

Proponent Testimony for SB361

Retired Senator Tom Hawk

February 2, 2026

It is my honor to provide testimony in favor of SB361 that was submitted and prepared by Senators Titus and Starnes to provide a permanent solution to a problem involving a previous bill dealing with open enrollment and its unintended effect on a successful program for foreign exchange students in my district. Last year we solved this problem with a “proviso” in the Budget Bill. SB361 would provide a permanent solution for this issue. My special thanks to Senators Titus and Starnes for bringing this bill forward. Below is my written information presented last year for the proviso solution.

The Problem: The Superintendent of Manhattan USD#383 believes that with our tight enrollment at Manhattan High and the requirements of the new Open Enrollment law, he cannot sign the PAF form for the usual 5 AFS students that come from abroad to attend one year at Manhattan High School. The PAF form is a requirement by the State Department indicating there is a space for these students at the school (and I think a home placement in the district), before the foreign exchange student can be issued a J-1 Visa.

Background: Manhattan High has had an increase in student enrollment causing the May 1 deadline to be a difficult issue in estimating if any open enrollment spots will be available for their out-of-district transfer students. According to Superintendent Reid, the law has some requirements of giving preferential enrollment to military students and siblings of students who have previously been accepted, provided space is available. Supt. Reid has given the example in years past he has had to say no to the Commanding General at Ft. Riley as no space was available even with the law for his military child. His interpretation of the law is that foreign exchange students are not spoken to in the Open Enrollment law and at the time of the May 1 enrollment report, they are not in-district students--even though once they arrive in Manhattan and set up residence with the host families they would be in-district students.

Research: I have talked to Senator Brenda Dietrich, retired Auburn Washburn Superintendent, who verified that the Open Enrollment Bill was never intended to affect foreign exchange students and programs. In fact, K.S.A. 72-3122 seems to lay out what an in-district student is and the definition of a “person acting as parent” (K.S.A. 72-3127). These laws seem to also fit the situation of a foreign exchange student who is living with the local host family. They would be treated the same as if my grandson decided to come live with us, his grandparents, and wanted to attend Manhattan High. He would be considered “in-district” and would be accepted as a student and the Open Enrollment law would not apply to him.

I think the purpose of the open enrollment law was mainly to open up enrollment between districts within Kansas (and to address how funding follows the student.) It was not intended to impose restrictions, and it was not meant to address or impact foreign exchange programs. Local districts have the authority to participate in exchange programs or not and to impose restrictions on numbers if they choose. There is nothing in the law that addresses foreign exchange students, and they are clearly not students coming from another district. I don't think the issue of foreign exchange students even came up in the legislative discussions.

Solution: Superintendent Reid has said that a “**proviso**” stating, with proper legal language, that the Open Enrollment law is not intended to apply to “foreign exchange students and programs”. If there was such a proviso and it was approved by the legislature, he would resume signing the PAF form leading to the J-1 Visa as has been the case in the past.

While this solution may not be needed for all districts in Kansas as they are not growing like Manhattan and may have enrollment room for extra students (and they may not be next to a military base like Manhattan), it could apply to other districts who have had exchange students and wish to continue those programs this year. Some districts may have the same growing enrollments and not want to risk being out of compliance with the Open Enrollment law, or not feel comfortable making the decision to sign the PAF form with the May 1 deadline not knowing what actual enrollment will be. Not signing the form means the foreign exchange student will not be granted a J-1 Visa.

A shorter version of information submitted last year to address this issue with a proviso in Budget Conference Committee. SB 361 is a long-term solution to address this problem.

“Issue: Foreign Exchange students should be exempt from Open Enrollment provision. The problem is mainly in Manhattan as our high school has grown, we moved 9th graders up to the main campus and that has made enrollment quite tight. The law gives priority to out-district students who are military or siblings of existing students. The Superintendent, Eric Reid, is afraid he will violate the Open Enrollment law if he approves Foreign Exchange students before the May 1 report deadline. These students need school approval to get their State Department J-1 visas. The Exchange students are actually not out-of district once they come to the High School in August. They have a host family and are considered in-district then. So the Open Enrollment law should not apply. The rub is the way the law is written and this is an unintended consequence that the short proviso that Reviser Gordon Self has drafted would fix.”