



**EARL G. JAQUES, JR.**  
STATE REPRESENTATIVE  
Twenty-Seventh District

HOUSE OF REPRESENTATIVES  
STATE OF DELAWARE  
LEGISLATIVE HALL  
DOVER, DELAWARE 19901

COMMITTEES  
Education, Chair  
Veterans Affairs, Chair  
Health & Human Development  
Labor  
Transportation/Land Use and  
Infrastructure

### **House Education Committee Meeting Minutes 3.14.18**

Chair Jaques called the meeting to order at 3:00 p.m. Committee members present included Vice Chair K. Williams and Reps. Bolden, Heffernan, Matthews, Osienski, Potter, Smith, Briggs King, Dukes, Hensley, Kenton, Miro, Postles and Ramone. Secretary Susan Bunting of the Department of Education was also present. For a list of speakers present, please see the list below.

Chair Jaques introduced **HB 292, AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO SERVICES FOR CHILDREN WITH AUTISM SPECTRUM DISORDER**. Chair Jaques explained this bill was to modify the Delaware Autism Program (DAP) to better serve children with autism spectrum disorder (ASD) and the autism community by creating Delaware's own consortium of specialists; this would save money, create jobs, and ensure the necessary resources are available to students with ASD. He emphasized the bill does not mandate schools switch their current services, but it is an opportunity to have a more economical and well-rounded program. He added that it would be a three year pilot program with two specialists added each year, and eventually it could expand to aid students with other types of special needs.

With no questions from the representatives present, Chair Jaques opened the floor to public comment.

Robert Overmiller, from the Governor's Advisory Council for Exceptional Citizens (GACEC), stated GACEC's full support of the bill.

Annalisa Ekbladh, Family Support Program Manager of Autism Delaware, thanked the committee for hearing the bill and urged the representatives to support the expansion of the Delaware Autism Program (DAP). She stated the original program model was designed for 152 students, but the number of students with ASD has grown to over 2,100 and the combined spending on out-of-state consultants to provide training to staff and teachers was nearly \$4 million dollars. She added that the growth in students and costs highlights the program's need for additional resources. She thanked the committee for supporting the needs of special education students.

Teresa Avery read Marcy Kempner's statement of support for HB 292 (see attached).

A motion was made by Rep. Hensley and seconded by Rep. Osienski to release HB 292 from committee. Motion carried. Yes= 13 (Jaques, Williams, Heffernan, Osienski, Potter, Smith, Briggs King, Dukes, Hensley, Kenton, Miro, Postles, Ramone); No= 0; Absent= 4 (Bentz, Bolden, Lynn, Matthews). The bill was released from committee with a F=4, M=10, U=0 vote.

Vice Chair K. Williams introduced **HS 1 for HB 287, AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO STATE HIGH SCHOOL DIPLOMA REQUIREMENTS**. Vice Chair K. Williams reviewed the purpose of HB 287. She stated that a student who meets their Individualized Education Program (IEP) would receive a modified diploma instead of a certificate of performance which

would open the door to education and employment opportunities where the student previously may not have been considered. She shared that after discussion, the Department of Education suggested changing the name of the diploma from "Diploma of Alternate Achievement Standards" to a "Diploma of Modified Performance Standards;" they also suggested adding a requirement that the student must also be eligible to take a statewide alternative assessment and having the act take effect the academic year after the enactment. Vice Chair K. Williams introduced Mary Ann Mieczkowski, the Director of Exceptional Student Resources for the Delaware Department of Education, to explain the changes further.

Ms. Mieczkowski explained the three changes to the original bill were to ensure that the alternate achievement standards were aligned with the Every Student Succeeds Act. She welcomed any questions from representatives regarding the substitute bill.

Rep. Smith asked whether the subset of students with IEPs is different from the subset that is eligible for alternative assessment.

Ms. Mieczkowski responded that one percent of all students are eligible for alternate assessments, though she was not sure how many of IEP students are eligible for alternative testing. She explained that IEP teams determine if a student is eligible for alternative testing based on specific criteria, and the team must all agree that the student's curriculum is modified so greatly that they do not qualify for regular assessment.

