

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION

The meeting was called to order by Representative Don Crumbaker at _____
Chairperson

3:30 ~~am~~/p.m. on March 1, 1983 in room 423-S of the Capitol.

All members were present except: Representative Lowther, who was excused.

Committee staff present:

Avis Swartzman, Revisor of Statutes
Ben Barrett, Legislative Research
JoAnn Mann, Secretary to the Committee

Conferees appearing before the committee:

David Schauner, Kansas-National Education Association
John Koepke, Kansas Association of School Boards
Shawnee Mission School District
United School Administrators
Craig Grant, Kansas-National Education Association
Bernadine Samson, teacher in Cheylin USD 103
Les Kuhns, USD 501 teacher
Sharon Green, former teacher in USD 501
Bob Wootton, Governor Carlin's office.

HB 2457 - Teachers, contract nonrenewal or termination, due process hearings.

David Schauner, K-NEA, supported HB 2457 and urged favorable consideration of the legislation. A copy of his testimony is attached and made a part of these minutes. (Attachment A)

John Koepke, speaking on behalf of Kansas Association of School Boards, Shawnee Mission School District and United school Administrators, strongly opposed HB 2457 stating the bill proposes extensive revisions in the teacher tenure law and strikes at the very heart of school board authority to operate schools. A copy of his testimony is attached. (Attachment B)

HB 2241 - Professional negotiations, binding arbitration, training for fact-finders.

Craig Grant, K-NEA, supported HB 2241 and a copy of his testimony is attached. (Attachment C)

Bernadine Samson, teacher in Cheylin USD 103, appeared in support and a copy of her testimony is attached. (Attachment D)

Les Kuhns, USD 501 teacher, supported the legislation and a copy of his testimony is attached. (Attachment E)

Sharon Green, former teacher in USD 501, urged support for HB 2241 and related some of her experiences while serving as a classroom teacher. A copy of her testimony is attached. (Attachment F)

Bob Wootton, representing Governor Carlin's office, said HB 2241 was an exact replica of HB 2890 from the 1982 Legislative Session. The bill resulted from a recommendation which came from the Governor's Committee on Professional Negotiations during the summer of 1981. Mr. Wootton had served as a staff member for this Committee. A copy of his testimony is attached. (Attachment G)

The meeting was adjourned.

Testimony In Support of House Bill 2457 (Due Process)

Teachers, school boards and the State Legislature in Kansas have a mutual interest in and concern for the well being of the public education system in this state. A considerable part of that well being is teacher moral and the impact upon that issue had by the administration of discipline and discharge against public school teachers by Boards of Education.

The Kansas Legislature has wide discretion in governing the public schools of the State of Kansas. To a large extent, the Kansas Legislature has delegated that authority to local units of government, i.e., the School Board. It must be remembered, however, that the ultimate authority and autonomy of school districts in the State of Kansas lies with the Kansas legislature. Concurrent with that power lies significant responsibilities in the area of teacher hiring, firing, as well as a wide variety of other topics.

In the mid-1970's the Kansas Legislature choose to adopt a Due Process Act guaranteeing to public school teachers in Kansas certain rights including for non-probationary employees the right to be told the reasons for their discharge and imposing on the local school district the duty to substantiate the reasons given for the nonrenewal. Since that time Kansas Courts have largely eviscerated the protective nature of the Kansas Due Process Act. The most devastating case in that regard is the case of Jessie Mae Gillett vs. USD 276 in which the Kansas Supreme Court said that a Board of Education may nonrenew even a tenured employee for any reason and that reason will stand so long as there is "substantial (some) evidence to support the reason."

Further the Kansas Supreme Court in dealing with the delivery of Special Education Cooperative services has said that a local school district may obliterate all rights of tenure for its employees by simply altering the method of delivering services to its patrons.

These two acts in combination with an 8-year history of Court of Appeals decisions and Supreme Court decisions speak loudly demanding a change in the methods by which school districts nonrenew their employees.

It should be kept in mind that school districts have absolute authority of the laws governing the dismissal in question.

The Bill for your consideration today, House Bill No. 2457, makes significant changes in the way school board decisions to nonrenew its employees are procedurally handled.

Instead of having a 3 person panel, one member being selected by the teacher, one member by the Board and one selected by those two individuals, a single trained professional hearing officer will hear the evidence and render a decision on the Board's intention to nonrenew its employee and that decision will be final and binding on both the teacher and the Board of Education, subject to, Kansas District Court review.

As the statute now stands, the local school district is the investigating officer for determining whether a contract should be nonrenewed, as well as the judge of the facts after the due process committee has been convened and made recommendations with regard to the charges made against the teacher.

Further, with school district budgets being the topic of concentrated conversation and legislative investigation it is difficult to imagine a situation in which a Board of Education would hire a replacement for a teacher they had decided to nonrenew then have that same Board of Education adopt the recommendations of a due process panel which are recommending the rehire of that employee only to find themselves with two employees for one position.

House Bill 2457 of the hearing officer have been submitted to the parties.

I urge your favorable consideration of this matter.

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS



5401 S. W. 7th Avenue Topeka, Kansas 66606
913-273-3600

Testimony on H.B. 2457
Before the
House Education Committee
by
John W. Koepke, Associate Executive Director
Kansas Association of School Boards

March 1, 1983

Mr. Chairman and members of the committee, we appreciate the opportunity to appear before you on behalf of the member boards of education of the Kansas Association of School Boards. The bill before you today, H.B. 2457, proposes extensive revisions in the teacher tenure law and strikes at the very heart of school board authority to operate schools. We are strongly opposed to the changes proposed in this bill and find it somewhat incongruous that these proposals to protect teachers are being made at the same time proposals are being advanced to upgrade the profession. The changes suggested herein would also make it much more difficult for boards of education to make the staff reductions which are being urged on them by many legislators.

Among the changes which are proposed in H.B. 2457 are those affecting supplemental contracts. These changes would have the effect of giving coaches and other supplemental contract holders tenure in their supplemental positions. It would also prohibit boards from nonrenewing teachers on the basis of their performance in supplemental areas such as coaching. The cumulative effect of these changes would be to eliminate the utility of the supplemental contract. If there is to be not distinction in tenure status, then supplemental contracts become a nightmare to administer for boards of

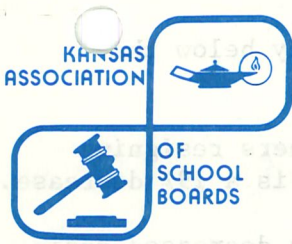
A second change proposed is the mandatory leave without pay for teachers who serve as witnesses at a hearing. We do not believe it is wise public policy for the public to have to pay for any witness who is a teacher that a teacher might call to testify in a due process hearing. We believe that each party should be responsible for securing the presence and determining the compensation for its own witnesses.

A third change proposed in the law would require boards of education to leave the position of a nonrenewed teacher unfilled until the hearing procedure is completed. Since completion of a hearing, including appeals, may take several years, this means that students must be taught during this period by a substitute teacher. We do not believe that this is wise educational policy.

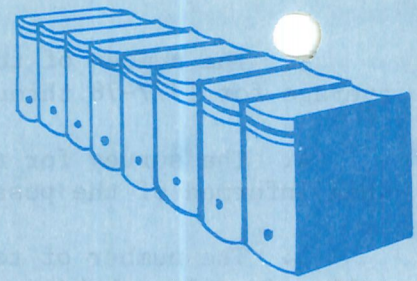
Finally, we turn to the two major policy changes which are the heart of H.B. 2457. This bill proposes to eliminate entirely any probationary period before a teacher gains tenure status. By contrast, Mr. Chairman and members of the Committee, our members feel that two years is far too short a time for an employer to determine whether they wish to grant that privileged status to an employee. Longer probationary periods are the norm in other states and the most common period of probation in higher education is seven years. To grant instant tenure to elementary and secondary teachers would, in our judgment, do great harm to the quality of the teaching profession.

