

SB 428 Proponent Testimony – in person
Building Needs Assessment
Senate Education Committee
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March 13, 2024



Madam Chair and Members of the Committee,

We appreciate this opportunity to testify in support of SB 428 to enhance the building needs assessment process.

Kansas Policy Institute compiled evidence that most school districts have not complied with K.S.A. 72-1163 requirements over the last three years.

A [2021 investigation](#) of 25 districts found no evidence that the school needs assessment process took place, and some officials didn't seem aware of the legal requirement. The Kansas Association of School Boards told the Senate Education Committee that districts complied with the law, but no records existed because [education officials didn't believe the law required them to document their work](#).

The Legislature didn't buy that excuse. It amended the law in 2022, requiring school boards to answer three specific questions for each school, incorporate the information in their summer budget process, and publish the results on district websites. However, subsequent examinations of 27 districts found [none complied with the law](#) in 2022.

Last year, we sent Open Records requests to 25 districts, asking for documentation that school board members were allowed to conduct the assessments, not just review staff-prepared reports.

- Thirteen districts – Shawnee Mission, Topeka, Salina, Hays, Colby, Hutchinson, Leavenworth, Independence, Goddard, Derby, McPherson, Auburn-Washburn, and Eudora – claim that the school board was involved, maintaining that spending a few minutes reviewing staff-prepared reports at a board meeting constitutes compliance. But that is not “conducting” meetings. At the very least, board members should actively participate in discussions with teachers and principals so they hear concerns directly rather than being filtered through district management. The law requires school boards to review and sign off on the report for each school, but that is separate from the requirement to “conduct” meetings.
- Ten districts – Wichita, Kansas City, Blue Valley, Dodge City, Liberal, Pittsburg, Geary County, Lansing, Manhattan, and Newton – openly admitted that school board members did not attend needs assessment meetings.
- The other two – Maize and Louisburg – claimed that board members were included, but their documentation did not stand up to scrutiny.

Enhancements in SB 428

The modification in Section 1(a)(1) stipulates that each assessment “shall include input from board members, teachers employed by the school district, school site councils and attendance center administrators.”

The intent is for district officials to have documentation proving that the listed parties participated in the assessment meetings and their input was used to determine the educational barriers and the budget changes to overcome them; not to just review a report handed to them, which many districts contend is all the law requires, but to have direct input into the compilation of the final report.

USD 500 Kansas City is one example of a district that is not getting input from all interested parties in each school. The documentation on the district website [does not have the required information](#) published for any schools. Instead, the district has the results of a [survey](#) sent to board members with pre-determined multiple-choice options.

There are no budget change options listed in the staff-prepared survey. The choices are a collection of increased funding and spending more money, but not for reallocating money within the existing funding to overcome proficiency barriers.

7. District/Board Identified Barrier Removal: Identify the budget actions that should be taken to address and remove those barriers.

Check all that apply.

- Increased salary to recruit and retain high quality certified and classified staff
- Additional staff members hired to meet the individual learning and SEL needs of all students
- increased funding and time for staff development
- Additional substitute teachers for teacher release time
- Increase para-educator support in special education classrooms
- Increased funding to expand extended school year and summer school programs for students
- Maintain low teacher/pupil ratio for greater individualized instruction
- Additional ESOL teaching staff for bilingual instruction
- Increase funding for Pre-K programs
- Allocating budget to focus on prevention, identification, and intervention concerning trauma and mental health issues
- Other: _____

The survey also is designed to NOT answer Question 3 about the timeline for achieving proficiency. Each option is a different way of saying that a timeline cannot be established.

8. District/Board Identified Amount of Time: Identify the amount of time the Board estimates it will take for each student to achieve grade level proficiency on the state assessments if the budget actions would be implemented.

Mark only one oval.

- There is no way to accurately predict how children will respond to our interventions because we cannot fix the daily challenges they face. Many factor impact students' academic achievement, such as:
- While our Board of Education, administration, teachers and classified staff work tirelessly to meet the academic and social emotional needs of all of our students, too many factors come into play that do not allow us to accurately assess when all students will be at a certain level. Some of those factors include:
- We measure growth each year and document in our KESA plans our success on a variety of student success factors. We emphasize growth and strive to lead the world in the success of each student. Although we do this and are proud of the work we do, many factors make it impossible to estimate a time that every student will achieve a definition of grade level proficiency. Such factors include:
- Other: _____

Not attempting to estimate a timeline indicates the district has no real plan for improving student achievement. Timelines likely never will be exact but must be established to measure effectiveness of the efforts to improve.

Additional new language in SB 428 requires that board members be provided with annual reports showing the number of students who are not proficient and not academically prepared (Levels 1 and 2 on the state assessment) and those who are proficient and academically prepared (Levels 3 and 4).