Rep. Smith asked what the latest date is that students can make a switch to the alternate testing. She wanted to ensure the alternate diploma is only a failsafe for students who try extremely hard but struggle to meet the criteria needed for a regular diploma. She expressed concern that this alternate diploma may be pushed on students who are capable of meeting the requirements for the regular diploma."

Ms. Mieczkowski informed Rep. Smith that this discussion could happen every year. She ensured her that all supports were in place to help that child.

Rep. Smith thanked Ms. Mieczkowski and asked her to find the statistics on how many students with IEPs qualify for alternative testing and to share those statistics with the committee.

Rep. Postles stated he was still confused about what the option is for students who are not eligible for the alternative assessment but who have IEPs. He explained that this bill strikes the certificate of performance, so he is not sure what is left for those students. He asked for clarification on if there are students who cannot meet the requirements for the regular diploma or the modified diploma.

Chair Jaques asked Secretary Bunting if the Department is aware of this gap and what they are doing to fill it.

Secretary Bunting responded that most high school students can earn a regular diploma with additional supports. She said she believes that very few kids would fit into a category of not being eligible for both the regular diploma and the modified diploma, whereas before they would have been eligible for a certificate of performance, but added that she would have to get the statistics to be sure.

Rep. Hensley and Rep. Bolden also expressed concern over the gap the group identified.

Rep. Ramone explained when he conducts business; he employs many people without diplomas and sees it as an opportunity for further discussion. He did not want people to think that not having a diploma deprives students of having something in society.

Secretary Bunting and Vice Chair K. Williams thanked Rep. Ramone for being that type of employer, but reminded the committee that not all employers have that mindset.

Rep. Heffernan announced that the substitute bill was an improvement from the original bill. She worried if children are not successful, due to issues such as behavior, they will be pushed towards pursuing a modified diploma even though they could be successful on the traditional route if they had additional supports.

Secretary Bunting stated this was one of her original concerns and that is why the substitute bill required students to be eligible for alternative assessments.

Rep. Heffernan questioned if this alternative diploma would truly help the students with higher education; she feared they would still need many remedial classes.

Secretary Bunting and Ms. Mieczkowski replied that they worked very closely with the Division of Vocational Rehab when drafting this bill and that they support it.

Chair Jaques opened the floor to public comment.

Robert Overmiller informed the committee he would be speaking as a concerned citizen, not as a representative of the GACEC. His first issue with the bill was that certain children will now get neither a certificate of completion nor a diploma because they cannot take the alternative test. He emphasized that the alternative test is for those cognitively incapable of taking standardized tests, meaning it is quite rudimentary. His second issue with the legislation was that he felt by checking the diploma box, it would be lying to employers about what the child accomplished. He suggested just adding a certificate check box on applications instead.

Bill Doolittle of the Delaware Parent-Teacher Association (DPTA) stated the organization's support for the bill. He also addressed concern for the gap the committee spoke about earlier. He believed the current laws are too inflexible for students.

Michele Marinucci, Director of Student Services for Woodbridge School District and Co-Chair of the Special Education Advisory Council, expressed her and the organizations' support for the bill. She explained that this bill would be for the one percent of students who give every bit of their effort everyday, but previously, did not have enough to show for it. She told the story of a student whom she was helping with job applications. He had skills such as lifting heavy items and stocking shelves, but he could not even hit the button to submit his application without having the high school degree box checked. She shared that this student was completely disheartened, and this bill would give students like him the opportunity to show what they can do to employers.

Kathie Cherry of GACEC stated the Council respectfully disagreed with their member, Robert Overmiller in regards to the bill. She stated that the council did not discuss the substitute bill, but that they did discuss the original HB 287 and that they supported it. She emphasized that this bill would give students the opportunity to get to the point in the application process where they can show their skills.

