

SENATE BILL No. 455

By Committee on Education

2-8

1 AN ACT concerning education; relating to school attendance; allowing
2 students to transfer to and attend school in any school district in the
3 state; requiring school districts to set transfer capacity and adopt certain
4 transfer policies; establishing an appeals process if a transfer request is
5 denied; amending K.S.A. 72-13,101, 72-3122, 72-3123, 72-3124 and
6 72-3125 and repealing the existing sections.
7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. As used in K.S.A. 72-3122 through 72-3125, and
10 amendments thereto:

11 (a) "Homeless child" means a child who lacks a fixed, regular and
12 adequate nighttime residence and whose primary nighttime residence is:

13 (1) A supervised publicly or privately operated shelter designed to
14 provide temporary living accommodations, including welfare hotels,
15 congregate shelters and transitional housing for the mentally ill;

16 (2) an institution that provides a temporary residence for individuals
17 intended to be institutionalized; or

18 (3) a public or private place not designed for, or ordinarily used as, a
19 regular sleeping accommodation for humans.

20 (b) "Nonresident student" or "nonresident transfer student" means a
21 student who is enrolled and in attendance at or seeking to enroll and attend
22 a school located in a district where such student is not a resident.

23 (c) "Parent" means and includes natural parents, adoptive parents,
24 stepparents and foster parents.

25 (d) "Person acting as parent" means:

26 (1) A guardian or conservator; or

27 (2) a person, other than a parent, who:

28 (A) Is liable by law to maintain, care for or support the child;

29 (B) has actual care and control of the child and is contributing the
30 major portion of the cost of support of the child;

31 (C) has actual care and control of the child with the written consent of
32 a person who has legal custody of the child; or

33 (D) has been granted custody of the child by a court of competent
34 jurisdiction.

35 (e) "Receiving school district" means a school district of
36 nonresidence of a student who attends school in such school district.

1 (f) "School district" means a school district organized and operating
2 under the laws of this state.

3 (g) "Sending school district" means a school district of residence of a
4 student who attends school in a school district not of the student's
5 residence.

6 (h) "Sibling" means a brother or sister of the whole or half blood,
7 adoptive brother or sister, a stepbrother or stepsister or a foster brother or
8 foster sister.

9 Sec. 2. K.S.A. 72-3122 is hereby amended to read as follows: 72-
10 3122. (a) Any child who has attained the age of eligibility for school
11 attendance may attend school in the district ~~in which~~ where the child lives,
12 if:

13 (1) The child lives with a resident of the district and the resident is the
14 parent, or a person acting as parent, of the child; ~~or~~

15 (2) subject to the provisions of subsection (c), the child lives in the
16 district as a result of placement therein by a district court or by the
17 secretary for children and families; or

18 (3) the child is a homeless child.

19 (b) Any child who has attained the age of eligibility for school
20 attendance may attend school in a school district ~~in which~~ where the child
21 is not a resident ~~if the school district in which the child resides has entered~~
22 ~~into an agreement with such other school district in accordance with and~~
23 ~~under authority of~~ K.S.A. 72-13,101, 72-3123 or 72-3125, and
24 amendments thereto.

25 (c) Any child who has attained the age of eligibility for school
26 attendance and who lives at the Judge James V. Riddel boys ranch as a
27 result of placement at such ranch by a district court or by the secretary for
28 children and families shall be deemed a resident of unified school district
29 No. 259, Sedgwick county, Kansas, ~~and~~. Any such child may attend
30 school, which shall be maintained for such child by the board of education
31 of such school district as in the case of a child who is a bona fide resident
32 of the district.

33 (d) ~~As used in this section:~~

34 (1) ~~"Parent" means and includes natural parents, adoptive parents,~~
35 ~~stepparents, and foster parents;~~

36 (2) ~~"person acting as parent" means (A) a guardian or conservator, or~~
37 ~~(B) a person, other than a parent, who is liable by law to maintain, care for,~~
38 ~~or support the child, or who has actual care and control of the child and is~~
39 ~~contributing the major portion of the cost of support of the child, or who~~
40 ~~has actual care and control of the child with the written consent of a person~~
41 ~~who has legal custody of the child, or who has been granted custody of the~~
42 ~~child by a court of competent jurisdiction; and~~

43 (3) ~~"homeless child" means a child who lacks a fixed, regular, and~~

1 adequate nighttime residence and whose primary nighttime residence is:
2 (A) A supervised publicly or privately operated shelter designed to provide
3 temporary living accommodations (including welfare hotels, congregate
4 shelters, and transitional housing for the mentally ill); or (B) an institution
5 that provides a temporary residence for individuals intended to be
6 institutionalized; or (C) a public or private place not designed for, or
7 ordinarily used as, a regular sleeping accommodation for human beings.

