

## Substitute for HOUSE BILL No. 2292

By Committee on Education

2-18

1 AN ACT concerning schools; enacting the local control of Kansas  
2 education act; relating to the student data privacy act; amending K.S.A.  
3 2015 Supp. 72-6216, 72-6217, 72-6218 and 72-6479 and repealing the  
4 existing sections.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. Sections 1 through 7, and amendments thereto, shall  
8 be known and may be cited as the local control of Kansas education act.

9 New Sec. 2. As used in this act:

10 (a) "State board" means the Kansas state board of education;

11 (b) "department" means the Kansas state department of education;

12 (c) "education entity" means the state board, the department, any  
13 school district, any school, local government or private enterprise that  
14 exercises any responsibilities or decision-making authority with respect to  
15 K-12 public education in the state of Kansas;

16 (d) "school" means any public school operated by a unified school  
17 district and any nonpublic school accredited by the state board;

18 (e) "state official" means any official in state or local government in  
19 Kansas, whether elected or appointed; and

20 (f) "common core state standards" means the common core standards  
21 adopted by the Kansas state board of education on or after October 12,  
22 2010, and any subsequent amendments to the common core standards.  
23 "Common core state standards" includes "common core state standards for  
24 English language arts & literacy in history/social studies, science, and  
25 technical subjects," "common core state standards for mathematics,"  
26 "Kansas college and career ready standards" and "next generation science  
27 standards."

28 New Sec. 3. (a) The state shall retain sole control over the  
29 development, establishment and revision of K-12 curriculum standards.

30 (b) Any education entity or any state official shall not join any  
31 consortium or any other organization when participation in that consortium  
32 or organization would cede any measure of control over any aspect of  
33 Kansas public education to any entity not explicitly allowed authority over  
34 education in article 6 of the constitution of the state of Kansas. No such  
35 person or entity shall condition or delay a decision on academic standards  
36 or curriculum according to the decision of any consortium, organization,

1 any other state government, the federal government or any other entity not  
2 explicitly allowed authority over education in article 6 of the constitution  
3 of the state of Kansas.

4 (c) Any actions taken by any education entity or any state official to  
5 adopt, implement or align programs, assessments, testing, surveys or any  
6 educational materials or activities to the common core state standards, the  
7 social, emotional and character development standards, the national  
8 curriculum standards for social studies, the national health education  
9 standards, the national sexuality education standards, core content and  
10 skills, K-12 or any other academic standards not in the public domain, free  
11 of any copyright, are void beginning July 1, 2017.

12 (d) Beginning July 1, 2017, any education entity or any state official  
13 shall not accept public or private moneys or spend any moneys for the  
14 purchase of materials, for teacher in-service training or for assessments  
15 that support, align or are used to implement the academic standards  
16 described in subsection (c).

17 (e) No law or rule or regulation shall condition teacher evaluation or  
18 pay on state assessment scores or student participation in state  
19 assessments.

20 New Sec. 4. (a) Beginning July 1, 2017, the state board shall not  
21 implement any past academic standards or related assessments or any  
22 future academic standards or related assessments that are aligned with the  
23 academic standards described in section 3(c), and amendments thereto.

24 (b) Revised Kansas curriculum standards used to teach K-12 English  
25 language arts, mathematics, science and social studies shall be developed  
26 through the process provided for in K.S.A. 2015 Supp. 72-6479, and  
27 amendments thereto. These standards shall take effect on July 1, 2017.

28 (c) If advanced placement, international baccalaureate, dual credit or  
29 other similar courses and tests are administered to public high school  
30 students after July 1, 2017, they shall be aligned with Kansas curriculum  
31 standards in effect pursuant to subsection (b).

32 New Sec. 5. The state board of education shall rescind any  
33 requirement, agreement or waiver with the United States department of  
34 education or any other federal agency which conditioned the receipt of  
35 federal funding upon the board revising educational curriculum standards  
36 to align with the common core state standards. The state board shall not  
37 agree to future federal educational funding, waivers, agreements or  
38 requirements which condition the receipt of federal funding upon  
39 academic curriculum being aligned to the common core state standards.