The last major change proposed in this bill is the most onerous. It proposes to remove the present advisory opinion of a three member hearing panel to the board of education and substitute the final and binding decision of a hearing officer appointed by the secretary of human resources. In this manner, the decision of who is to be employed in a school district is removed from the board of education elected to operate that district and given to a bureaucrat chosen by a state official. We do not believe you give any greater slap in the face to those elected public officials than to endorse this concept.

Based on our analysis of the changes proposed in H.B. 2457, Mr. Chairman, we do not find any changes proposed which we believe would benefit public education, and we urge you to report this bill adversely.



5401 S. W. 7TH AVENUE
TOPEKA, KANSAS 66606



November, 1982

RESEARCH BULLETIN

Number 5

ANNUAL SURVEY ON TEACHER EMPLOYMENT RELATIONS
by
Gordon Nelson, Director of Research

SUMMARY AND GENERAL CONCLUSIONS FOR DATA FROM USD's

	1977 1978	1978 1979	1979 1980	1980 1981	1981 1982	1982 1983
1. VERIFIED TEACHER TERMINATIONS	16	15	10	8	5	
2. NONTENURED TEACHERS NONRENEWED	154	199	185	162	177	
3. TENURED TEACHERS NONRENEWED	62	58	35	37	43	
4. TEACHER RESIGNATIONS IN FACE OF NONRENEWAL	nr	nr	nr	193	157	
5. TEACHERS REQUESTING CONTRACT RELEASE	601	843	614	614	376	255
6. WRITTEN BOARD POLICY ON RELEASE	68	151	186	198	203	213

nr - Not Reported

From statistics on teacher employment relations for a period of years, a Kansas school district can expect, as a rough estimate, a teacher dismissal every 28 years; a nonrenewal of a probationary teacher every three years; a nonrenewal of a tenured teacher every six to seven years; a resignation in the face of a possible nonrenewal or termination every two years; requests from two teachers for release from their signed contracts every year, and an appearance in court or before a state commission once in every 17 years to discuss the merits of some teacher employment practice in the district.

The statistics show a marked reduction in adverse positions in employment relations, especially in the number of challenges of board decisions which are appealed to the courts. A statistical comparison of three items for 1977-78 through 1981-82, of two items for 1977-78 through 1982-83, and one item for 1980-81 and 1981-82 shows the following trends.

1. The number of teachers terminated in the 1981-82 contract year is lowest of the past eight years. The decrease is largely due to a refining of data by using a telephone inquiry to those USD's reporting terminations. It was found after the high of 53 in 1976-77 that most of these were not solely termination actions by the board, but included resignations by teachers facing the possibility of termination. Subsequent yearly surveys have attempted to limit this question to actual terminations by board action.

2. The number of nontenured teachers nonrenewed for 1981-82, 177 teachers, is about average for 1977-78 to 1981-82.

3. The number of tenured teachers nonrenewed for 1981-82 is 43, slightly below the average for 1977-78 through 1981-82.

4. The survey for the second time requested data on the number of teachers resigning when informed of the possibility of a nonrenewal. The 1981-82 figure of 157 is a 19% decrease.

5. The number of teachers requesting release from a signed contract has decreased radically, in all probability, due to lateness of contract agreements brought on by tardy decisions on school finance in state government.

6. The number of local boards of education having written board policy on teacher requests for release from signed contracts is 213, continuing the dramatic increase from 1977-78, an increase of 213%.

THE REPORT

In September, 1982, KASB mailed to the chief school administrators the survey questionnaire regarding teacher employment relations: terminations during and nonrenewals at the end of the 1981-82 school year, resignations, requests for release from 1982-83 contracts, written and board policy on release. This year's survey had a 97% return for USD's and a much improved response from Interlocals, Community Colleges, and Area Vocational-Technical Schools. The survey data are summarized below:

Type of School	USD's	Inter	CC	AVTS
Number Reporting	297	13	8	1
Percent Reporting	97%	72%	42%	33%

1. NUMBER OF TEACHERS TERMINATED (discharged during the term of contract) DURING THE 1981-82 SCHOOL YEAR	5			
2. NUMBER OF NONTENURED (probationary) TEACHERS NONRENEWED FOR 1982-83 DURING 1981-82	177	6	6	2
3. NUMBER OF TENURED TEACHERS NONRENEWED FOR 1982-83 DURING 1981-82	43	5		
4. NUMBER OF TEACHERS RESIGNED DURING 1981-82 WHEN INFORMED OF THE POSSIBILITY OF NONRENEWAL	157	8		
5. NUMBER OF TEACHERS SIGNING 1982-83 CONTRACTS AND SUBSEQUENTLY ASKING FOR A RELEASE FROM CONTRACT	255	16	5	
6. NUMBER OF BOARDS WITH WRITTEN POLICY ON RELEASE FROM A SIGNED CONTRACT	213	6	6	1

The above table reports the survey data from 297 of 306 Kansas USD's and from 11 Interlocal Cooperatives, nine Community Colleges, and one Area Vocational-Technical School. This is the second year that a sufficient number of other schools have reported to warrant tabulation and discussion here. It is, perhaps, indicative of the general interest and concern about these topics. This report will first discuss the data for USD's and later give a brief summary of the other schools.

1. The number of teachers terminated during the term of their contract for 1981-82 was five. Five districts were involved in the five terminations. Teachers who were not actually terminated, but who chose to resign rather than face termination action by the board are not included in section #1. Those statistics are reported in section #5.

In none of these cases, was a hearing committee requested. In one case, a conference of the attorneys resulted in a resignation, the board's rescission of termination and acceptance of the resignation.

2. The 177 nontenured (probationary) teachers nonrenewed for 1982-83 during the 1981-82 school year represented 107 school districts. Thirty-nine school districts reported non-renewal of more than one such teacher. The range for this item ran from two to 10 such teachers in a single school district. Five such teachers requested hearings, alleging a violation of constitutional rights, the only statutory hearing basis for nontenured teachers, but only one continued to the hearing process, which is set for January. In that case, the teacher sued attempting to force the board to submit employment to binding arbitration as provided for the negotiated agreement in that district, but the district court judge declined to make that application.

One teacher has skipped the statutory procedures for due process and filed in district court, no report to date. Another teacher filed a prohibited practices charge with the Human Resources Commission. A ruling on that case has not been made to date. Two other teachers of the same district have not made use of statutory procedure but have filed separate suits in federal district court claiming a violation of constitution rights.

3. The 43 tenured (continuing contract) teachers nonrenewed for 1982-83 during the 1981-82 school year represent 33 school districts. Eight districts reported nonrenewal of more than one such teacher. Nineteen teachers requested hearings, but only 14 continued in that process. Nine committees recommended nonrenewal, and the boards confirmed those recommendations. Three committees recommended retention, but the boards rejected the recommendations. Two hearings have yet to file reports. Two court cases stem from these instances, one against a board reversal of the committee and the other against a committee recommendation for nonrenewal. Both are pending. There is one renewal case still pending from previous years; the teacher is an attorney in that case.

4. The survey also requested data on resignations of teachers who are faced with the possibility of a termination or nonrenewal. The data show a total of 157 such resignations in a total of 95 districts. Of the total resignations, 126 (80%) involved a nontenured teacher; 31 (20%) a tenured teacher. Seventy-eight districts (74%) were involved in the nontenured teacher resignations; 27 (26%) in the tenured teacher resignations.

