

SESSION OF 2021

SUPPLEMENTAL NOTE ON SENATE BILL NO. 173

As Amended by Senate Committee on
Education

Brief*

SB 173, as amended, would amend and enact new law supplemental to the Kansas School Equity and Enhancement Act (Act). The bill would reauthorize the high density at-risk student weighting, declare legislative intent, require the implementation of at-risk educational programs and services, and clarify spending restrictions for at-risk funding.

High Density At-risk Weighting

The bill would remove the expiration date of July 1, 2020, and continue the high density at-risk student weighting indefinitely.

[Note: 2020 SB 66 (the appropriations bill) extended this weighting through FY 2022 by proviso.]

Purpose of At-Risk and High Density At-Risk Weightings

The bill states the purpose of the at-risk and high density at-risk student weightings is to provide eligible students with evidence based, at-risk programs and services (Programs and Services) in addition to their regular instructional services.

*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 Eligibility

The bill would define students as at-risk and eligible for Programs and Services if the student meets one or more of the following criteria:

- Not working at academic grade level;
- Not meeting requirements for promotion to the next grade level or is failing subjects or courses of study;
- Not meeting requirements for graduation from high school or has the potential to drop out of school;
- Has insufficient mastery of skills or is not meeting state standards;
- Has been retained;
- Has high rate of absenteeism;
- Has repeated suspensions or expulsions from school;
- Is homeless or migrant;
- Is identified as an English language learner;
- Has social-emotional needs causing the student to be unsuccessful in school; or
- Is identified as a student with dyslexia or has characteristics of dyslexia.

At-risk Educational Programs and Services

The bill would require the State Board of Education (Board) to require school districts (districts) to implement Programs and Services using the at-risk best practices

identified in current law to assist eligible students in achieving educational outcome goals. The Board would be required to provide a list of approved Programs and Services to each district, and the State Department of Education (KSDE) would be required to publish the list on its website with a link prominently displayed on its homepage.

The bill would require the portion of State Foundation Aid (Aid) attributable to the at-risk and high density at-risk student weightings to be transferred by each district to the district's own At-risk Education Fund.

The bill would amend eligible expenditures from At-risk Education Funds to include only the following:

- At-risk and provisional at-risk programs (amended by the bill to include and provisional at-risk programs);
- Personnel providing educational services in conjunction with such programs (current law);
- Support for instructional classroom personnel designed to provide training for evidence-based best practices for at-risk educational programs (new); or
- Services contracted for by the school district to provide at-risk and provisional at-risk educational programs (amended to include at-risk and provisional programs and removing a reference to best practices).

The bill would define an "at-risk educational program" as an at-risk program or service identified and approved by the Board as an evidence-based best practice. A "provisional at-risk educational program" (provisional program) would be defined as an evidence-based at-risk education program or service identified or developed by a district as producing or

likely to produce measurable success and has been submitted to the Board for review.

The bill would limit expenditures from a district's At-risk Education Fund to those programs or services included on the list approved by the Board unless the program is a provisional program.

A provisional program could only be funded for a maximum of three years unless approved by the Board and included on the list of approved programs.

The bill also would state the delivery of Programs and Services by a district may occur, but is not limited to, the following:

- Extended school year;
- Before-school programs and services;
- After-school programs and services;
- Summer school;
- Extra support within a class;
- Tutorial assistance; and
- Class within a class.

Expenditure of High Density At-risk Funding on Ineligible Activities

Current law states that, if a district does not expend its high density at-risk weighting funds (Funds) on best practices, it must show improvement within five years through either percentages of students at grade level on state assessments, college and career-ready on state assessments, average composite ACT score, or four-year graduation rate, or it would be disqualified from receiving the

high-density at-risk student weighting in the succeeding school year.

The bill would amend this law by removing the improvement requirements and state if a district does not spend the Funds on best practices, then the district must repay such moneys to the district's At-risk Education Fund. The Board would be required to notify the House and Senate standing committees on Education on or before January 15 each year of any school districts repaying the Funds in this manner and the amounts each district repaid the preceding school year.

If a district does not spend money on such best practices for three consecutive years the bill would make the district ineligible to continue receiving the high density at-risk weighting.

Reporting Requirements

The bill would clarify continuing law the reports each district must file with the Board on the at-risk and provisional programs and services offered by the district. The bill would update the required information to be included in the reports:

- Number of students identified as eligible to receive at-risk or provisional programs and services who were served or provided assistance;
- Type of at-risk and provisional at-risk programs and services provided, including the number of students assisted under approved programs;
- Data and research utilized by the district to determine what programs and services were needed;
- Other information required by the Board; and

- Longitudinal performance of students continuously receiving Programs and Services and may include data regarding:
 - State assessment scores;
 - Kansas English language proficiency assessment results;
 - Four-year graduation rates;
 - Progress monitoring;
 - Norm-referenced test results;
 - Criterion-based test results;
 - Individualized education program goals; or
 - Attendance and average ACT composite scores.

Audit Requirements

The bill would require a performance audit of at-risk education expenditures by the Legislative Division of Post Audit (LPA). The audit would evaluate the following:

- How districts are expending at-risk education funds;
- Whether expenditures comply with statutory provisions;
- Whether the Board and KSDE are acting in accordance with statutory provisions regarding at-risk expenditures and programs; and
- Trends in academic outcomes of students receiving Programs and Services.

The audit would be conducted during calendar year 2023, and the final report provided to the Legislature on or before January 15, 2024.

Technical Changes

The bill would also make technical changes.

Background

The bill was introduced by the Senate Committee on Education at the request of Senator Baumgardner.

Senate Committee on Education

In the Senate Committee hearing, **proponent** testimony was provided by representatives of the Kansas Association of School Boards, Kansas National Education Association, Kansas Policy Institute, Kansas School Superintendents Association, and the United School Administrators of Kansas. Written-only **proponent** testimony was provided by the Kansas State Board of Education and the Topeka Public Schools (USD 501). The **proponents** generally stated the bill would provide stability regarding the high density at-risk student weighting and provides strong guidance for the expenditure of such funds while also maintaining flexibility to test new programs or services.

Neutral testimony was provided by a representative of the LPA. The neutral conferee generally stated that during LPA's audit, most of the reviewed at-risk funding was spent on teachers and programs that service all students rather than solely at-risk students. The conferee also stated LPA believed the sunset provision in law created a conflict with other provisions.

The Senate Committee adopted amendments to:

- Add "characteristics of dyslexia" to eligibility criteria for being identified as an at-risk student;

- Amend the consequence for failing to expend high-density at-risk funds on best practices to require repayment;
- Amend the time frame for disqualification of a district receiving high density at-risk weighting funding;
- Remove the sunset on high density at-risk weighting; and
- Amend the dates for the audit to be conducted.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, KSDE states the bill would not affect state aid payments to school districts. The LPA indicates the cost of the additional audit could be met within the agency's current budget and staffing levels.

Education; high density at-risk weighting; at-risk weighting; Legislative Division of Post Audit; school district