8 Sec. 3. K.S.A. 72-3123 is hereby amended to read as follows: 72-
9 3123. (a) *(1) On and after July 1, 2022, the board of education of any*
10 *school district is hereby authorized to permit pupils who are not residents*
11 *of the school district shall permit nonresident students to enroll in and*
12 *attend the schools of the district. The board of education may permit such*
13 *pupils to attend school without charge or, subject to the provisions of*
14 *subsection (b), may charge such pupils for attendance at school to offset,*
15 *totally or in part, the costs of providing for such attendance. Amounts*
16 *received under this subsection by the board of education of a school*
17 *district for enrollment and attendance of pupils at school in regular*
18 *educational programs shall be deposited in the general fund of the school*
19 *district.*

20 (b) *Pupils who are not residents of a school district and are attending*
21 *the schools of the school district in accordance with the provisions of an*
22 *agreement entered into under authority of K.S.A. 72-13,101, and*
23 *amendments thereto, shall not be charged for attendance at school. The*
24 *costs of providing for the attendance of such pupils at school shall be paid*
25 *by the school district of residence of the pupils in accordance with the*
26 *provisions of the agreement. at any time during the school year unless the*
27 *number of transfers exceeds the capacity of a grade level for each school*
28 *of a school district as determined pursuant to subsection (e).*

29 (2) *The school district shall enroll transfer students in the order in*
30 *which the school district received the nonresident student transfer*
31 *applications. If the capacity of a grade level for each school of a school*
32 *district is insufficient to enroll all nonresident students, the school district*
33 *shall select nonresident students when capacity becomes available in the*
34 *order in which the school district receives the nonresident student transfer*
35 *applications.*

36 (3) *A school district shall not charge tuition or fees to any*
37 *nonresident student who transfers to such school district pursuant to this*
38 *section except fees that are otherwise charged to every student enrolled in*
39 *and attending school in the district.*

40 (4) *A school district may deny enrollment to a nonresident student in*
41 *accordance with the policy adopted pursuant to subsection (e). A school*
42 *district shall not accept or deny a nonresident student transfer based on*
43 *ethnicity, national origin, gender, income level, disabling condition,*

1 *proficiency in the English language, measure of achievement, aptitude or*
2 *athletic ability.*

3 *(5) A nonresident student may be granted a one-year transfer and*
4 *may continue to attend the receiving school district each year with the*
5 *approval of the receiving school district. At the end of each school year, a*
6 *school district may deny continued enrollment of the nonresident student*
7 *in accordance with the policy adopted pursuant to subsection (e).*

8 *(b) (1) Any student who is the dependent child of a current member of*
9 *the United States armed forces, as defined in K.S.A. 48-3601, and*
10 *amendments thereto, shall be eligible for admission to the school district*
11 *of such student's choice regardless of the capacity of the school district. To*
12 *be eligible, such student shall have at least one parent who:*

13 *(A) Has been issued a federal department of defense identification*
14 *card; and*

15 *(B) can provide evidence that such parent is or will be on active duty*
16 *status or active duty orders. "Active duty orders" means official military*
17 *orders to another location in support of combat, contingency operation or*
18 *a natural disaster for more than 30 consecutive calendar days.*

19 *(2) Any sibling of a nonresident student who transfers may attend*
20 *school in the receiving school district if such school district has the*
21 *capacity for such sibling and the school district has no reason for denial*
22 *in accordance with the policy adopted pursuant to subsection (e).*

23 *(3) Any child in the custody of the department for children and*
24 *families who is living in the home of a nonresident student who transfers*
25 *may attend school in the receiving school district.*

26 *(c) A student may always enroll at any time in the school district*
27 *where such student resides. Except for a child in the custody of the*
28 *department for children and families, a nonresident student shall not*
29 *transfer more than two times per school year to one or more receiving*
30 *school districts.*