Many school board members are shocked when we show them their state assessment results because they are not getting this information from the superintendent. Instead, they get generic comments like, ‘we’re doing better than the state average,’ or ‘we made some gains and still have room for improvement.’ Reality is much different than they have been led to believe. The required report must follow the format in SB 428 because many education officials falsely claim that Level 2 is considered academically prepared even though the Department of Education identifies [only Levels 3 and 4 as proficient and academically prepared](#).

There is also a modification in SB 428 that requires documentation of the budget changes identified in Question 2 of the assessment made to overcome the barriers identified in Question 1.

Many districts do not identify budget changes. The example below from [USD 501 Capital City High](#) in Topeka merely list things the district will continue to do. USD 501 Highland Park High says it will add a Dean of Students, but the assessment report does not specify the source of that funding to make the change.

USD 501 Capital City High School

Continue to fund special education teaching staff at an increased student to teacher to student ratio of 4.5:1. Continue to fund para to teacher ratio of 3.75/:1. Continue to ensure staff/student ratio for mental health and EL staff is equitable. Continue to use funds to Play for staff to attend any needed after school training. Continue to fund 2 FTE School Improvement Specialists and 1 FTE Ci3T Coordinator. Continue to fund .50 FTE Mental Health Liaison (.25 At Risk/.75 MHIT grant), 1 FTE Learning Loss Para and 1 FTE Mental Health Mentor (ESSER).

USD 501 Highland Park High

Add 1. FTE Dean of Students. Continue to fund 1 FTE instructional coach through ESSER funding, 1 FTE College and Career Advocate, 2 FTE interventionists. Continue to ensure staff/student ratio for mental health/EL/SPED staff is equitable. Continue to use funds to Play for staff to attend any needed after school training. Continue to fund 2 FTE School Improvement Specialists and 1 FTE Ci3T Coordinator. Continue to fund .50 FTE Mental Health Liaison (.25 At Risk/.75 MHIT grant), 1 FTE Learning Loss Para and 1 FTE Mental Health Mentor (ESSER).

USD 501 only has about one-third of students proficient in reading and math. How will they get to 75% proficiency by 2029 (as stated in their response to Question 3) without changing anything?

Conclusion and Recommendation

Conducting the needs assessment process in each school may be the most important role for school board members.

Outcomes were declining before the pandemic and have grown worse since then. Now, as many students are below grade level in reading and math as are proficient, and that won't change if school board members are prevented from fulfilling their legal obligation to conduct needs assessments.

The State Board of Education has not revoked the accreditation of districts that won't comply with K.S.A. 72-1163 even though accreditation is contingent upon complying with state and federal laws.

Given the general disregard for this law, we suggest an amendment requiring the State Board of Education to revoke the accreditation of districts found to be in violation of K.S.A. 72-1163.

The proposed amendment is attached to this testimony.

Year	State of Kansas - All Students Math			State of Kansas - All Students ELA		
	Below Grade Level	Grade Level, Needs Remedial Training	Proficient	Below Grade Level	Grade Level, Needs Remedial Training	Proficient
2015	23%	44%	32%	21%	37%	41%
2016	27%	38%	33%	24%	35%	40%
2017	28%	38%	33%	27%	34%	37%
2018	29%	38%	33%	29%	34%	37%
2019	28%	39%	33%	29%	34%	37%
2021	34%	38%	28%	30%	35%	35%
2022	34%	36%	29%	34%	34%	32%
2023	33%	36%	31%	33%	34%	33%

Source: KSDE; all students tested, rounded to the nearest whole number

SB 428 and our proposed amendment fall within the constitutional purview of the Legislature to provide for the educational interests of the state.

Article 6 §1 of the Kansas Constitution states: “The legislature shall provide for intellectual, educational, vocational, and scientific improvement by establishing and maintaining public schools, educational institutions and related activities, which may be organized **and changed in such manner as may be provided by law.**”

Article 6 §2 says, “The legislature shall provide for a state board of education which shall have general supervision of public schools, educational institutions and **all the educational interests of the state, except educational functions delegated by law to the state board of regents. The state board of education shall perform such other duties as may be provided by law.**”

The Kansas Supreme Court in *State v. Miller*, 212 Kan. 482, 511 P. 2d 705 (1973) addressed the meaning of “supervision:”

“Considering the frame of reference in which the term appears both in the constitution and the statutes, we believe ‘supervision’ means something more than advise but something less than control. The board of regents has such control over institutions of higher learning as the legislature shall ordain, but not so the board of education over public schools; its authority is to supervise.”

Courts universally agree that the **Kansas Constitution limits rather than confers power, and any power and authority not limited by the constitution remains with the people and their legislators.** *NEA Ft. Scott, supra.*

Accordingly, we encourage the Committee to approve SB 428 and we thank you for your consideration.

