

SESSION OF 2022

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE  
BILL NO. 2615**

As Amended by House Committee on K-12  
Education Budget

**Brief\***

Sub. for HB 2615 would require school districts to allow nonresident students to enroll in and attend school in any school district.

***Non-resident District Enrollment***

The bill would amend current law to require school districts to allow nonresident students to enroll in and attend school in the school district.

[*Note:* Students can currently attend school outside of their resident district only if the district has an agreement with the student's resident school district.]

***Determination of Capacity***

The bill would require each board of education of a school district (board) to adopt policies on or before January 1, 2023, to determine the capacity limits for nonresident students of each grade in each school of the district. The bill would require the adopted policies to specify the reasons that may be used by the board to deny:

- An application of a nonresident student seeking to transfer to such district. Such reasons for denial may include, but not be limited to, a nonresident

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

student's record of school absenteeism, suspensions, or expulsions from school; and

- The continued enrollment of a nonresident student who previously transferred to such school district to a transfer request.

Prior to adopting such policy, the board would be required to hold a hearing. The board would be required to provide notice of the hearing, to include the time, date, and place of the public hearing to be held on the proposed policy. The bill would require the notice to be published at least once each week for two consecutive weeks in a newspaper of general circulation in the school district and posted on the school district's website. A representative of the board would be required to present the board's proposal for the policy at the hearing, and the board would be required to hear testimony regarding the proposed policy. After consideration of the testimony and evidence presented or submitted at such public hearing, the board would determine whether to adopt the policy or revise the proposed policy at a subsequent public meeting of the board.

The bill would require each such policy and the number of available openings to be posted on the school district's website.

All school districts would be required to determine capacity limits for the coming year by August 1.

#### *Transfer Student Enrollment*

On or before July 1, 2023, subject to the school district's capacity limits, the school district would be required to enroll transfer students who submit an application prior to September 10 of the current school year unless doing so would exceed the district's capacity of a grade level. Any applications submitted after September 10 would be admitted at the discretion of the school district unless doing so would exceed capacity. The district would be required to accept

transfers in the order in which the school district received applications to transfer. The bill would authorize a school district to deny a transfer request based upon the school district's adopted policy, but it would prohibit a district from denying a transfer request based upon a student's:

- Ethnicity;
- National origin;
- Gender;
- Income level;
- Disabling condition;
- Proficiency in the English language;
- Measure of achievement;
- Aptitude; or
- Athletic ability.

A transfer student would be granted a one-year transfer but could continue to attend the school district in the following year subject to the board's approval. At the end of each school year, a school district would be authorized to deny continued enrollment of any nonresident student based on the district's capacity and other exclusion policies.

The bill would prohibit school districts from charging tuition or fees to any nonresident student except fees otherwise charged to every student enrolled and attending in the school district.

Any foster child who is living in the home of a nonresident student who transfers may attend school in the receiving school district.

### *Appeals Process*

A parent of a student seeking a transfer would be required to apply to the school district. The bill would allow the parent to appeal the denial to the board of such school district if a transfer request is denied by the school district. Such board would be required to consider the matter at the next meeting. If the board denies the appeal, the parent could appeal to the State Board of Education (State Board), which the bill would require to consider such appeal at the next regularly scheduled meeting.

### *Reporting Requirements*

School districts would be required to submit information on the program by October 1 of the current year, to the Kansas State Department of Education (KSDE), which will collect and report such data. KSDE would be required to randomly select one school district each year and audit such school district to evaluate the district's approved and denied nonresident student transfers and the district's capacity level to determine whether the school district complies with nonresident student transfer laws and policies. KSDE would also be required to annually report the results of such audit to the Legislature.

### *Funding*

The bill would require nonresident students to be counted as regularly enrolled in the school district they are attending for purposes of school funding under the Kansas School Equity and Enhancement Act.

School districts entering into agreements related to resident students attending a nonresident school district would still count said students for purposes of school funding. However, the school district would be responsible to pay the receiving school district for said student.

## **Background**

Sub. for HB 2615, as recommended by the House Committee on K-12 Education Budget, incorporates the contents of HB 2553, as amended, and HB 2550, as amended.

[*Note:* The contents of HB 2615 as introduced regarding alternative educational opportunities and HB 2550 regarding student savings accounts were removed from the amended substitute bill.]

### ***HB 2615 (Alternative Educational Opportunities)***

The bill was introduced by the House Committee on K-12 Education Budget.

#### *House Committee on K-12 Education Budget*

In the House Committee hearing on the bill, as introduced, **proponent** testimony was provided by Representative Thomas and representatives of Americans for Prosperity and yes.every.kid. Proponents generally stated the bill would give students the opportunity to learn outside of the classroom and prepare them for the workforce.

Neutral testimony was provided by a representative from the Kansas Association of School Boards. Neutral written-only testimony was provided by a representative from the State Board. Neutral testimony generally stated that while the education opportunities may be beneficial for students, the requirement to submit plans to the State Board would put an undue burden on the State Board and stated it would be impractical for the State Board and the KSDE to provide effective evaluation of such programs.

No other testimony was provided.

The House Committee amended the bill to:

- Allow a sponsoring entity of an educational opportunity to petition the State Board to approve an alternative educational opportunity that is provided through such sponsoring entity if the educational opportunity is generally applicable on a statewide or regional basis. The State Board would be required to review such proposal within 90 days and if approved, any school district would be permitted to implement such alternative education opportunity. If denied, the State Board would be required to provide cause of the denial;
- Remove language requiring accountability measures for alternative education opportunities and sponsoring entities;
- Remove language requiring alternative educational opportunities to improve the academic success of students; and
- Include the contents of HB 2553, as amended, and HB 2550, as amended.