31 *(d) The parent of a student seeking a transfer shall apply on an*
32 *application form prescribed by the state board. The application shall be*
33 *filed with the superintendent of the receiving school district. On or before*
34 *the first day of January, April, July and October, the superintendent shall*
35 *file with the state board of education a statement that includes the names*
36 *of the nonresident students granted a transfer to the school district, the*
37 *sending school district of such student and the grade level of such student.*

38 *(e) On or before January 1, 2023, each board of education of a*
39 *school district shall adopt a policy to determine the number of nonresident*
40 *students that the school district has the capacity to accept in each grade*
41 *level for each school of the school district and the reasons for denial of*
42 *any application of a nonresident student seeking to transfer to such*
43 *district. The reasons for denial may include, but not be limited to, high*

1 rates of absenteeism and repeated suspensions or expulsions from school.
2 Such policy shall be posted on the school district's website.

3 (f) By each first day of January, April, July and October, the board of
4 education of each school district shall determine the number of
5 nonresident students the school district has the capacity to accept in each
6 grade level for each school of the school district. After determining the
7 number of nonresident students the district has the capacity to accept, the
8 board of education shall publish such capacity number in a prominent
9 place on the school district's website and report such capacity number to
10 the state department of education.

11 (g) If a transfer request is denied by a school district, the parent of
12 the nonresident student who was denied transfer may appeal the denial to
13 the receiving school district board of education within 10 calendar days of
14 notification of such denial. The receiving school district board of
15 education shall consider the appeal at such board's next regularly
16 scheduled meeting. If the receiving school district board of education
17 denies the appeal, such parent may appeal the denial to the state board of
18 education within 10 calendar days of such denial. The parent shall submit
19 to the state board and the superintendent of the receiving school district a
20 notice of appeal on a form prescribed by the state board. The appeal shall
21 be considered by the state board at such board's next regularly scheduled
22 meeting in which the parent and a representative from the receiving school
23 district may address the state board. The state board shall promulgate
24 rules and regulations to establish an appeals process authorized by this
25 section.

26 (h) Each school district board of education shall submit to the state
27 department of education the number of nonresident student transfers
28 approved and denied by such board and whether the denials were based
29 on capacity or in accordance with the policy adopted pursuant to
30 subsection (e). The state department of education shall collect and report
31 such data on such department's website and make such data available to
32 the legislative division of post audit.

33 (i) Each year, the legislative division of post audit shall randomly
34 select 10% of the school districts in the state and conduct an audit of each
35 selected school district's approved and denied nonresident student
36 transfers. If the audit finds that a school district inaccurately reported
37 capacity levels, the department of education shall determine such capacity
38 levels for such school district.

39 Sec. 4. K.S.A. 72-3124 is hereby amended to read as follows: 72-
40 3124. (a) ~~As used in this section:~~

41 ~~(1) "School district" means a school district organized and operating~~
42 ~~under the laws of this state and no part of which is located in Johnson~~
43 ~~county, Sedgwick county, Shawnee county or Wyandotte county.~~

1 (2) ~~"Non-resident pupil" or "pupil" means a pupil who is enrolled and~~
 2 ~~in attendance at a school located in a district in which such pupil is not a~~
 3 ~~resident and who: (A) Lives 2¹/₂ or more miles from the attendance center~~
 4 ~~the pupil would attend in the district in which the pupil resides and is not a~~
 5 ~~resident of Johnson county, Sedgwick county, Shawnee county or~~
 6 ~~Wyandotte county; or (B) is a member of the family of a pupil meeting the~~
 7 ~~condition prescribed in subparagraph (A).~~

8 (3) ~~"Member of the family" means a brother or sister of the whole or~~
 9 ~~half blood or by adoption, a stepbrother or stepsister, and a foster brother~~
 10 ~~or foster sister.~~