Proposed Amendment to SB 428

New Section 2. K.S.A. 2023 Supp. 72-5170 is hereby amended to read as follows: 72-5170. (a) (1) In order to accomplish the mission for Kansas education, the state board shall design and adopt a school district accreditation system based upon improvement in performance that equals or exceeds the educational goal set forth in K.S.A. 72-3218(c), and amendments thereto, and is measurable. The state board shall hold all school districts accountable through the Kansas education systems accreditation rules and regulations, or any successor accreditation system and accountability plan adopted by the state board. The state board also shall ensure that all school districts and the public schools operated by such districts have programs and initiatives in place for providing those educational capacities set forth in K.S.A. 72-3218(c), and amendments thereto. On or before January 15 of each year, the state board shall prepare and submit a report on the school district accreditation system to the governor and the legislature.

(2) The accountability measures established pursuant to paragraph (1) shall be applied both at the district level and at the school level. Such accountability measures shall be reported by the state board for each school district and each school. All reports prepared pursuant to this section shall be published in accordance with K.S.A. 2023 Supp. 72-1181, and amendments thereto.

(3) (A) *The school district accreditation system shall require school districts to be in compliance with K.S.A. 72-1163. Any school district not in compliance with K.S.A. 72-1163 shall not be accredited. A school district that is not accredited for failing to comply K.S.A. 72-1163 shall notify each parent of a student enrolled in such school district in writing that such school district is no longer accredited.*

(B) *After a school district is not accredited for failing to comply with K.S.A. 72-1163, such school district may only become accredited if an audit conducted by the state department of education determines that the school district made the changes necessary to be in compliance with K.S.A. 72-1163.*

(C) *The state board shall establish a process to allow an individual to challenge a determination of school district compliance or noncompliance with K.S.A. 72-1163.*

(4) If a school district is not fully accredited and a corrective action plan is required by the state board, such corrective action plan, and any subsequent reports prepared by the state board regarding the progress of such school district in implementing and executing such corrective action plan, shall be published on the state department of education's internet website and such school district's internet website in accordance with K.S.A. 2023 Supp. 72-1181, and amendments thereto.

(4) (5) If a school district is not accredited, the superintendent, or the superintendent's designee, shall appear before the committee on education of the house of representatives and the committee on education of the senate during the regular legislative session that occurs during the same school year in which such school district is not accredited. Such school district shall provide a report to such committees on the challenges and obstacles that are preventing such school district from becoming accredited.

(b) The state board shall establish curriculum standards that reflect high academic standards for the core academic areas of mathematics, science, reading, writing and social studies. The curriculum standards shall be reviewed at least every seven years. Nothing in this subsection shall be construed in any manner so as to impinge upon any school district's authority to determine its own curriculum.

(c) The state board shall provide for statewide assessments in the core academic areas of mathematics, science, reading, writing and social studies. The board shall ensure compatibility between the statewide assessments and the curriculum standards established pursuant to subsection (b). Such assessments shall be administered at three grade levels, as determined by the state board. The state board shall determine performance levels on the statewide assessments, the achievement of which represents high academic standards in the academic area at the grade level to which the assessment applies. The state board should specify high academic standards both for individual performance and school performance on the assessments.

(d) Each school year, on such date as specified by the state board, each school district shall submit the Kansas education system accreditation report to the state board in such form and manner as prescribed by the state board.

(e) Whenever the state board determines that a school district has failed either to meet the accreditation requirements established by rules and regulations or standards adopted by the state board or provide curriculum based on state standards and courses required by state law, the state board shall so notify the school district. Such notice shall specify the accreditation requirements that the school district has failed to meet and the curriculum that it has failed to provide. Upon receipt of such notice, the board of education of such school district is encouraged to reallocate the resources of the school district to remedy all deficiencies identified by the state board.

(f) Each school in every school district shall establish a school site council composed of the principal and representatives of teachers and other school personnel, parents of students attending the school, the business community and other community groups. School site councils shall be responsible for providing advice and counsel in evaluating state, school district, and school site performance goals and objectives and in determining the methods that should be employed at the school site to meet these goals and objectives. Site councils may make recommendations and proposals to the school board regarding budgetary items and school district matters, including, but not limited to, identifying and implementing the best practices for developing efficient and effective administrative and management functions. Site councils also may help school boards analyze the unique environment of schools, enhance the efficiency and maximize limited resources, including outsourcing arrangements and cooperative opportunities as a means to address limited budgets.

Sec. 23. K.S.A. 2023 Supp. 72-5170 and K.S.A. 2023 Supp. 72-1163 ~~is~~ *are* hereby repealed.

Sec. 34. This act shall take effect and be in force from and after its publication in the statute book.