

Testimony before Senate Education Committee
HB 2540 – Targeting at-risk funding to at-risk programs
Mike O’Neal – KPI
Testimony in support

March 11, 2020

Madam Chairman and members of the Committee

Thank you for the opportunity to appear in support of HB 2540, regarding the allocation and targeting of at-risk funding toward approved, best practices, evidence-based programs to serve students at-risk of failing to attain the educational goals set forth in existing law.

In recent legislative sessions the Kansas Legislature has gone to great effort in attempting to address the problems identified by the Kansas Supreme Court in *Gannon* and as confirmed by the KSDE’s own student performance statistics. In spite of unprecedented levels of additional legislatively approved funding for K-12, outcomes for students identified as at-risk have remained stagnant. Legislation intended to target at-risk funding toward the goal of lifting up at-risk students has failed, largely due to those funds being diluted at the district level. This phenomenon was recently and vividly illustrated in the Dec. 2019 Performance Audit conducted by our own Kansas Legislative Division of Post Audit.

I know that this Committee has seen the report and have been thoroughly briefed, but it’s important to reference the report’s findings again to set the stage for supporting the need for the provisions contained in HB 2540. LPA’s bottom-line conclusion was:

“The state’s at-risk funding is intended to provide additional services to students who are not performing adequately in school and are at risk of academic failure. At-risk funding is provided by the state to offer additional programs or services to these students to help them succeed. The state’s new requirement that at-risk funding be spent on evidence-based practices is poorly managed at the state level and not adequately implemented at the district level. Specifically, we found districts spent most of their at-risk funds on teachers without assurance the funding targets at-risk students or employs evidence-based practices and programs. That is in part because KSDE has provided districts with unclear, and at times, inaccurate guidance.”

LPA’s recommendations were:

- “1. The department should ensure that any guidance they provide to the districts reflects current state law.*
- 2. The department should establish a process to determine that any identified programs and practices are evidence-based and for at-risk students.*
- 3. The board should more thoroughly oversee the process for identifying at-risk programs and practices.”*

So, in light of these recommendations to KSDE and the State Board of Education, why the need for HB 2540? The answer lies in the strong push back to the LPA findings by both KSDE and the Board. Included in the response was a claim that the KSDE and the Board had, in fact,

complied with the law you passed. They also claimed that it was not your intent to have the Board actually publish a list of practices and programs.

Legislative Post Audit, on the other hand, stands firmly behind its conclusions. Their reasoning is two-fold:

“1. State law requires that the approved programs and practices be for at-risk programs and for the instruction of at-risk students. The programs and practices the board has approved are not related to at-risk programs or students. Instead, the board has approved general teaching resources. The department has asserted that if a program or practice is good for all students then it is good for at-risk students. We do not think this view reflects what state law directs the board to do.

2. State law requires the board to approve evidence-based programs and practices. The board asserted that every practice they have approved has been vetted by department staff. We asked to see this research, but department staff provided no evidence of a review. Additionally, the department’s website did not provide any information on the research or evidence supporting the approved programs and practices. As a result, we concluded the board’s approved programs and practices did not comply with this aspect of state law.”

Given the strong findings by LPA and the strong push back from KSDE and the State Board, our concern is that without a legislative response that clearly states your legislative directive and intent with regard to targeting at-risk funding toward at-risk students, the promise of improving the lives of these students will be an empty one, with funds continuing to be ineffectively spent and diluted at the district level.

HB 2540 is an effort to put teeth in the LPA’s recommendations. Just as the *Gannon* court directed the Legislature to “show its work” in devising a system of finance that in structure and implementation is reasonably calculated to have students be able to meet or exceed statutory goals, the Legislature should direct the KSDE and the State Board of Education to “show their work”, by identifying and approving actual at-risk programs that provide additional focused services to those at-risk students who continue to be left behind year after year. Then, those at-risk funds need to be expended only for programs that are known and proven to work based on evidence-based best practices.

At our suggestion the House amended the bill to provide local districts the opportunity to provisionally use an evidence-based at-risk program that, for whatever reason, does not appear on the SBOE’s list. If a school district has been using an evidence-based program that has yielded good measurable results, the district could use that program while awaiting Board formal approval. The House also added, at our suggestion, a second LPA compliance audit to be performed in 2022 with a report due to you in January of 2023.

We also support this Committee’s approval of SB 353, dealing with allocation of K-12 funding in district budgets. Unfortunately, it did not get worked before your deadline. We would respectfully request that it be amended into HB 2540.

I would be happy to address any questions the Committee may have.
