



Testimony before the
House K-12 Education Budget Committee

On

HB 2553 - Allowing K-12 students to transfer to and attend school in any school district in the state

by

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Thank you for the opportunity to present testimony on **HB 2553**. KASB appears in opposition to this bill, which would require every school district to accept any nonresident student from any other school district who wishes to attend, subject to certain conditions. KASB opposes this bill based on the following long-standing position adopted by our members:

Managing Schools, F. Enrollment of Non-Resident Students. *KASB believes that the decision to enroll students who are not residents of a school district should be made by the board of education of that district. If non-resident students are enrolled, they should be counted for funding purposes as if they were residents of the district. These provisions should apply to students who are not residents of Kansas.*

Article 6 of the Kansas constitution charges the Legislature with establishing a system of public schools for intellectual, educational, vocational and scientific improvement, and provides for a State Board of Education for “general supervision” of those schools, which means education is fundamentally a state responsibility.

But the people of Kansas also provided in their constitution that public schools should be “maintained, developed and operated by locally elected boards,” which indicated that the people do not believe ***all*** decisions about the operation of their schools should be made by the state. Rather, they desire to have important decisions about their schools made by local school boards, elected by and accountable to the parents and patrons of their communities.

For many decades, the system created by the Legislature has divided the state into unified school districts, each responsible for educating ***every*** child in that district, regardless of (to use the language of the bill) “ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language, measure of achievement, aptitude or athletic ability.”

This bill would change that long-standing policy to, within certain limits, to require districts to provide education not only to their children, but to the children of any ***other*** district who wish to attend.

It should be stressed that almost all local school districts already enroll at least some non-residents, and over 21,000 Kansas students are attending districts where they are not residents. This is over four percent of all public students. Together, these students would be the sixth largest school districts in the state and are equal to almost 85 percent of the enrollment of all private, accredited schools.

These students are attending other districts because local school boards made the decision that accepting these nonresidents is not only good for these students, but also in the best interest of their own resident students, for whom they have primary responsibility.

The decision on how many non-resident students to accept is currently made by local school boards based on listening to – and being electorally accountable to – parents and other voters in those districts. This bill would override that input. There are a number of reasons why communities may want to limit non-resident enrollment, just as there are reasons why communities choose to except non-residents.

First, the state does not provide full funding for school district budgets. Districts may have different local option budgets between 15 and 33 percent, different levels of capital outlay levies and expenditures and different levels of debt for building construction, all which both affect the quality of programs and facilities and require different levels of taxation. Many parents may question why students from other districts, who are not paying taxes or fees to support the additional cost of these programs, should be allowed to benefit from them, even if there is “capacity.”

Second, some parents may simply want to maintain their community schools for their community, so that all attending children have residential ties that strengthen civic cohesion.

Third, many districts understand that schools are always to some extent in competition for students and the funding that follows, and that accepting students from another district may have a negative effect on a neighboring district that also a part of larger community or metropolitan area. This would be a particular concern under this bill, because it does not appear to provide state transportation aid for nonresident students. Therefore, only families who can transport their students to other districts would benefit. (Unless the receiving districts diverted funds for transportation without receiving state aid – increasing non-instructional spending.)

As a result, this bill could encourage further isolating the lowest-income students in the highest poverty districts, which already have the lowest performance results for such students. We know “concentrated poverty” is an educational challenge, and the reason for high density at-risk weighting.

Among other concerns about this bill is a requirement that each school board adopt a policy by January 1, 2023, “to determine the number of nonresident students that the school district has the capacity to accept in each grade level for each school of the school district.” But the bill provides no guidance on how capacity is to be defined. Is it to be based on physical space? Pupil-teacher ratio? Total staff ratio? Best instructional practices? Specific district or building programs?

Although no guidelines are provided for determining capacity, 10 percent of districts will be audited annually by Legislative Post Audit to determine if capacity levels were accurately reported. If not, the department of education shall determine such capacity levels for the school district. But again, no guidance is given as to what criteria KSDE will use. The bill also does not indicate how often, if ever, boards can revise their policy. Annually? Quarterly?

The bill seems to suggest that a board can use any criteria it wants, as long it accurately reports capacity, even if the report is that there is never any capacity. But if that is the case, what is the point of the bill?

Likewise, the bill requires the policy to address “the reasons for denial of any application of a nonresident student seeking to transfer to such district. The reasons for denial may include, but not be limited to, high rates of absenteeism and repeated suspensions or expulsions from school.”

“Not limited to” would seem to include anything, as long as the denial was not based on “ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language, measure of achievement, aptitude or athletic ability.” Could school boards simply adopt a policy to not enroll non-residents, which has nothing to with any of those factors? Again, if so, what is the point of the bill? If not, what limits the board’s authority?

As a result, it is unclear how many students this bill would actually allow to attend a different school than the one they are now attending. But it seems very likely it would create litigation over district policies, take up quite a bit of Legislative Post Audit time checking undefined school capacities, and require districts to spend more reporting and website updates.

The other result would be to reduce the ability of local communities to – if they choose – limit attendance in their school to children and families who live, pay taxes and vote in that community. It would not focus on students with the greatest educational challenges – in fact, it could reduce enrollment and resources for districts serving these students. As a result, we do not believe this bill is in the best educational interest of the state, its school districts or its students.

Thank you for your consideration.