The House Committee recommended a substitute bill be passed.

On February 23, 2022, the bill was withdrawn from the Calendar and referred to the Committee on Appropriations. The bill was then re-referred to the Committee on K-12 Education Budget on March 7, 2022.

The Committee amended the substitute bill on March 15, 2022, to:

- Remove contents of HB 2615 as introduced regarding alternative educational opportunities;
- Remove contents of HB 2550 regarding student savings accounts;

- Remove the requirement for school boards to allow any parent or person acting as parent to speak at the hearing on the district's capacity policy;
- Alter the required admission date for out-of-district transfers;
- Remove the requirement that students of military members be accepted as out-of-district transfers regardless of capacity;
- Reduce the number of times a student can transfer districts within a year from two to one;
- Reduce the number a times a district must determine capacity throughout the year from four to one; and
- Require districts to report transfer data to KSDE by October 1.

### ***Fiscal Information***

According to the fiscal note prepared by the Division of the Budget, HB 2615, as introduced, would have no fiscal effect on state aid to school districts or any administrative cost to the agency. Any fiscal effect on school districts that would choose to provide alternative educational opportunities for course credit would be borne by the school district. [*Note:* The House Committee removed these provisions from the bill.]

No updated fiscal note was available when the Committee took action on the substitute bill.

### ***HB 2553 (Non-resident District Enrollment)***

The bill was introduced by the House Committee on K-12 Education Budget at the request of Representative Johnson.

#### *House Committee on K-12 Education Budget*

In the House Committee hearing on HB 2553, **proponent** testimony was provided by representatives of Americans for Prosperity, ExcelinEd in Action, Kansas Policy Institute, and an Oklahoma State Senator. Proponent written-only testimony was provided by a representative of Kansas Family Voice. Proponents generally stated the bill would provide more choice to parents and students regarding where students attend school and that the bill would strengthen and expand public school open enrollment policies.

**Opponent** testimony was provided by a representative of the Kansas Association of School Boards. Opponent written-only testimony was provided by representatives of the Kansas National Education Association, Shawnee Mission School District PTA, State Board, and USD 207 (Fort Leavenworth), and by three private citizens. Opponents of the bill generally stated concerns that the decision to enroll students who are not residents of a school district should be made by the State Board, the provisions of the bill would encroach on local control, and students attending their resident school district have a sense of community.

The House Committee amended the bill to:

- Remove language requiring the Legislative Division of Post Audit to randomly select 10.0 percent of the school districts in the state and conduct an audit of each of the school district's approved and denied nonresident student transfers;

- Add language requiring the KSDE, each year, to randomly select one school district and audit such school district to evaluate the school district's approved and denied nonresident student transfers and the district's capacity level to determine whether the school district complies with nonresident student transfer laws and policies. The KSDE would be required to annually report the results of such audit to the Legislature;
- Add language to require, on or before January 1, 2023, each board of education of a school district to adopt a policy 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. The policy would be required to specify the reasons that may be used by such board to deny nonresident transfer requests;
- Add language to require that any parent, or person acting as parent, present or attending the presentation of a school board's proposed policy be allowed to speak at the public hearing [*Note:* The House Committee removed this provision on March 15]; and
- Add language to have requirements of the bill fulfilled on or before July 1, 2023.

### ***Fiscal Information***

An updated fiscal note was not immediately available when the Committee took action on HB 2553.

### ***HB 2550 (Student Savings Accounts)***

[*Note:* Provisions of HB 2550 would not be included in Substitute for HB 2615 as amended.]

The bill was introduced by the House Committee on K-12 Education Budget at the request of Representative Penn.

*House K-12 Education Committee*

In the House Committee hearing on the bill, as introduced, **proponent** testimony was provided by representatives of EdChoice and the Kansas Policy Institute. Proponent written-only testimony was provided by a representative of Americans for Prosperity. Proponents generally stated that educational choice creates better opportunities for students and the bill would empower families.

**Opponent** testimony was provided by representatives of Game On for Kansas Schools, the Kansas Association of School Boards, the Kansas PTA, the Kansas State Treasurer, the Mainstream Coalition, and two private citizens. Opponent written-only testimony was provided by representatives of the Kansas Association of Special Education Administrators, Kansas National Education Association, Olathe Public Education Network, Shawnee Mission School District PTA, State Board, USD 299 (Blue Valley), USD 512 (Shawnee Mission), USD 500 (Kansas City), and 22 private citizens. Opponents of the bill generally expressed concern that public school funding would be diverted to private schools, private schools do not have the same accountability measures as public schools, and certain students may not have access to specialized services in private schools.

Neutral written-only testimony was provided by representatives of the Department of Administration and Equality Kansas. Neutral testimony generally expressed concerns on the administrative burden the bill could result in and the bill would divert tax-payer money to private organizations.

The House Committee amended the bill to require each qualified private school to be accredited by the State Board or

by any national or regional accrediting organization and remove home schools and non-accredited private schools from the definition of “qualified private schools.”

***Fiscal Information***

The fiscal note prepared by the Division of the Budget on HB 2550 as introduced would not be relevant to Substitute for HB 2615 as amended; those contents were removed from the bill.

The fiscal note on HB 2550 as introduced included a summary of administrative, employee, and account maintenance costs from the State Treasurer; estimates of costs from KSDE related to use of these accounts at private schools; and discussion from the Department of Revenue regarding income tax collected on contributions to student accounts.

Education; enrollment; non-resident districts