

SESSION OF 2022

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 455**

As Amended by Senate Committee on  
Education

**Brief\***

SB 455, as amended, would establish a transfer system for nonresident students between unified school districts based upon the student capacity of each unified school district.

***Definitions (Section 1)***

The bill would define various terms including, but not limited to, “homeless child,” “nonresident student,” “receiving school district,” and “sending school district.”

***Transfer Policy (Section 2)***

The bill would require that each board of education (board) of a school district (district) adopt a policy to determine the capacity of the district to accept nonresident students in each grade level on or before January 1, 2023.

The policies would be required to be consistent with the provisions of the bill and must clearly specify reasons for the denial of continued enrollment by a nonresident student. Such reasons for denial could include, but would not be limited to, elements such as a nonresident student’s history of school absenteeism, suspensions, or expulsions.

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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>

The bill would require policies adopted by the board pursuant to this bill to be published on the district's website.

***Public School Eligibility (Section 3)***

The bill would amend the law regarding where students may attend public school by no longer requiring a student's resident school district to have an agreement with the nonresident school district where the student wishes to attend.

***Open Enrollment Procedure (Section 4)***

The bill would authorize that, beginning in the 2023–2024 school year, any student eligible to attend a public school within the state may attend a school within a district regardless of whether the student is a resident of the district or not if the nonresident district has open capacity.

***Capacity***

The bill would require capacity to be determined as the classroom student-teacher ratio in each grade for grades kindergarten through 8 and the student-teacher ratio for each school building or program in each school building for grades 9 through 12.

On or before May 1 of each year, each local board would be required to determine the following for each grade level in each school building within the district:

- Capacity of the district;
- Number of students expected to attend school in the district; and
- Number of open seats available for nonresident students.

The number of open seats available for nonresident students would be required to be published on the district's website by June 1 of each year for each grade level at each school building.

The bill would require this process to occur again on or before October 1 for the following semester with the number of open seats available for nonresident students to be published on the district's website by November 1 of that year.

#### *Transfer Application Process*

The bill would allow students to submit applications to nonresident school districts between June 1 and June 30 each year for the fall semester.

If the number of applications to a district is equal to or less than the available capacity for a grade level in a district then all applicants would be required to be accepted for enrollment within the district. If the number of applications exceeds the capacity for a grade level within the district, then the district would randomly select nonresident students via a lottery process on or before July 15 of each year.

The bill would also require the district to accept applications from nonresident students between November 1 and November 30 of each year for the spring semester. Any lottery process required by a district would need to be completed by December 15 of each year.

#### *Student Denial*

The bill would require any districts denying the continued enrollment of a nonresident student or the acceptance of a new nonresident student to notify the student's parent or guardian of the reason for denial.

[*Note*: Students would only be denied acceptance to a nonresident district if there is no capacity or they were not selected during the lottery process.]

### *Nonresident Enrollment Priority and Exceptions*

The bill would provide priority enrollment to the siblings of an accepted, nonresident student during the initial acceptance or at any other time the district considers applications. Siblings would not be subject to the open seat lottery.

The bill would allow any students in the custody of the Department of Children and Families (DCF) living in the home of a nonresident student to attend school in the receiving district.

Any student whose parent or guardian is a member of the United States armed forces on active duty would be allowed to attend the district of the student's choice regardless of capacity. To be eligible, a student's parent would be required to have been issued a U.S. Department of Defense identification card and could provide evidence they will be on active duty for more than 30 consecutive days.

### *Prohibitions*

The bill would prohibit districts from charging tuition or fees to nonresident students except for fees otherwise charged to every student enrolled and attending in the district. Districts would also be prohibited from admitting or denying students based upon the following criteria:

- Ethnicity;
- National origin;
- Gender;

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

#### *Continued Enrollment*

The bill would state that any nonresident student who has been accepted for enrollment and attendance at a receiving district could continue at the district until the student graduates from high school or is no longer in good standing based upon the nonresident transfer policy of the district.

The bill would reaffirm that students may enroll at any time in the district in which the student resides.

A student would only be allowed to transfer up to two times per year with the exception of students in the custody of DCF.

#### *Transportation*

The bill would not require a district to provide transportation to nonresident students; however, if space is available on district transportation vehicles, a district could provide nonresident students with a bus stop within the district where transportation could be provided to and from school for nonresident students.

### *Kansas State High School Athletics Association*

The bill would state that nonresident students who transfer would be subject to policies and requirements of the Kansas State High School Athletics Association.

### *Reporting*

The bill would require boards to submit the number of nonresident student transfers approved, denied, and the reason for the denials to the State Department of Education (KSDE). Such numbers would be compiled by KSDE and would be reported on the KSDE website and provided to the Legislative Division of Post Audit (LPA).

The bill would require KSDE to audit a district's nonresident student capacity and enrollment during a district's annual enrollment audit.

In calendar year 2026, the bill would require the Legislative Post Audit Committee to direct LPA to conduct an audit of nonresident student transfers. The audit would be required to be presented to the Legislative Post Audit Committee on or before January 15, 2027, and then presented to the House Committee on K-12 Education Budget and the Senate Committee on Education.

### ***Corresponding Changes (Sections 5–7)***

The bill would make corresponding changes to other sections of law.

### **Background**

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

### ***Senate Committee on Education***

In the Senate Committee hearing, **proponent** testimony was provided by representatives of Americans for Prosperity–Kansas, Excel in Ed in Action, and the Kansas Policy Institute. Proponents generally stated the bill would benefit students by allowing them to select the school best for their educational needs. Written-only proponent testimony was provided by a representative of yes. every kid. and a private citizen.

**Opponent** testimony was provided by representatives of the Kansas Association of School Boards, Kansas School Superintendents Association, and USA–Kansas. The opponents generally stated these types of transfers already occur and work well without the bill. The opponents also stated this is an issue that should be left to local control. Written-only opponent testimony was provided by representatives of the Kansas National Education Association, State Board of Education, USD 229 Blue Valley Schools, and USD 233 Olathe Public Schools.

The Senate Committee amended the bill with the following changes:

- Require adoption of transfer policies by every school district and that such policies be published on the district website;
- Have the transfer process begin during the 2023–2024 school year rather than the 2022–2023 school year;
- Define the determination of capacity to be based upon student teacher ratios;
- Establish dates by which specific elements of the transfer process must be completed by;

- Establish a lottery process to determine acceptance of nonresident students if the number of applications exceed a district's capacity;
- Clarify sibling priority for nonresident transfers;
- Change the length of transfer from one year transfers to the graduation of the student from high school;
- Limit transfers to two times per school year;
- Clarify that districts are not required to provide transportation for nonresident students; and
- Amend reporting and audit requirements.

### **Fiscal Information**

No fiscal note was available at the time of committee action on the bill.

Education; school district; open enrollment; students; transfers; Kansas State High School Athletics Association; Legislative Division of Post Audit; Legislative Post Audit Committee