Teresa Avery, Executive Director of Autism Delaware, offered her full support of the bill. She added that with HB 287, the organization had the same concerns as Rep. Heffernan, which she mentioned earlier, but when the substitute bill came out, they discussed the changes and decided to support HS 1 to HB 287.

John Marinucci, Executive Director of the Delaware School Boards Association (DSBA), said that he supports this bill because it serves special needs students and gives them opportunities to compete in the workforce.

Kevin Ohlandt, a parent, offered his extreme support for the bill. He observed that at his job at Wal-Mart, students with disabilities without a degree currently do not get certain jobs although they are more than qualified for them. This bill will give those people the opportunity to prove themselves.

Tammy Croce of the Delaware Association of School Administrators supported the bill. She said that she sees HS 1 to HB 287 as a way to tear down barriers and give people with disabilities the ability to become active members of the community.

John Young spoke as a parent in support of HS1 to HB287. He has a son in the Delaware Autism Program at Christiana High School who is eligible for the alternate assessment. He said that he sees this bill as an aid in not only his son's ability to obtain a job, but also a boost to his son's self-esteem. He explained that thirteen years ago he had to confront the idea that his son would not earn a high school diploma and that this bill is restoration for parents like himself who would be able to dream of their kid having a high school diploma again. He stated this bill is in the best interest of those with IEPs and all people that love them.

Vice Chair K. Williams thanked everyone for the open dialogue. She clarified an earlier comment that this bill is lying to employers by stating that the business community is fully aware of this bill. She quoted a Delaware Online Article where the Vice President of the Delaware State Chamber of Commerce stated this bill could at least give those kids an opportunity, and it connects employers with young adults who have a lot to offer.

Rep. Briggs King posed another question about the bill. She wanted to know what would happen to those kids who already received certificates of performance. They would be competing with those kids who have a diploma, which would give them a disadvantage in the workforce. She asked if the bill would work retroactively.

Secretary Bunting stated the Department did not have an answer at this time, but that they would look into it.

Rep. Potter offered his support for the bill and the opportunities it gives kids in the state.

A motion was made by Rep. Potter and seconded by Rep. Smith to release HS 1 for HB 287 from committee. Motion carried. Yes= 13 (Jaques, Williams, Matthews, Osienski, Potter, Smith, Briggs King, Dukes, Hensley, Kenton, Miro, Postles, Ramone); No=1 (Heffernan); Abstain= 2 (Bolden); Absent= 2 (Bentz, Lynn). The bill was released from committee with an F=0, M=11, U=0 vote.

Rep. Matthews introduced **HB 282, AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO FUNDING FOR ENRICHMENT AT HIGH POVERTY SCHOOLS**. He explained HB 282 attempts to close an opportunity gap by providing low-income schools (defined as schools where 50% of students have free and reduced lunch) with \$25 per student to be used for field trips. He shared that, through his experience as a teacher and through research, he has observed the benefits of enrichment activities ranging from increased critical thinking skills to improved social skills. Rep. Matthews explained the bill's fiscal note is half a million dollars per year and does not create any legacy costs such as pensions or new state obligations for jobs.

Chair Jaques opened the floor to questions from committee members present.

Rep. Briggs King stated her concern with the bill was that in her district the poverty level is 77 percent, but the schools have universal free and reduced lunch, therefore, she does not think the list of high poverty schools is comprehensive enough.

Rep. Matthews responded that he is willing to work with her on an amendment if necessary. He stated the data came from Delaware's Department of Education. He emphasized this bill is similar to a pilot program, and that the key idea is to try something different to bring opportunities for enrichment activities to students who otherwise may not have them.

Rep. Briggs King addressed another concern of hers, which was that she does not believe this is necessarily the best way to spend funds when there are so many demands and concerns in education. She stated that in her districts the PTA ensures that children are not left out of field trips because of insufficient funds.

Rep. Matthews responded to Rep. Briggs King's concern by explaining the current funding for field trips. He stated it is malpractice to not allow a student to go on a trip due to insufficient funds; therefore, schools charge the other students more to cover the cost of the children that cannot afford it. In communities with very high levels of poverty, the schools cannot pass the cost on to other children, so those schools just do not plan field trips.

