Language Equality and Acquisition of Deaf Kids, United Way of Leavenworth, and numerous private citizens appeared in support of the bill. Representatives of the American Speech-Language-Hearing Association, Cowley County Special Services Cooperative, Kansas Association of Special Education Administrators, and Kansas Speech-Language-Hearing Association were opponents. Neutral testimony was provided by representatives of the Department for Children and Families, Kansas Association of School Boards, the Kansas School for the Deaf, and KSBE.

The corrected fiscal note prepared by the Division of the Budget for SB 444, as introduced, indicates enactment would require additional expenditures by the Department for Children and Families totaling \$42,314 from the State General Fund, including 0.50 FTE Public Service Administrator I. Of this estimate, \$24,974 would be for salaries and wages and \$17,340 for other operating expenditures, including travel and expenses for interpreters for deaf advisory committee members. Annual ongoing costs would be approximately \$42,000 each year from the State General Fund for the position and associated expenses. Any fiscal effect associated with the bill is not reflected in *The FY 2017 Governor's Budget Report*.

Sub. for HB 2486 Background – Capital Improvement State Aid

The bill was introduced by the House Committee on Education. At the House Committee hearing on the original bill, proponents of the bill included Representative Bradford and representatives of Americans for Prosperity, the Kansas Policy Institute, the Kansas Chamber of Commerce, and Educational Management Consultants. Opponents included

representatives of the Galena, Topeka, Lawrence, and Bonner Springs-Edwardsville school districts; Kansas Families for Education; and the Kansas National Education Association. A representative of the Kansas Association of School Boards provided neutral testimony.

The House Education Committee adopted a substitute bill incorporating some provisions of the bill, as introduced; however, the following provisions in the original bill were deleted in the substitute bill:

- Establishing the School District Bond Project Review Board composed of the following members: Chairpersons and ranking minority members of the Senate Committee on Ways and Means and the House Committee on Appropriations and two State Board of Education members;
- Requiring capital improvement state aid would only be paid for general obligation bonds approved by a local election on or after January 1, 2016, only with approval by the Review Board; and
- Requiring the Review Board approve applications for capital improvement state aid based on whether the project bonds are to be issued for instruction.

The fiscal note prepared by the Division of the Budget on the original bill indicated the bill likely would have the effect of reducing capital improvement state aid for bond issues after January 1, 2016, but would not change current state aid entitlements. Any reduced state aid payments would be reliant on the number of bond issues approved by voters and the actions of the Review Board, according to the fiscal note. There was no fiscal note on the substitute bill.

education; special education; school finance; deafness

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