40 New Sec. 6. The state board of education shall not adopt or develop a  
41 criterion-referenced formative or summative assessment instrument under  
42 this act based on or aligned to common core state standards.

43 New Sec. 7. If any provision of this act is held invalid, such invalidity

1 shall not affect other provisions and to this end the provisions of this act  
2 are declared to be severable.

3 Sec. 8. K.S.A. 2015 Supp. 72-6216 is hereby amended to read as  
4 follows: 72-6216. As used in K.S.A. 2015 Supp. 72-6215 through 72-  
5 6223, and amendments thereto:

6 (a) "Aggregate data" means data collected or reported at the group,  
7 cohort or institutional level and which contains no personally identifiable  
8 student data.

9 (b) "Biometric data" means one or more measurable biological or  
10 behavioral characteristics that can be used for automated recognition of an  
11 individual, such as fingerprints, retina and iris patterns, voiceprints, DNA  
12 sequence, facial characteristics and handwriting.

13 (c) "Department" means the state department of education.

14 (d) "Directory information" means a student's name, address,  
15 telephone listing, participation in officially recognized activities and  
16 sports, weight and height if the student is a member of an athletic team,  
17 and degrees, honors or awards received.

18 (e) "Educational agency" means a school district or the department.

19 (f) *"Prior written consent" means that a parent or legal guardian's*  
20 *signature is required on a written document that notifies the parent or*  
21 *legal guardian what data will be collected, how the data will be collected,*  
22 *how the data will be used, what person or entity the data will be shared*  
23 *with and the dates over which the disclosed data will be used.*

24 (g) "School district" means a unified school district organized and  
25 operated under the laws of this state.

26 ~~(g)-(h)~~ "(h) "Statewide longitudinal student data system" means any  
27 student data system maintained by the department, which assigns a state  
28 identification number for each student who attends an accredited public or  
29 private school in Kansas and uses the state identification number to collect  
30 student data.

31 ~~(h)-(i)~~ "(i) "Student data" means the following information contained in a  
32 student's educational record:

33 (1) State and national assessment results, including information on  
34 untested students;

35 (2) course taking and completion, credits earned and other transcript  
36 information;

37 (3) course grades and grade point average;

38 (4) date of birth, grade level and expected date of graduation;

39 (5) degree, diploma, credential attainment and other school exit  
40 information such as general education development and drop-out data;

41 (6) attendance and mobility;

42 (7) data required to calculate the federal four-year adjusted cohort  
43 graduation rate, including sufficient exit and drop-out information;

- 1 (8) remediation;
- 2 (9) special education data;
- 3 (10) demographic data and program participation information; and
- 4 (11) any other information included in a student's educational record.

5 ~~(i)-(j)~~ "Personally identifiable student data" means student data that,  
6 alone or in combination, is linked or linkable to a specific student and  
7 would allow a reasonable person to identify the student with reasonable  
8 certainty.

9 Sec. 9. K.S.A. 2015 Supp. 72-6217 is hereby amended to read as  
10 follows: 72-6217. (a) Any student data submitted to and maintained by a  
11 statewide longitudinal student data system shall only be disclosed by an  
12 educational agency in accordance with the provisions of this section. An  
13 educational agency shall ~~provide annual written notice to each student's~~  
14 ~~parent or legal guardian that student data may be disclosed in accordance~~  
15 ~~with this section. Such notice shall be signed by the student's parent or~~  
16 ~~legal guardian and maintained on file with the district~~ *not disclose any*  
17 *personally identifiable student data unless prior written consent is*  
18 *provided by the parent or legal guardian of the respective student.*  
19 *Personally identifiable student data may be disclosed if the parent or legal*  
20 *guardian provides prior written consent for the disclosure.*