5. The number of teachers who signed 1982-83 contracts and subsequently asked for release totaled 255. The instances involved over about one-third the public school districts in Kansas. One superintendent termed this problem the most crucial problem facing public education. This practice makes teacher contracting a one-way street in employment relations since the board's refusal to grant a release results either in having an unhappy employee for the length of the contract or in having a contract broken by the teacher. The possibility of having a teaching certificate revoked as a penalty for breaching a contract does not become a factor in cases of a teacher's leaving elementary and secondary school employment, taking college or university employment, or in some cases moving to teacher employment in another state.

Of the 255 requests for release from signed contracts, 95% were granted by the boards of education; 2.5% were denied; and 2.5% were dropped after being made. The number of cases in which the school board granted the release without the assessment of liquidated damages indicates that boards of education exhibit a rather magnanimous attitude toward the teacher requesting a release from a signed and legal contract.

In the process of granting release from a signed contract, boards of education found suitable replacements for 183 teachers (76%); made no assessment of liquidated damages, even without a suitable replacement, for 27 teachers (11%); and assessed liquidated damages in granting the release to 32 teachers (13%).

Of seven instances in which boards denied the requests, two teachers remained with the school districts, and five teachers left the districts, breaching the contract. To date, no districts have filed an action to cancel the certification of a teacher who breached a signed contract with the district.

6 Two hundred and twenty-four local boards of education (73%) have written policy requests for release from signed contracts. About 21% have no such written policy, and 4% did not report data in this section of the questionnaire. Of those with policy, only 20.5% also include it in the teacher's contract, 75% do not. The large percentage not including it in the teacher's contract is due to the existence of negotiated agreements on release from contract and the general clause in a teacher's contract in which the teacher agrees to follow board policy.

Of those boards with written policy on releasing teachers from signed contracts, 66% of them require a suitable replacement before considering the release. Only 5% of the boards have policy which automatically grants release on request without board action.

Thirty-four boards in the state have written policies which set a flat amount for liquidated damages. That amount ranges from \$50.00 to \$500.00 with the median (the midpoint of the range) and most frequent amount being \$200.00. Sixty-five boards have policy which schedules amounts of liquidated damages increasing as they approach the beginning of the school year. The dollar amounts in these schedules start with \$50.00 in late May and reach a high of \$1,200.00 in early September. No model for dates and amounts can be determined, but the list of some 60 patterns is available on request to the KASB Research Department. Three boards assess liquidated damages in the amount of the actual cost of a replacement. One board uses a 10% of the value of the contract as liquidated damages.

KAR 91-22-7 provides that a complaint against a teacher for breaching a contract may be filed with the State Board of Education and referred to the Professional Practices Commission. It should be noted here that this regulation contains this language:

If the investigation reveals a settlement provision or liquidation damage (sic) clause in local board policy or in the contract of the employee, so that the employee could make a financial settlement to the local district governing authority or be relieved of contractual commitment by other agreed means, the commission shall dismiss the case.

This language was amended into KAR 91-22-7 on May 1, 1979, and was opposed by the KASB, but to no avail. KASB has some doubts that this provision is within the statutory rights of the Professional Practices Commission, but that will have to be decided in the legislature or in the courts.

Already determined by the courts is the validity and enforceability of liquidated damages in contract employment relation. In USD 315 (Colby, KS) vs. DeWerff, 6 Kan App 77, April 24, 1981, the Appellate Court said, "Liquidated damages provisions, if otherwise valid, are generally enforceable for the employee's wrongful termination of employment." The case involved the negotiated agreement of a penalty for breach of contract. The agreement was upheld in the district court when the word "penalty" actually meant liquidated damages.

There was one other legal action on liquidated damages in Kansas USD's. The court action involved a \$1,000.00 provision of liquidated damages at the time of breach of contract, but it was settled out of court for \$750.00.

Boards without policy have indicated that they largely review each case on its own merits; that they regularly grant a release when requested; that they don't allow releases unless replacements are found; that they approve all such requests on the theory "If you don't want to be here, we don't want you here."; that it isn't educationally sound policy to attempt to enforce a contract and that they seek cancelation of the certificate if a teacher leaves without board approval. The indications are listed in order of frequency of response, ranging from 27 to two.

Seventy-four percent of the boards with policy for the assessment of liquidated damages do not have policy language which automatically grants release from contract on payment of liquidated damages; 26% do. Such release should be subject to board approval regardless of the presence of a liquidated damages clause.

PROBLEMS RELATING TO EMPLOYMENT

Problems listed by superintendents responding to the questionnaire are largely local in nature, but several problems are worthy of note.

1. While it is generally true that it is easier to find suitable replacements in May than in August, many replacements don't turn out to be suitable when school starts, for example, encountering discipline problems. Also, there are fields such as special education and industrial arts for which it is hard to find replacements at any time.

2. The cost of the process of nonrenewal and its cumbersome regulation cause doubts that the process actually helps public education.

3. Boards are becoming unwilling to serve in capacities which brings them into possible confrontation with teachers, e.g., negotiations. They are turning such contract over to attorneys or professionals because of teacher dissatisfaction with what board members feel are reasonable board offers and requests in the light of community reactions.

4. Boards should make a special effort to avoid signing contracts with teachers who have already signed contracts with another school district. (Illegal, see KSA 72-5412.)

5. Some districts are concerned about the large number of ex-coaches on the staff who were hired to coach originally and primarily, but who have begged off the coaching assignment and yet want to stay on a straight teaching assignment. Comments indicate not only unbalanced teaching staffs, but also difficulties in filling coaching assignments.

SUMMARY AND CONCLUSIONS FOR DATA FROM INTERLOCALS, COMMUNITY COLLEGES, AND AREA VOCATIONAL-TECHNICAL SCHOOLS

The data reported on page two largely reflect that the Interlocals, Community Colleges, and Area Vocational-Technical Schools face a similar situation as do the USD's of the State of Kansas. Only one hearing was requested in all the nonrenewals or dismissals reported by these schools. The hearing did not materialize because a cash settlement was agreed upon before the hearing could convene.

The data discussed in the remaining paragraphs concerns only the Interlocals and Community Colleges. There are only three AVTS's that operate apart from one USD board of education, and the one reporting did not indicate any problems.

Nontenured nonrenewals in the Interlocals occasioned two hearings one of which is not completed as of this writing. The other resulted in a recommendation of no violation of constitutional rights and nonrenewals.

Requests for release from a signed contract were granted by the boards of these schools except for two interlocal instances. One teacher left anyway and one teacher stayed on the job. Of all requests for release, none involved the payment of assessed liquidated damages.

Slightly over half of these schools have written board policy on releasing a teacher from a signed contract. Most of the schools with written policy require board approval for requests for release. Liquidated damages policy is present in only three colleges (a set dollar amount). All schools without policy tend to handle such requests on an individual basis.

A CONCLUDING STATEMENT

The significance of the results of this survey, at least from the school boards' point of view, is that the teacher tenure law is a fairly effective tool for ensuring that those first and second year teachers who should not be in the classroom can be removed. Whether a teacher tenure law is effective in allowing school boards to remove tenured teachers who have proved to be incompetent or ineffective is yet to be determined. Practice shows it to be a lengthy, expensive, and complicated legal matter.

A section of the survey dealt with the names and occupations of hearing committee members appointed by the boards and by the teachers and the third committee member selected by the board and teacher representatives or by the district court. This information does not readily lend itself to statistical analysis but was requested in order to have it on file and available from the KASB Research Department on request of any local school district.

