



Oral opponent testimony on

HB 2382

In

House K12 Education Budget Committee

By

Leah Fliter, Assistant Executive Director of Advocacy

Kansas Association of School Boards

Lfliter@kasb.org

Feb. 20, 2023

Madam Chair and members of the committee,

KASB appears today in strong opposition to HB 2382. It violates local school boards' constitutional rights to oversee their districts, could subject districts to cyberattacks, and puts boards at risk of violating state and federal laws.

Page 1, Section 1(b)(1), requiring all board members' emails to be disclosed and publicized, overrides our members' efforts to protect their districts from cybersecurity attacks. One of the simplest ways to hack into a school district's tech system is to send a spoofing or phishing email to board members or employees. If one person takes the bait, the entire district is at risk for a cybersecurity attack. This is why many districts have a fillable form on their website for those who want to email a person with a district account.

The legislature has been vocal, and rightfully so, about how school districts are addressing their vulnerability to cyberattacks. We urge the committee to reject all attempts to contravene legislative intent.

Page 1, Section 1(b)(2) sets districts up to violate the Kansas Open Records Act, would violate individual board members' privacy, and is unnecessary. State law requires that KORA requests be acted upon within 3 business days of receipt. In the event board members are maintaining records on private email accounts and district staff do not have access to those records, this hampers the district's ability to quickly respond to a KORA request. Our board members volunteer their time in service to public school districts and often have jobs which would not allow them to spend their workdays combing through emails and text messages to comply with district open records requests. To ensure these requests are met in a timely manner, it may require board members to share their personal account information with school staff, and this erodes their privacy in their personal and family accounts. Additionally, we urge legislators to understand this step is

Kansas Association of School Boards

1420 SW Arrowhead Rd, Topeka, KS 66604 • 785-273-3600 • www.kasb.org

unnecessary because many districts have equipped board of education members with school district email accounts to conduct district business, rather than allowing them to use private accounts that would be more vulnerable to hacking or other intrusions.

Page 1, Section 1(c) conflicts with local board policies for development of the board agenda by the board president and superintendent. Most districts also have policies on adding items to a board agenda by request. Finally, if a board member wishes to add an agenda item during the meeting, that member need only secure a second and the votes of three additional members to have that item placed on the meeting agenda. This process allows the board president to keep order and follow parliamentary procedure, keep the meeting moving, and ensure that initiatives the majority of the board do not wish to spend time on do not dominate the time they have together.

At the bottom of page 1, Section 1(d) overrides a board president's ability to keep order in a meeting, like a legislative committee chair's authority to preside over a committee meeting. Nothing in current law prohibits a board president from conducting a meeting as the bill prescribes; however, allowing board members to question or debate with a member of the public can lead to grandstanding by either side; lengthen the meeting; and intrude on the rights of other citizens who also wish to provide public comment.

These policies are designed to facilitate orderly board meetings and are like similar policies in place in legislative committees. We urge the committee to consider the optics of requiring school boards to comply with directives the legislature would not adopt for itself.

Page 2, Section 1(e), would make public comment a requirement at every board of education meeting. This is not presently a legal requirement, although we believe our boards allow time for public comment in most of their regular board meetings. We ask that our boards be allowed to determine, based on the length and nature of their agenda, whether to allow time for public comment at each meeting, especially special meetings that are generally called for a narrow purpose with a shortened agenda. Our boards go to great lengths to ensure board meetings are accessible to the public, as the law requires, and to seek input of individuals in attendance in most meetings. Similarly, there are several instances where the law requires them to have public hearings, which they dutifully hold. However, we ask that the board retain some ability to control their agenda, to ensure the necessary work of the board is accomplished at every meeting.

On page 2, Section 1(f) the bill raises serious concerns about potential violations of school district staff and student privacy rights and could expose the district to liability if student or staff rights are violated. Current law allows the full board of education to request protected records about employees or students to be discussed in executive session. Allowing a single board member to demand those protected records is unwise and could lead to violations of privacy laws. We oppose putting our employees and students at risk in this manner. Currently, an individual board member acting independently has the same rights to records under the Kansas Open Records Act that other patrons have. This serves to ensure that district information of a confidential nature has proper protections until it is the will of the board acting collectively to request a protected record for official purposes.

On page 2, Section 1(g) appears to conflict with the bill's earlier requirement that any board emails are subject to the KORA. It also puts board members at risk of "replying all" to emails and committing a Kansas Open Meetings Act violation. We oppose putting our board members at risk in this manner.

On page 2, Section 1(h), it states any board policies adopted contrary to the bill are null and void. Boards adopt policies regarding all of the items in this bill to ensure they're running the district efficiently, in the public interest, and in compliance with all state and federal laws. Unless the legislature is willing to change each one of the myriad laws that govern public schools in Kansas, including federal laws and regulations, we cannot condone asking our districts to violate those laws.

Regarding Section 2, Subsection (1)(3)(B) on page 4, we raise the question of why the bill pertains only to school district records, and not those of the legislature or any other locally elected governing body. It seems inconsistent and punitive to interfere with the duties of one segment of local government while ignoring others. At a minimum, we suggest the committee amend the bill to clarify that the records in question are only those associated with official school district business.

In closing, HB 2382 represents an intrusion into the rights of locally elected school boards to conduct district business in a professional, efficient, and responsible manner. It puts districts at risk of cybersecurity attacks and violation of state and federal privacy laws. And it represents another chapter in the relentless attacks on public education that are causing good people to resign from or not run for volunteer school board seats, driving teachers out of the profession, and putting Kansas children at educational risk.

For these reasons, KASB strongly opposes HB 2382.