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## Written Opposition Testimony

SB 235 - Requiring school districts to provide for a full-time, in-person attendance option

Presented to the House K-12 Education Budget Committee

Wednesday, March 10, 2021

By

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Kansas State Board of Education

Madam Chairwoman Williams, Vice Chairman Hoffman, Ranking Minority Member Winn and Committee Members:

SB 235 requires on and after March 26, 2021, for school year 2020-2021 and each subsequent school year, that each school district in the state would be required to provide a full-time, in-person attendance option for every student enrolled in kindergarten through twelfth grade.

The topic of SB 235 deals with a subject which has been the topic of much discussion held by the State Board of Education. We agree that students generally learn best when they are participating in in-person education. In fact, the group of medical professionals who have been advising the State Board of Education, beginning with the development of the **Navigating Change** document, have provided advice that all students should be back in school full-time and in-person. They have partnered that advice with guidance that students participating in highly at-risk sports be regularly tested. **Navigating Next** is designed to guide schools back to in-person, full-time classes for middle and high school students.

We believe that local school board members are ultimately responsible for making such decisions. Our guidance includes having students on-site all day, but districts are responsible for how they deliver the education they offer. They know their staff and their availability of substitutes. Districts are also aware of the level of illness that is found in the employees and in the student body whether it be current or whether it is another year. In a survey conducted in October, over 80% of school districts were meeting in-person K-12. Most, if not all, have their elementary schools open for full-time, in-person learning. The larger school districts have largely been holding hybrid classes for

middle and high school students, smaller districts have been full time and in person. Since vaccinations of staff have begun to occur, more districts are moving their middle and high school students to at least a daily half-day hybrid learning platform. In fact, several districts who have been daily half-day, in-person hybrid are moving to full-day at the beginning of the 4<sup>th</sup> quarter, thus ensuring those students who may have traveled during Spring Break aren't as likely to bring COVID to the building and expose large groups of students who the staff may not be able to identify were in contact with a COVID-infected student(s). It also ensures that staff desiring to be vaccinated have likely received at least one and probably both vaccinations and are comfortable returning to a full-time, in-person setting!

The Pandemic has given schools options to use when there is a reason it is unwise to hold in-person classes. School districts now have available, learning platforms that allow them to continue student learning despite snow, flu outbreaks, natural disasters etc. SB 235 requires in-person learning even when it is unwise. The new flexibility schools have gained is removed from them with the language of SB 235. For example, there were several schools who didn't have school open during the cold weather issues in February, but some of those districts called for remote learning days so students were still experiencing classes instead of likely playing video games and/or watching TV all day. Do we really want to take from **duly elected** local school board members, the ability to make decisions the majority of members believe is best for their students?

We also found it interesting that while listening to the Senate discussion, we heard the supporters claim that the bill was not mandating full-day, in-person school to always be offered despite conditions of weather, extreme presence of disease, natural disasters, etc. The bill; however, does use the word "shall" which legally means it **must** be done. There also is a phrase "Notwithstanding any other provision of law to the contrary" which we assume disregards the **elected** school board members' constitutional ability and responsibilities as well as the statutes which have for years recognized the elected members of local school boards as the bodies charged with the responsibility and the ability to make decisions about the daily operation of the schools in that board's district and instead substitutes the decision of the members of the Legislature for that of locally elected school board members, not only for the remainder of this school year, but for school years to come.

We absolutely have no argument with the premise that most students learn best in-person and the bulk of learning certainly should be acquired in that manner, but we do question substituting legislators' opinions for the realities which local boards of education are experiencing or may experience in the future. There are many potential scenarios which are best dealt with by local officials rather than by a 'one size fits all' designation made by State officials. *[When we voted to allow local school board members to determine their schools' starting date rather than the date selected by the Governor, we both were concerned that the Governor was treating every school district the same whether or not it was appropriate. We also knew that **elected** members of local boards of education had the*

*Constitutional ability and responsibility* for making the decision that was best for the students in their district (DHorst, BJones)]

Local school board members are **elected** and they are responsible to their constituency. If they make decisions that do not serve their people well, their constituency has the power of the ballot box to remove them from office just as they do with every other elected official.

Hopefully, if this bill moves forward, it will be changed in a way to ensure that elected local boards of education are still expected to make decisions that are best for their communities, without being relegated to a one-size-fits-all dictate. In fact, it seems a bit ironic, that when one agrees with a dictate, one says, yea to a one-size-fits-all solution; yet, when several disagreed with an earlier state officer's dictate which was one-size-fits-all, several of you were ready to fight for the right of local boards of education to instead make the decision. Even though the same elected bodies are involved, suddenly their decision-making abilities are in question and Legislators are willing to insult those local elected members of school boards by sending a message that their decisions are so bad and wrong that the Legislature is the only body capable of making such decisions for school districts.

We urge you to do as we did at the beginning of the school year, recognize the ability of those elected local school board members to make decisions which are best for the students and staff within their districts. [Since you are a constituent in one of the districts, hopefully, the board of education members in the school district in which you reside have **each** heard of your agreement/frustration with their decisions.]

Thank you again for considering our thoughts regarding SB 235.