One final word of caution should be made for those schools with patterns of liquidated damages progressing from a small amount in late May to a large amount in late August. The wording of such policy statements or negotiated agreements may leave isolated days on which no provision applies. For example, the statement may read "\$100.00 before August 1st and \$200.00 after August 1st." August 1st then becomes an open date on which neither provision applies. An examination and redraft of the policy or agreement may prove advantageous to good understanding and employment relations.



UNITED SCHOOL ADMINISTRATORS OF KANSAS

1906 EAST 29TH

TOPEKA, KANSAS 66605

913-267-1471

JERRY O. SCHREINER
EXECUTIVE DIRECTOR

M.D. "MAC" MCKENNEY
ASSOCIATE EXECUTIVE DIRECTOR

TO: House Education Committee

FROM: Jerry O. Schreiner, Executive Director

DATE: March 1, 1983

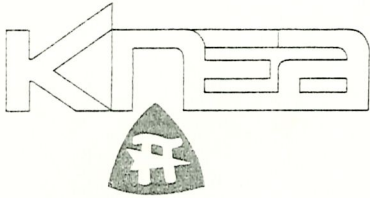
SUBJECT: HB 2457 - Teacher Due Process

Mr. Chairman and members of the committee, the United School Administrators opposes HB 2457. The proposal would replace the employer's decision concerning retention or termination of an employee with a third party.

Our association has always supported proper due process procedures for all employees. However, we have always been concerned about the intervention by a third party that is not responsible to the citizens in the local school district. We are also opposed to the inclusion of (1) supplemental contracts and (2) the restriction of employing a replacement for a teacher involved in a hearing procedure.

The question before the committee is one of state policy. Do you wish to replace administrative responsibilities for evaluation of staff and the board's authority for retaining employees with a third party?

We respectfully request that you report HB 2457 adversely.



House Education Committee
March 1, 1983
Testimony on HB 2241

Thank you Mr. Chairman -- members of the committee -- my name is Craig Grant. I am a UniServ Director for Kansas-NEA in Johnson, Wyandotte, Leavenworth, and Jefferson counties. I appreciate the opportunity to address the committee on HB 2241.

Since the passage of the Kansas Professional Negotiations Act in 1970 Kansas-NEA has advocated amendments both to change the scope of what can be negotiated and to embody an equitable system of impasse resolution. In fact, the Association's initial PN Act proposal to the 1970 session included a form of impasse arbitration.

As it relates to the scope issue, the 1977 legislature amended the definition of terms and conditions of professional service to include a narrow listing of mandatorily negotiable issues. That listing was expanded in 1980 to what we currently have. K-NEA suggests that there are several items that should be specifically listed as mandatorily negotiable. They are academic freedom, assignment and transfer, class size, hours and amounts of work under supplemental contracts, and reduction in force. As the law now reads these matters are negotiable, but not mandatorily so. Boards are allowed to pick and choose which they will discuss and which they won't. These items clearly impact on terms and conditions of professional service of teachers, and should be required topics of negotiation if either party so requests.

Now to the actual negotiation process. Arbitration is viewed by most students of the collective bargaining process as one of two ways to bring parity or a balance of power to the process. The right to strike is of course the other option. And equity and closure are the twin purposes of any impasse resolution procedure. Kansas-NEA opposes any statute which leaves final determination of terms and conditions of professional service solely to one part in the negotiations, as the Kansas law does.

Kansas-NEA believes the best agreements between boards and teachers are reached at the negotiating table without outside assistance. However, in the few instances where agreement cannot be reached--generally three percent or less--the Association believes that it is in the interest of all concerned that such unresolved differences be settled amicably and expeditiously by an expert neutral third party, rather than allow such disputes to fester until they end in predictable unilateral action by a board of education.

The Kansas Professional Negotiations Act has been amended several times. Most amendments have been relatively minor and were sought by teachers or boards to "fine tune" certain sections. The first significant change, incorporation of an impasse procedure, was achieved in 1977. The mediation and fact-finding procedures added then have not been revised materially. A considerable history has developed. It shows school boards are reluctant to accept pro-teacher recommendations of fact finders. In fact, Kansas-NEA records reveal an almost unanimous acceptance by boards of fact finder recommendations favoring board positions and an equally overwhelming rejection of teacher positions. In 97% of the cases where unilateral contracts were issued for the 1981-82 school year the Board's recommendations were included while 0% of the teachers' recommendation were included. Independent recommendation of fact finders were used in 30% of the cases.

Experience of other states with arbitration is that most employers and employees reach agreement voluntarily. In Iowa only three percent end in arbitration. However, it is not the use but the availability of third party final decisions which changes the entire negotiation atmosphere. Arbitration encourages both parties to reach agreement.

Those who allege arbitration is unconstitutional should read the opinion of the Kansas Attorney General, Robert Stephan. That opinion states that arbitration is "not violative of the Kansas Constitution, either as an infringement upon the power of the State Board of Education or that of local boards...or as an unlawful delegation of legislative power."

The primary argument against impasse arbitration has been that it infringes on local board "autonomy." Article VI of the Kansas Constitution provides for school boards to "maintain, develop and operate" local schools under supervision of the State Board of Education and subject to laws enacted by the Legislature and to State Board regulations. Local board authority is almost totally circumscribed, and has been since 1861. State and Federal governments control the source and amounts of school district funds, the basic curriculum, attendance, building codes, student and employee rights, professional employee preparation and assignment, special educational opportunities which must be offered the economically and culturally deprived, the handicapped, and even the gifted, and procedures to use in evaluating faculty performance. Only within those and other controls--all designed to promote quality and equality of educational opportunity--are boards to "operate" local schools.

Since school boards do not now nor never have had "autonomy," in no way would a state law requiring a neutral expert third party or parties to decide negotiations impasses be an invasion of this oft-cited but mythical "local control." The third party in impasse arbitration would have no more authority to decide contested issues in ways which violate state or Federal Constitution, laws or regulations, than would the local board.

However, to mandate in state law, as Kansas now does, that boards and teachers should strive "in good faith" to reach agreement on terms and conditions of professional employment, and then in that same law let school boards issue unilateral contracts which ignore fact finder recommendations, violates every concept of fair and productive employee relations. And the victim is the quality of education. What talented young persons would enter a profession which not only is at the bottom economically but which insults their professional expertise by denying them a voice in working conditions which control the quality of instruction?

The majority of Kansans and citizens nationwide agree that binding arbitration of negotiations impasses is the best way to bring equity and speedy closure to teacher-board disputes. An independent survey commissioned in December 1981 by Kansas-NEA showed 67% of Kansans favor this solution. The latest Gallup Poll of public attitudes toward education reveals 79% hold this opinion nationwide.

Kansas-NEA believes that a fair and final impasse procedure, one which allows negotiation disputes to be settled honorably and peacefully, is in the best interests of the state of Kansas, its schools, students, and teachers.

Thank you Mr. Chairman and Committee members for your patience and listening to the teachers concerns. I would be happy to try to answer questions.

I am Bernadine Samson, a teacher in Cheylin USD 103, representing Cheylin-NEA, speaking in favor of H. B. 2241. I appreciate the opportunity to speak before the House Education Committee on the equity of the Professional Negotiations Law.

As the Professional Negotiations Law now stands, the teachers are subject to unilateral decisions of local Boards of Education. When disagreements arise that can not be resolved during the course of regular negotiation sessions, the teachers have two options and neither option leads to an equitable solution.

Option No. 1: Impasse leading to Mediation and Factfinding.

Problem: The Board of Education still has the option of rejecting the Factfinder's recommendation as Cheylin's Board of Education did when it was in the teachers favor.

Option No. 2: Go on continuing contract.