Rep. Hensley asked how many trips this bill allocates for per year.

Rep. Matthews explained it would be up to the schools and teachers to determine how they want to use the funds; they could do one big trip or several smaller trips, but it would be the school's decision to use the money as they see fit as long as the trips align with common core curriculum.

Rep. Miro stated he believes the intentions of the bill are good, but he did not agree with its mechanics. He observed that in his districts the school principal, PTA, and other organizations support students that cannot participate in school programs. He said he did not want to support this bill because it spends half a million dollars on field trips when there are other sources that could be used to fulfill those needs. He stated he would not support the bill in this committee or on the floor.

Rep. Potter supported the bill because he said he believes young people need enrichment, and field trips can open a world of opportunities.

Vice Chair K. Williams agreed with Rep. Potter. She said that she believes students learn through experiences, and the committee has to look past the funding to see the benefits of the bill.

Rep. Heffernan stated she appreciated the sentiment of the bill. She mentioned there are other ways to get students on field trips, such as the PTA, but stated if this bill encourages more kids to have those enrichment opportunities, then she would support it.

Secretary Bunting stated the Department of Education supports the philosophy of the bill, but that they are concerned about the fiscal note, so they will take a neutral stance on HB 282.

Chair Jaques opened the floor to public comment.

Robert Overmiller, Officer of GACEC, stated the Governor's Advisory Council has not reviewed this bill. HE added that he personally supports the idea of field trips to enhance learning, but does not think the fiscal note is

accurate; by including schools with universal free and reduced lunch, he estimated the cost would be closer to two million dollars.

Kevin Ohlandt, a parent of a student in the Capital School District, stated his district does not have a PTA to make field trips affordable, and the district has a high concentration of students in poverty. He implored the committee to pass this bill, whether the fiscal note is half a million or two million, because he would rather see the state's money spent on real, meaningful educational experiences than on less valuable items such as standardized testing.

Rep. Matthews thanked the public for their insight, and emphasized the bill would be for a pilot program. He wanted to keep the fiscal note at half a million dollars, but would work with anyone that had concerns on the information DOE gave him regarding the poverty level of schools. He reminded the committee to focus on the positive outcomes of field trips and how invaluable those are to students.

Rep. Miro stated he received a text message from a Superintendent in New Castle County who stated no student is ever denied going on a field trip because they cannot afford it.

Rep. Matthews responded that while no student is denied of going on a planned field trip, this has resulted in schools simply not planning field trips. HB 282 would allow Delaware students to have more field trips in their curricula.

A motion was made by Rep. Potter and seconded by Vice Chair K. Williams to release HB 282 from committee. Motion carried. Yes= 8 (Williams, Bolden, Heffernan, Matthews, Osienski, Potter, Dukes, Ramone); No= 6 (Jaques, Biggs King, Hensley, Kenton, Miro, Postles); Absent= 3 (Bentz, Lynn, Smith). The chair was authorized to walk the bill. Thereby, it received 9 votes. The bill was released from committee with a F=1, M=8, U=1 vote.

Chair Jaques adjourned the meeting at 4:33 p.m.

Respectfully submitted,

Emma Odren, Legislative Fellow

#### Speaker List

1. Robert Overmiller, Governor's Advisory Council for Exceptional Citizens
2. Bill Doolittle, Delaware Parent-Teacher Association
3. Michele Marinucci, Director of Student Services for Woodbridge School District and Co-Chair of Special Education Advisory Council
4. Kathie Cherry, Governor's Advisory Council for Exceptional Citizens
5. Annalisa Ekbladh, Autism Delaware
6. Teresa Avery on behalf of Marcy Kempner, Parent
7. John Marinucci, Delaware School Board Association
8. Kevin Ohlandt, Parent
9. Tammy Croce, Delaware Association of School Administrators
10. John Young, Parent

For additional public comment, please see the attached supporting documents.