11 (b) ~~The board of education of any school district may shall allow any~~
 12 ~~pupil student who is not a resident of the district to enroll in and attend~~
 13 ~~school in such district pursuant to K.S.A. 72-3123, and amendments~~
 14 ~~thereto. The board of education of such district may furnish or provide~~
 15 ~~transportation to any non-resident pupil nonresident student who is~~
 16 ~~enrolled in and attending school in the district pursuant to this section. If~~
 17 ~~the district agrees to furnish or provide transportation to a non-resident~~
 18 ~~pupil nonresident student, such transportation shall be furnished or~~
 19 ~~provided until the end of the school year. Prior to providing or furnishing~~
 20 ~~transportation to a non-resident pupil nonresident student, the receiving~~
 21 ~~school district shall notify the board of education of the sending school~~
 22 ~~district in which the pupil resides that transportation will be furnished or~~
 23 ~~provided for such student.~~

24 (e) ~~Pupils attending school in a school district in which the pupil does~~
 25 ~~not reside pursuant to this section~~

26 (b) *Nonresident students* shall be counted as regularly enrolled in and
 27 attending school in the *receiving school* district where the pupil is enrolled
 28 for the purpose of computations under the Kansas school equity and
 29 enhancement act, K.S.A. 72-5131 et seq., and amendments thereto, except
 30 computation of transportation weighting under such act, and for the
 31 purposes of the statutory provisions contained in article 64 of chapter 72 of
 32 the Kansas Statutes Annotated, and amendments thereto. Such ~~non-~~
 33 ~~resident pupil nonresident student~~ shall not be charged for the costs of
 34 attendance at school.

35 Sec. 5. K.S.A. 72-3125 is hereby amended to read as follows: 72-
 36 3125. (a) ~~As used in this section:~~

37 (1) ~~"Receiving school district" means a school district of~~
 38 ~~nonresidence of a pupil who attends school in such school district.~~

39 (2) ~~"Sending school district" means a school district of residence of a~~
 40 ~~pupil who attends school in a school district not of the pupil's residence.~~

41 (b) ~~The board of education of any school district may make and enter~~
 42 ~~into contracts with the board of education of any receiving school district~~
 43 ~~located in this state for the purpose of providing for the attendance of~~

1 ~~pupils~~ *students* at school in the receiving school district.

2 ~~(e)~~(b) The board of education of any school district may make and
 3 enter into contracts with the governing authority of any accredited school
 4 district located in another state for the purpose of providing for the
 5 attendance of ~~pupils~~ *students* from this state at school in such other state or
 6 for the attendance of ~~pupils~~ *students* from such other state at school in this
 7 state.

8 ~~(d)~~(c) ~~Pupils~~ *Students* attending school in a receiving school district in
 9 accordance with a contract authorized by this section and made and
 10 entered into by such receiving school district with a sending school district
 11 located in this state shall be counted as regularly enrolled in and attending
 12 school in the sending school district for the purpose of computations under
 13 the Kansas school equity and enhancement act, K.S.A. 72-5131 et seq.,
 14 and amendments thereto.

15 ~~(e)~~(d) Any contract made and entered into under authority of this
 16 section is subject to the following conditions:

17 (1) The contract shall be for the benefit of ~~pupils~~ *students* who reside
 18 at inconvenient or unreasonable distances from the schools maintained by
 19 the sending school district or for ~~pupils~~ *students* who, for any other reason
 20 deemed sufficient by the board of education of the sending school district,
 21 should attend school in a receiving school district;

22 (2) the contract shall make provision for the payment of tuition by the
 23 sending school district to the receiving school district;

24 (3) if a sending school district is located in this state and the receiving
 25 school district is located in another state, the amount of tuition provided to
 26 be paid for the attendance of a ~~pupil~~ *student* or ~~pupils~~ *students* at school in
 27 the receiving school district shall not exceed $\frac{1}{2}$ of the amount of the
 28 budget per ~~pupil~~ *student* of the sending school district under the Kansas
 29 school equity and enhancement act, K.S.A. 72-5131 et seq., and
 30 amendments thereto, for the current school year; and

31 (4) the contract shall make provision for transportation of ~~pupils~~
 32 *students* to and from the school attended on every school day.

33 ~~(f)~~(e) Amounts received pursuant to contracts made and entered into
 34 under authority of this section by a school district located in this state for
 35 enrollment and attendance of ~~pupils~~ *students* at school in regular
 36 educational programs shall be deposited in the general fund of the school
 37 district.

38 ~~(g)~~(f) The provisions of subsection ~~(e)~~(3) (d)(3) do not apply to
 39 unified school district No. 107, Rock Hills.