Problem: The teachers lose a salary increase to hold on to better working conditions for one year. Then they can lose both the salary and working conditions the following year when they have to accept a unilateral contract if one is issued.

I have taught in the Cheylin district since its formation in 1975. Cheylin is a small rural district located in Rep. Mike Hayden's district, the 120th. We have a current enrollment of 244 and a professional teaching staff of about 30. I have been on the negotiations team four years, 1978-1982. I was spokesperson for the teachers three years, 1979-1982. I am not on the team this year.

In the years before impasse procedures were in the PN law, I saw our cumulative sick leave benefits go from 30 days to zero, because the Board of Education didn't want to commit future Cheylin Boards to a possible budget problem should two or three teachers need to use most or all their cumulative sick leave the same year. We do have ten days sick leave each year, but we can not carry any unused sick days from one year to the next, as most districts allow.

Last year, 1982, Cheylin teachers went through all the steps allowed by the current Professional Negotiations Law and were issued a unilateral contract.

Between the impasse declaration in late May, 1982, and the issuance of the unilateral contract September 1, 1982, Cheylin teachers experienced two major frustrating times.

The first was mediation. The two board/members who were designated as the Board of Education negotiations team did not attend mediation. Only the hired BOE spokesperson and one board member observer attended mediation.

The Cheylin teachers were expecting to settle in mediation as 13 other districts in the 16 counties of NW Kansas had settled in the past three years. Instead, we were faced with trying to mediate with the BOE spokesperson who had no more flexibility on salary the day of mediation than he had had when we declared impasse.

We had two choices:

- 1) Agree to the Board's offer and lose our increased salary rank we had gained in the successful 1981 negotiations or
- 2) Go to Factfinding.

Cheylin teachers chose to go to factfinding. The second frustrating time was having the Factfinder's Report rejected by the BOE. On pages 3-5 of the Factfinder's Report, the Factfinder summarizes the salary issue very well. Beginning at the bottom of page 3, the Factfinder states "...the Unit presented a cost study showing that each proposal would cost less than was spent in the 1981-82 budget."

The Factfinder questioned the Board's spokesperson at length for reasons the Board could give for withholding additional money from teacher salaries in light of the fact the Board was not using all the money they would save from Staff cuts. The conclusion was "...that the ability to pay was not a major concern, they just didn't want to pay teachers at the higher level."

The Factfinder agreed with the Cheylin teachers that the Board's proposal "...would be a step backward...and would move the teachers farther below average

no matter what comparison group or pay concept is used."

The Board's proposal was \$270 below the average base increase in total compensation in NW Kansas, and \$360 below the average base increase in total compensation in the schools our size (enrollment 200-400) across the state.

The Factfinder also states, "At the same time that Unit members are being asked to accept a below average increase in base, they are also being asked to accept an increase in student load and thus an increased work load." The Cheylin teachers recognized the need for reduction in staff and were more than willing to accept the increase in work load, but we think the Board could afford the base recommended by the Factfinder and think the Board has locked itself into a low ranking salary schedule that will not attract the better teachers to Cheylin after all the reduction in staff is completed and turn over in staff occurs.

The Board's not caring to be competitive in pay is definitely creating a morale problem for teachers this year.

As you see near the bottom of page 5, the Factfinder recommended a base pay raise of \$1,150 or \$13,700 as the base total compensation. Comparing the \$13,700 recommended base total compensation with actual base total compensation of \$13,350, Cheylin teachers came up ^{\$350. per teacher} ~~\$350,000~~ short of what the district was able to pay at no higher cost to the district.

Cheylin teachers were fighting to get an average base salary increase - average when compared to our NW Kansas area and to schools our size across the state.

The Factfinder recommended a figure that would keep us status quo, but the Cheylin BOE exercised their option under the current Professional Negotiations Law to reject the Factfinder's recommendations.

If you will compare the two documents, the Cheylin BOE rejected the Factfinder's recommendations in more areas than just the salary.

The last document I call to your attention is the Cheylin Board's public statement released after teachers were issued unilateral contracts--in particular the

last paragraph.

The Cheylin Board clearly dislikes having its decisions challenged. The teachers through the Association have challenged them only in their administration of Board policy concerning teachers and their administration of past negotiated agreements.

It appears to me, the Cheylin Board is stating in the last sentence of their news release that:

- teacher salaries are a Board matter. Teachers should not be concerned with whatever the Board decides.

- granting teachers use of their professional leave is a Board matter.

Teachers should not challenge them when a request to use professional leave is denied although the agreement says the professional leave must be granted.

- cutting staff is a Board matter. Teachers should not object even though we believe the BOE is not following their own Reduction in Force policy.

Obviously, Cheylin teachers believe salary, leaves, RIF's, etc., are our concerns and have not let such obvious violations of Board policy and negotiated agreements escape unchallenged.

The consequences of Cheylin's unilateral contract have been:

1) very low teacher morale. Teachers no longer volunteer to do the "extras."

They see their reward for hard work in the past as a current below average salary increase.

2) teachers are checking their options to move elsewhere or out of teaching.

Being married to a farmer, my option to move is very limited. If I leave teaching, Kansas will be short one more math/computer/physics teacher.

The teachers most likely to find good jobs outside teaching are those teaching math, science, foreign languages, or English-areas where the state and nation already experience critical shortages of teachers.

As Cheylin teachers view binding arbitration, it will not affect those districts

where the current negotiation procedures are working, but binding arbitration would provide equity for teachers in districts such as Cheylin.

We view the situation as intolerable when the recommendation from the Fact-finder is to maintain the status quo for a group of teachers and then allow the Board the option to reject that recommendation.

Our district had the money to pay us more. The Cheylin BOE chose to give us a below average salary increase and issued the unilateral contract.

I, as well as my fellow teachers, urge this committee to provide an equitable solution to the situation that now exists in Cheylin due to the lack of binding arbitration and this situation could happen anywhere in the state of Kansas, regardless of the size of the school district.

We urge you to support H. B. 2241.

I thank you for this opportunity to speak and I'd be happy to answer any of your questions.

The following policies shall apply to all teachers with teaching contracts approved by the Board of Education after September 1, 1982.

I. Compensation.

1. Salary Schedule.

A. The following schedule shall apply to those teachers accepting unilateral teaching contracts for the 1982-83 school year.

1982-83 SALARY SCHEDULE

Base Salary \$12,350
 Fringe Benefit 1,000
 Total Compensation \$13,350

THE CHEYLIN BOARD OF EDUCATION RESERVES THE RIGHT TO EXCEED THIS SCHEDULE IF NECESSARY. THIS SALARY SCHEDULE IS VALID FOR THE 1982-83 CONTRACT YEAR ONLY.