21 (b) Student data *that is not personally identifiable student data* may  
22 be disclosed at any time to:

23 (1) The authorized personnel of an educational agency who require  
24 such disclosures to perform their assigned duties; *and*

25 (2) the authorized personnel of the state board of regents who require  
26 such disclosures to perform their assigned duties; ~~and~~

27 ~~(3) the student and the parent or legal guardian of the student,~~  
28 ~~provided the student data pertains solely to such student.~~

29 (c) Student data *that is not personally identifiable student data* may  
30 be disclosed to the authorized personnel of any state agency not specified  
31 in subsection (b), or to a service provider of a state agency, educational  
32 agency or school who is engaged to perform a function of instruction,  
33 assessment or longitudinal reporting, provided there is a data-sharing  
34 agreement between the educational agency and such other state agency or  
35 service provider that provides the following:

36 (1) The purpose, scope and duration of the data-sharing agreement;

37 (2) that the recipient of the student data use such information solely  
38 for the purposes specified in the agreement;

39 (3) that the recipient shall comply with data access, use and security  
40 restrictions that are specifically described in the agreement; and

41 (4) that the student data shall be destroyed when no longer necessary  
42 for the purposes of the data-sharing agreement or upon expiration of the  
43 data-sharing agreement, whichever occurs first. Except that a service

1 provider engaged to perform a function of instruction may retain student  
2 transcripts as required by applicable laws and rules and regulations.  
3 Destruction shall comply with the NISTSP800-88 standards of data  
4 destruction.

5 ~~(d)-(1) Except as otherwise provided in paragraph (2), student~~  
6 ~~Aggregate data may be disclosed to any governmental entity not specified~~  
7 ~~in subsection (b) or (e), or to any public or private audit and evaluation or~~  
8 ~~research organization, provided that only aggregate data is disclosed to~~  
9 ~~such governmental entity or audit and evaluation or research organization.~~

10 ~~(2) Personally identifiable student data may be disclosed if the~~  
11 ~~student, if an adult, or the parent or legal guardian of the student, if a~~  
12 ~~minor, consents to such disclosure in writing.~~

13 (e) Notwithstanding the provisions of subsections (b), (c) and (d), an  
14 educational agency may disclose:

15 (1) Directory information of a student when such agency deems such  
16 disclosure necessary and the disclosure of which has been consented to in  
17 writing by such student's parent or legal guardian *provides prior written*  
18 *consent;*

19 (2) directory information to an enhancement vendor that provides  
20 photography services, class ring services, yearbook publishing services,  
21 memorabilia services or other substantially similar services *when such*  
22 *student's parent or legal guardian provides prior written consent;*

23 (3) any information required to be disclosed pursuant to K.S.A. 65-  
24 101, 65-118 and 65-202, and amendments thereto, provided such  
25 information is disclosed in accordance with any provisions of such statutes  
26 regarding the confidentiality and disclosure of such information;

27 (4) any student data in order to comply with any lawful subpoena or  
28 court order directing such disclosure; and

29 (5) student data to a public or private postsecondary educational  
30 institution which is required by such postsecondary educational institution  
31 for the purposes of application or admission of a student to such  
32 postsecondary educational institution, provided that such disclosure is  
33 consented to in writing by such student.

34 Sec. 10. K.S.A. 2015 Supp. 72-6218 is hereby amended to read as  
35 follows: 72-6218. (a) No school district shall collect biometric data from a  
36 student, or use any device or mechanism to assess a student's physiological  
37 or emotional state, unless the student, if an adult, or the parent or legal  
38 guardian of the student, if a minor, consents in writing.