40 ~~(h)~~(g) The provisions of this section do not apply to contracts made
 41 and entered into under authority of the special education for exceptional
 42 children act.

43 ~~(i)~~(h) The provisions of this section are deemed to be alternative to

1 the provisions of K.S.A. 72-13,101, and amendments thereto, and no
2 procedure or authorization under K.S.A. 72-13,101, and amendments
3 thereto, shall be limited by the provisions of this section.

4 Sec. 6. K.S.A. 72-13,101 is hereby amended to read as follows: 72-
5 13,101. (a) In accordance with the provisions of this section, the boards of
6 education of any two or more unified school districts may make and enter
7 into agreements providing for the attendance of ~~pupils~~ *students* residing in
8 one school district at school in kindergarten or any of the grades one
9 through 12 maintained by any such other school district. The boards of
10 education may also provide by agreement for the combination of
11 enrollments for kindergarten or one or more grades, courses or units of
12 instruction.

13 (b) Prior to entering into any agreement under authority of this
14 section, the board of education shall adopt a resolution declaring that it has
15 made a determination that such an agreement should be made and that the
16 making and entering into of such an agreement would be in the best
17 interests of the educational system of the school district. Any such
18 agreement is subject to the following conditions:

19 (1) The agreement may be for any term not exceeding a term of five
20 years.

21 (2) The agreement shall be subject to change or termination by the
22 legislature.

23 (3) Within the limitations provided by law, the agreement may be
24 changed or terminated by mutual agreement of the participating boards of
25 education.

26 (4) The agreement shall make provision for transportation of ~~pupils~~
27 *students* to and from the school attended on every school day, for payment
28 or sharing of the costs and expenses of ~~pupil~~ *student* attendance at school,
29 and for the authority and responsibility of the participating boards of
30 education.

31 (c) Provision by agreements entered into under authority of this
32 section for the attendance of ~~pupils~~ *students* at school in a school district of
33 nonresidence of such ~~pupils~~ *students* shall be deemed to be in compliance
34 with the kindergarten, grade, course and units of instruction requirements
35 of law.

36 (d) The board of education of any school district ~~which~~ *that* enters
37 into an agreement under authority of this section for the attendance of
38 ~~pupils~~ *students* at school in another school district may discontinue
39 kindergarten or any or all of the grades, courses and units of instruction
40 specified in the agreement for attendance of ~~pupils~~ *students* enrolled in
41 kindergarten or any such grades, courses and units of instruction at school
42 in such other school district. Upon discontinuing kindergarten or any
43 grade, course or unit of instruction under authority of this subsection, the

1 board of education may close any school building or buildings operated or
2 used for attendance by ~~pupils~~ *students* enrolled in such discontinued
3 kindergarten, grades, courses or units of instruction. The closing of any
4 school building under authority of this subsection shall require a majority
5 vote of the members of the board of education and shall require no other
6 procedure or approval.

7 (e) ~~Pupils~~*Students* attending school in a school district of
8 nonresidence of such ~~pupils~~ *students* in accordance with an agreement
9 made and entered into under authority of this section shall be counted as
10 regularly enrolled in and attending school in the school district of
11 residence of such pupils for the purpose of computations under the Kansas
12 school equity and enhancement act, K.S.A. 72-5131 et seq., and
13 amendments thereto.

14 (f) ~~Pupils~~*Students* who satisfactorily complete grade 12 while in
15 attendance at school in a school district of nonresidence of such ~~pupils~~
16 *students* in accordance with the provisions of an agreement entered into
17 under authority of this section shall be certified as having graduated from
18 the school district of residence of such ~~pupils~~ *students* unless otherwise
19 provided for by the agreement.

20 (g) *Students who are not residents of a school district and are*
21 *attending the schools of the school district in accordance with the*
22 *provisions of an agreement entered into under the authority of this section*
23 *shall not be charged for attendance at school. The costs of providing for*
24 *the attendance of such students at school shall be paid by the school*
25 *district of residence of the students in accordance with the provisions of*
26 *the agreement.*

27 Sec. 7. K.S.A. 72-13,101, 72-3122, 72-3123, 72-3124 and 72-3125
28 are hereby repealed.

29 Sec. 8. This act shall take effect and be in force from and after its
30 publication in the statute book.