	B	B+8	B+16	B+24	B+40 Masters	M+15
0	13,350	13,595	13,840	14,085	14,575	14,820
1	13,590	13,835	14,080	14,325	14,815	15,060
2	13,830	14,075	14,320	14,565	15,055	15,300
3	14,070	14,315	14,560	14,805	15,295	15,540
4	14,310	14,555	14,800	15,045	15,535	15,780
5	14,550	14,795	15,040	15,285	15,775	16,020
6	14,790	15,035	15,280	15,525	16,015	16,260
7	15,030	15,275	15,520	15,765	16,255	16,500
8		15,515	15,760	16,005	16,495	16,740
9		15,755	16,000	16,245	16,735	16,980
10			16,240	16,485	16,975	17,220
11			16,480	16,725	17,215	17,460
12				16,965	17,455	17,700
13				17,205	17,695	17,940
14					17,935	18,180
15					18,175	18,420
16						18,660
17						18,900

B. Semester Hours to Count on Salary Schedule Steps.

1. Semester hours which will count on advancement on the salary schedule must meet one of the following criteria:
 - a. Hours in the teaching field
 - b. Hours in courses designed to improve knowledge and understanding of the student
 - c. Hours in curriculum improvement and evaluation
 - d. Hours in education such as guidance, group dynamics, and human relations
 - e. Hours outside the field of education which are taken to meet certification requirements
 - f. Hours in a planned advanced degree program which are approved by the granting institution
2. These hours must have been taken after earning a bachelor's degree, and may be graduate or undergraduate hours.
3. All must be approved by the superintendent and, for budgeting purposes, intention of any advancement on the salary schedule must be filed in the main office before the end of the preceding school year.
4. Proof of hours earned, in order to advance an additional step, must be filed before the start of the school year.
5. Up to five (5) years outside teaching experience will be allowed if the teacher has teaching experience in another district. The teacher shall be credited on the salary schedule for all of that experience up to a maximum of five (5) years.
6. After initial placement each teacher shall be credited with one year experience on the salary schedule, for each year taught. Each teacher shall have one year to appeal initial placement.

2. Fringe Benefits.

- A. All full time teachers shall receive a fringe benefit in the amount of \$1,000.00, which will be applied at the rate of 1/12th per month to any of the following:

1. Hospitalization insurance
 2. Salary protection
 3. Term life insurance
 4. Tax sheltered annuities (District's share of Social Security and the teacher's share of Social Security and K.P.E.R.S. will be deducted from the amount of fringe benefit allocated to T.S.A.)
 5. Cash (District's share of Social Security and the teacher's share of Social Security, K.P.E.R.S. and income tax withholding shall be deducted from the fringe benefit allocated to cash.)
 6. Any combination of the above.
- B. Teachers who work less than full time will be given an FTE prorated amount of the \$1,000.00 fringe benefit.
- C. Hospitalization insurance refers to Blue Cross-Blue Shield. Hospitalization insurance carrier may be changed to another carrier, provided a majority of the teachers vote to change, a majority of the non-certified employees vote to change and the new plan and company is approved by the Board of Education.
- D. Insurance carriers and annuity plan carriers shall be limited to those carriers approved by the Board of Education.
- E. All returning teachers will identify deductions for the coming year as a part of the check-out process at the conclusion of the current academic year. Changes in identified deductions will be permitted until 10 days after the acceptance of the teacher's contract by the teacher. No changes will be permitted after such date. Forms will be supplied by the Superintendent's office, and it will be the responsibility of the Superintendent, or his designee, to provide explanations to teachers concerning the allocation of benefits. All teachers new to the system shall identify deductions for the school year on or before September 1 of the current school year or 10 days after the acceptance of the teacher's contract by the teacher, whichever may be later.
- F. It will be the responsibility of the Superintendent of Schools, or his designee, to explain the deductions to new incoming teachers at the in-service training.
- G. Fringe benefit payments terminate effectively with the termination of the teacher's contract, regardless of cause. Fringe benefit payments will be made at the rate of 1/12th per month for the time period in which the teacher's contract is in force.

- H. This specific fringe benefit package is in effect for the 1982-83 school year.
- I. It is understood that the total fringe benefit dollar figure will be included in the overall salary schedule.
- J. The administration shall contact the insurance representative of the approved companies and request that they be available to all teachers prior to June 1 and at the beginning of the school year.

3. Salary Protection.

- A. In addition to the fringe benefit amount of \$1,000.00, the Board of Education will provide each full time teacher with a salary protection insurance plan from American Fidelity Insurance Company. The plan to be provided by the Board of Education is Plan 400 (Board Program Cost). If the teacher wants more salary protection coverage than that provided by the Board of Education the teacher may allocate part of the teacher's fringe benefit pool for such additional coverage.

II. Extra Duty.

1. Coaches	Step 0	High School	Middle School
Athletic Director		\$535.00	N/A
Boys' Head Football Coach		855.00	428.00
Boys' Head Basketball Coach		855.00	428.00
Girls' Head Volleyball Coach		855.00	428.00
Girls' Head Basketball Coach		855.00	428.00
Boys' Head Track Coach		588.00	294.00
Girls' Head Track Coach		588.00	294.00
Golf Coach		588.00	294.00
Assistant Coaches for volleyball, football and basketball		428.00	214.00
Assistant Coaches for track		294.00	148.00

Coaching experience steps are \$50.00 for head and \$25.00 for assistant coaches for the major sports in the high school and \$30.00 for head and \$15.00 for assistant coaches in the minor sports. Middle school coaches receive one-half of the high school amounts. The schedule for each sport will have a maximum of ten annual experience steps. Only years of experience in the Cheylin District shall be allowed.

The Board reserves the right to combine the girls, and boys track coaching positions. If the Board makes such a determination, the head track coach base shall be \$695.00 and each assistant track coach base shall be \$347.00.

	<u>High School</u>	<u>Middle School</u>
2. Sponsors.		
Pep Club	\$535.00	\$267.00
PomPon	400.00	N/A
Yearbook	641.00	N/A
FFA	535.00	N/A
FHA	535.00	N/A
Spelling team	214.00	N/A

3. Other Extra Duty.

Musical Director	428.00
Assistant Musical Director	107.00
Ticket selling - total per night	30.00
Music Director	855.00

4. The Board reserves the right to issue any other supplemental contracts and to designate the duties to be performed and the amount of pay.

5. The Board of Education reserves the right to assign any extra-duty position to any teacher in the District. Assignments will be determined by the Board of Education as equitably as possible and in the following manner:

- A. When possible and approved by the Board, extra-duty vacancies shall be filled by application.
- B. The administration shall survey the entire certified teaching staff for persons willing to accept extra duty assignments and, if possible, remaining vacancies shall be filled from said list.
- C. If vacancies still exist, the Board may assign the duties to any qualified staff member.
- D. No staff member shall be required to perform the same non-voluntary extra-duty assignment on two consecutive years.

III. Substitute Pay.

- 1. Substitute pay will be allowed for K-8 faculty when a music, art, or P.E. teacher, is absent and no substitute is provided. Current sub pay will be pro-rated by the number of minutes on duty at the attendance center.
- 2. In high school, teachers with a planning period who are able to substitute when needed, will be reimbursed by the current sub pay divided by number of high school periods.

IV. Leaves.

1. Sick, personal and professional leaves.

- A. A total of fifteen (15) days of leave shall be allowed each year for all full time teachers, allocated as follows:

10 days sick leave
3 days personal leave
2 days professional leave

- B. After ten (10) days of sick leave has been used, any unused personal and professional leave may be used as sick leave. Any teacher exceeding a total of fifteen (15) days of leave time shall have one one-hundred and eighty-fifth (1/185) of the salary deducted from his or her contract for each day after fifteen (15) the teacher is absent from school.

- C. Personal leave may be used at times other than immediately before or immediately after any holiday or school vacation, or in-service or work day or on parent conference days. (The superintendent may consider special situations and emergencies and consider each case on an individual basis and may either grant or deny the leave.) Notification for use of personal leave in normal situations shall be made in writing to the building principal one (1) week in advance of the date the teacher will be gone. In the case of emergency, the employee shall notify his/her principal as soon as possible.

- D. Professional leave days may be used by the teacher to attend professional and educational workshops, conferences, or seminars upon the prior approval of the superintendent.

- E. The principal or superintendent may deny the use of the personal leave or professional leave if a substitute can not be obtained.

- F. No more than four (4) teachers from a district may be allowed personal and/or professional leave on the same day.

- G. No payment will be made for any of the unused sick, personal or professional leaves. Unused sick, professional and personal leave shall be non-cumulative.