39 (b) *No school district shall disclose any disciplinary, criminal,*  
40 *medical, mental health or counseling records of a student without prior*  
41 *written consent, except that a school district may disclose such records*  
42 *when:*

43 (1) *Disclosure is necessary pursuant to K.S.A. 65-101, 65-118 and*

1 65-202, and amendments thereto, provided such information is disclosed  
2 in accordance with any provisions of such statutes regarding the  
3 confidentiality and disclosure of such information;

4 (2) disclosure is necessary pursuant to K.S.A. 38-2223, and  
5 amendments thereto;

6 (3) a lawful subpoena or court order requires disclosure; or

7 (4) a medical emergency necessitates disclosure.

8 Sec. 11. K.S.A. 2015 Supp. 72-6479 is hereby amended to read as  
9 follows: 72-6479. (a) In order to accomplish the mission for Kansas  
10 education, the state board of education shall design and adopt a school  
11 performance accreditation system based upon improvement in  
12 performance that reflects high academic standards and is measurable.

13 (b) (1) The state board shall establish *model* curriculum standards  
14 which reflect high academic standards for the core academic areas of  
15 mathematics, science, reading, writing and social studies. The curriculum  
16 standards shall be *adopted in accordance with section 4, and amendments*  
17 *thereto, and shall be* reviewed at least every seven years. Nothing in this  
18 subsection shall be construed in any manner so as to impinge upon any  
19 district's authority to determine its own curriculum.

20 (2) *Districts may use the model curriculum standards as a guideline*  
21 *in developing district standards.*

22 (3) *The state board may not use standards prohibited by section 3,*  
23 *and amendments thereto, or any results from tests associated with those*  
24 *standards in evaluation or accreditation of any school or school district.*

25 (c) The state board shall provide for statewide assessments in the core  
26 academic areas of mathematics, science, reading, writing and social  
27 studies. The board shall ensure compatibility between the statewide  
28 assessments and the curriculum standards established pursuant to  
29 subsection (b). Such assessments shall be administered at three grade  
30 levels, as determined by the board. The state board shall determine  
31 performance levels on the statewide assessments, the achievement of  
32 which represents high academic standards in the academic area at the  
33 grade level to which the assessment applies. The state board should specify  
34 high academic standards both for individual performance and school  
35 performance on the assessments.

36 (d) Each school in every district shall establish a school site council  
37 composed of the principal and representatives of teachers and other school  
38 personnel, parents of pupils attending the school, the business community,  
39 and other community groups. School site councils shall be responsible for  
40 providing advice and counsel in evaluating state, school district, and  
41 school site performance goals and objectives and in determining the  
42 methods that should be employed at the school site to meet these goals and  
43 objectives. Site councils may make recommendations and proposals to the

1 school board regarding budgetary items and school district matters,  
2 including, but not limited to, identifying and implementing the best  
3 practices for developing efficient and effective administrative and  
4 management functions. Site councils also may help school boards analyze  
5 the unique environment of schools, enhance the efficiency and maximize  
6 limited resources, including outsourcing arrangements and cooperative  
7 opportunities as a means to address limited budgets.

8 (e) Whenever the state board of education determines that a school  
9 has failed either to meet the accreditation requirements established by  
10 rules and regulations or standards adopted by the state board or provide the  
11 curriculum required by state law, the state board shall so notify the school  
12 district in which the school is located. Such notice shall specify the  
13 accreditation requirements that the school has failed to meet and the  
14 curriculum that the school has failed to provide. Upon receipt of such  
15 notice, the board of education of such school district is encouraged to  
16 reallocate the resources of the school district to remedy all deficiencies  
17 identified by the state board. When making such reallocation, the board of  
18 education shall take into consideration the resource strategies of highly  
19 resource-efficient districts as identified in phase III of the Kansas  
20 education resource management study conducted by Standard and Poor's  
21 (March 2006).

22 ~~(f) The provisions of this section shall be effective from and after July~~  
23 ~~1, 2015, through June 30, 2017.~~

24 Sec. 12. K.S.A. 2015 Supp. 72-6216, 72-6217, 72-6218 and 72-6479  
25 are hereby repealed.

26 Sec. 13. This act shall take effect and be in force from and after its  
27 publication in the statute book.