V. Agreed Liquidated Damages on Contract Termination.

1. The Board of Education and the Cheylin teachers agree that when a teacher resigns, or otherwise fails to honor his/her contract

after execution of the contract or after the applicable date under the Kansas Continuing Contract law, the monetary value of the damages to the school district is difficult, if not impossible, to determine.

2. It is agreed that teachers currently under contract shall be declared under contract for the next teaching year unless their resignation is submitted on or before May 15 of the current school year according to the Continuing Contract Law of the State of Kansas. The only exception to the May 15 deadline will be in the event of impasse and the date on which teachers currently under contract shall be declared under contract for the next teaching year shall be as provided in the negotiating laws of the State of Kansas. New teachers coming into the school district shall be declared under contract when their contract has been approved by the Board of Education.
3. In the event any teacher resigns or fails to honor the terms of their contract after the effective date set out above, the Board and teachers agree that the teachers shall pay to the Board liquidated damages as follows:

- A. If the teacher resigns after the effective date of the continuing contract and after June 1 and before the next June 15, the parties agree that liquidated damages shall be in the amount of \$300.00.

- B. The parties agree that the following schedule is the amount of liquidated damages depending on the time of the resignation or failure to complete the teaching contract.

<u>RESIGNATION DATE</u>	<u>AGREED DAMAGES AMOUNT</u>
June 16 to August 15	\$ 500.00
August 16 to September 15	540.00
September 16 to October 15	480.00
October 16 to November 15	420.00
November 16 to December 15	360.00
December 16 to January 15	300.00
January 16 to February 15	240.00
February 16 to March 15	180.00
March 16 to April 15	120.00
April 16 to May 15	60.00
After May 15	None

- C. Resignation date shall be the date the teacher's resignation is received by the Clerk of the Board of Education or the date of the postmark on the resignation or the date as stated in the teacher's letter of resignation, whichever may be later.

4. It is agreed that the amount of agreed liquidated damages shall be paid by the teacher to the Board of Education prior to the Board accepting the resignation of the teacher and releasing the teacher from his, or her, contract.
5. It is further agreed that in the event the Board owes the teacher additional salary amounts after the teacher resigns or fails to honor his, or her, contract, the Board may deduct the amount of agreed liquidated damages from the amount owed to the teacher, and the teacher consents and agrees to the deduction of the amount of the liquidated damages from the amount owed to the teacher by the Board of Education.
6. The Board of Education reserves the right to waive the provisions for liquidated damages, if, in the opinion of the Board, such waiver is appropriate.

VI. Grievance Procedure.

1. Purpose. To establish a procedure for handling grievances concerning interpretation of terms and conditions of the individual teacher contracts which can not be solved at the building level.
2. Definitions. The term "grievance" is defined as an alleged violation, misinterpretation, or inequitable administration of the terms and conditions of the teacher's individual contract.
3. Procedure.
 - A. The teacher having a grievance shall confer with the building principal within twenty (20) school days from the date the teacher became aware of a problem.
 - B. If the teacher is not satisfied with the action taken by the building principal, that teacher may file a written request for a conference with the Superintendent of Schools. The request shall give the information on the grievance and the action taken by the principal.
 - C. The Superintendent shall notify the principal and ask for a written report within five (5) school days, stating the action taken by the principal in attempting to resolve the grievance.
 - D. Within a period of five (5) school days after receiving the request from the teacher and the report from the principal, the Superintendent of Schools shall request a joint conference with the teacher and the principal in an attempt to solve the grievance.

- E. The joint conference with the teacher and the principal shall be held with the Superintendent, principal and teacher present. The parties involved in the joint conference may designate representatives or counsel to be present, if so desired.
 - F. Within three (3) school days after the joint conference, the Superintendent shall announce his decision in writing to the principal and teacher.
 - G. If the teacher is not satisfied with the action taken, that teacher may make a written request for a hearing with the Board of Education.
 - H. All requests for a hearing with the Board of Education must be in writing and in the office of the Superintendent of Schools on or before 2:00 p.m. on the Thursday immediately preceding the regular meeting of the Board of Education.
 - I. All meetings with the Board of Education shall be held in executive session with the concerned parties in attendance. Both the Board and the teacher may designate representatives or counsel to be present, if so desired.
4. Final Disposition. The decision of the Board of Education shall be final.

VII. Holiday Schedule.

- 1. In establishing the school calendar, the Board of Education shall allow the following holidays:
 - A. Labor Day at least 1 day
 - B. Thanksgiving at least 3 days
 - C. Christmas at least 5 days
 - D. Spring Break at least 3 days
 - E. Easter at least 2 days
- 2. In this proposal, day shall be defined as a weekday (Monday through Friday).
- 3. The Board of Education has the option to combine Easter and Spring Break. If this option is chosen the combined holidays shall be at least 5 days.

VIII. In-Service.

1. In-service meetings schedule shall include 2 days prior to school and 2 days during the school year. A faculty committee representing each building will work with the administration in setting up programs beneficial to all grade levels. The administration shall have the right of final approval for all in-service programs.

IX. Dues Check-Off.

1. The Board will have its secretary deduct association dues for the Cheylin-NEA as a service to Cheylin-NEA upon proper authorization from the teachers. All authorization for dues deduction must be filed with the Clerk of the Board 10 days after the acceptance of the teacher's contract by the teacher.

X. Duty Free Lunch.

1. A rotating schedule for a duty free lunch is to be established by the faculty and each building principal to allow each teacher some days for a duty free lunch.

XI. Association Leave.

1. Cheylin-NEA is allowed a total of four (4) days association leave to be used by its members. Notification for use of association leave shall be made in writing to the Superintendent one (1) week in advance of the date the teacher will be gone. Notice shall also include the approval of the President of Cheylin-NEA.

XII. Policies.

1. Teachers shall be subject to the policies, orders, rules and regulations of the Board, however said policies, orders, rules and regulations, except policies I through XII above, are not a part of the teacher's contract.

The above policies I through XII applying to teacher's contracts approved by the Board of Education after September 1, 1982 are approved this _____ day of September, 1982.

McDonald news

Vera Kacirek

Phone 538-2593

Cheylin board states position

The Cheylin Board of Education makes the following statement as a response to those distributed and published by the Cheylin Teachers Association (C-NEA).

The board offered the teachers an \$800 increase plus a \$240 increment which applied to all teachers who had not reached the end of the salary schedule. This is a total increase over last year's pay of \$1,040 for returning, full-time teachers who move on the salary

schedule. This increase gives a total compensation for beginning teachers with no experience of \$13,350. A fringe benefit package totaling \$1,000 is a part of this figure. It allows for several insurance options which allow the teacher a tax break, or the fringe benefit may be taken as cash.

The average pay for full-time Cheylin teachers as offered in the contract is \$15,597.79 without extra-duty pay (coaching, sponsoring student

organizations, etc.). The average salary with extra duty pay included is \$16,084.05. It should also be noted that Cheylin has one of the lowest student-teacher ratios in Kansas.

The teachers' association has challenged board decisions on many occasions in the past several years. It is important that your board of education be allowed to handle board matters effectively, within legal guidelines for our school system to function properly.

Mr. Chairman, I am a teacher in the Topeka Public Schools, USD 501. I know that bargaining in USD 501 is notorious. Justifiably! Some believe that our example is so outrageous as to be non-representative. Some believe that the Kansas-NEA uses us for a battle ground. I tell you from personal experience that neither of those beliefs is true. Before I came to Topeka, I taught in Coffeyville. ~~When I got there, the Coffeyville 5 had been fired and were in the courts, and teachers were accepting whatever the Board of Education offered because they didn't want to lose their jobs too. Being young and ignorant, I assumed that our poor contract was the fault of our weak bargaining team. So I became involved, believing that persuasion and reasoning were surely the answer. That's when my education began. One of my first experiences at the bargaining table concerned the issue of negotiability, scope. At that time we relied on the supreme court interpretation and used its list. I don't recall the issue now, but the board representative's response is as clear as this moment. He said, and I quote, "I don't give a damn what the Supreme Court said." That was lesson number one. Reasoning and persuasion makes little difference at the bargaining table. Eventually, we were given the board's final offer and told to submit it for ratification. The ~~next~~ next year saw a repeat of the process except that the teachers declined to ratify the offer when it was submitted for a vote. That offer became the contract anyway. Lesson number two, The board can do exactly what it wants, bargaining or no.~~

~~In any case, the next year brought change. It was the first year of mediation and fact-finding, some new school board members were elected, the board's regular negotiator got kidney stones and couldn't bargain leaving the job to a different man, and we settled a contract in 3 days. The next year the Coffeyville teachers suffered another unilateral contract, and I moved to Topeka.~~

came to Topeka

When I arrived, the district was in turmoil. There was even a strike vote taken which received a majority of votes. The bargaining committee wanted 2/3 or there would have been a work interruption. That round of bargaining took some 15 months. The board was found by PERB and the courts to have bargained in bad faith on numerous counts. All charges against the Association were found to be

we got a unilateral contract anyway we got another five years later - finding higher spurious. This litany of abuse has now become an all too familiar pattern. I've seen 3 unilateral contracts in 8 bargaining sessions which included two two year contracts.

~~Lesson number three, if the fact-finding report favors a teacher position, the board will probably ignore it.~~

and Kotterville was

~~Subsequent rounds~~ of bargaining in Topeka ~~has~~ taught me that if the board is not ~~explicitly~~ required by law to negotiate an item ~~they~~ they probably won't. When the law was amended, clarified, ~~the~~ *in Topeka* our contract contained some six items which were permissibly, but not mandatorily ~~negotiable~~ negotiable.

Those items included: academic freedom, assignments and transfers, promotions, student discipline, physical facilities, and employees' files.

In addition two items which the district claimed were not manditory were found to be so: student teacher program, because it dealt with compendation, and hours and amounts of work, and reductions in staff, because it dealt with reemployment of professional employees. Even after the voard was found to be bargaining in bad faith, they refused to bargain these latter two items. In some cases, the Association ~~nevertheless~~ sought ~~merely~~ merely to continue language which had existed in contracts for several years. The board's position was that since they didn't have to negotiate the items they were not goint to, and further, that ~~if~~ if they didn't believe they had to negotiate them, regardless of the opinion of a higher authority, they were not going to..

My experiences bring me here today to request that this bill be amended to expand the scope of mandatorily negotiable ~~xxx~~ items to include: hours and amounts of work under supplemental contracts, academic freedom, class size, and assignment and transfer. I'll touch on each one briefly.

The first, hours and amounts of work under supplementat contracts, would seem almost unnecessary, given the existing wording in the law. However, with ~~xxxx~~ the attitudes displayed by some school boards, it cannot be assumed that hours and amounts of ~~work~~ work includes total employment by the board. Somehow they reason that if an item is not specified by name, then it must be excluded.

The second, expansion we seek is for academic freedom. We believe it to be unreasonable to permit boards to simply dictate calss structure and course content. Or ~~worse~~ worse yet, to permit some speical interest group ~~xxxx~~ to do it. Teachers are trained professionals. Boards should not be firghteded of allowing them, within broad policy, to exercise their individual judgement in the ~~xxx~~ classroom, regarding teaching methods and materials.

The third area we seek to have included is class size. Much has been made of this issue recently, and Kansas isto be commended for its lower than average PTR. However, PTR doesn't speak to the whole issue. It says nothing about the distrúbutión of students. Low PTRs nan be a factor of ~~xxx~~ small enrollments, special education mandates, or other factors which may well cover up the classes of 30 or 36 or even 40. The vast majority of education professionals recognize the relationship between class size and teaching efficiency. We would like to discuss, at the bargaining table, appropriate upper limits for classes. It's mighty difficult to listen to the superintendent brag about an average of 22 per cáass when your own average is 32 and your largest is 36.

Kuhns. p-4

The fourth addition we seek is assignment and transfer. This area has long been a problem. You'll hear some personal testimony from another witness shortly. In 501 schools are closed from time to time. Those teachers displaced by closures have been notified of openings in some cases, not in others. The decision concerning whether and whom to notify seems to be arbitrary. There can be little doubt that as enrollments decline and shift that this problem will grow not only in Topeka but elsewhere. ~~Another~~ Another way this problem manifests itself is through principal rotation. Principals appear to have considerable say in who will be on their staffs. When they move, teachers often move as well. Whether they like it ~~or~~ or not, in some cases. This can mean considerable disruption with little thought given to the wishes of the affected teachers.

Now we don't want to control assignments and transfers, but we would like to find mutually agreeable guidelines for the process, to replace what appears to be administrative whim.

And that's true for all four areas. We don't seek control, we seek to negotiate workable, mutually agreeable policy to guide administrative decision making.

Finally, we seek the addition of binding arbitration for those cases where boards and associations can't agree. Year before last, when our own board and association were unable to reach agreement the impasse was carried through fact-finding. In the bargaining session following release of the report, the board simply reiterated its final offer, refusing to acknowledge the findings of the panel. They broke no law. They just did what some boards have done since before fact-finding, before collective bargaining, and even before meet and confer. They did exactly what they wanted to do in the first place.

Now, I know that many of you hold the belief that local autonomy should be tampered with as little as possible, and that's an admirable goal. In ~~some~~ many cases, perhaps even in most cases, binding arbitration would affect the local board not at all, because it is able to reach agreement with its teachers. But it's like a law against murder. It's not made for those who would abide by its precepts anyway

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I'm asking you today to substitute a belief in a value more revered in this nation than local control, and there are few, I'm asking you to espouse basic impartial justice. When two parties can't agree they seek the opinion of an independent 3rd party, and they abide by it. As it stands now the factfinding process serves only to document the tyranny of some boards.

With arbitzation, the well-meaning board has the same opportunity as its teacher association to prepare and defend its positions. Nobody should be allowed to hold to a position that is indefensible in the eyes of a professional neutral. If we all were to follow that example, accepting what we like, rejecting what we don't, anarchy would be the only possible result. A democracy could not long endure such stress.

During my years as a negotiator, I have tried every legal mehtod I could think of to achieve mutually agreeable contracts. I've tried reason and persuasion. I've tried threats and shouting. I've tried public pressure. I've tried begging. Experience has taught me that if a board is unwilling, there is currently nothing in my power that I can legally do, to get an agreement. During those years you have moved deliberately, cautiously, in changing the law governing bargaining. You are the authoifity of last resort. I ask you this year to take the final, meaningful step to bring equity to the bargaining table.

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Testimony To
House Education Committee
By
Sharon B. Green
March 1, 1983

Mr. Chairman, Members of the Committee:

I am here this afternoon as an ex-teacher for Topeka Public Schools. I would like to address an issue that does not presently appear in any legislation. I am here to discuss a personal experience I had happen to me. It addresses the issue of assignment and transfer of teachers.

In March of 1980 I was informed my third grade class would be disbanded due to declining enrollment for the coming school year.

I immediately began interviewing for a new teaching assignment as I wanted very much to remain in the primary grades. As of May 1, 1980 I received a letter placing me in a fourth grade in a school where team teaching existed. I was happy with this new challenge and began working with my team mate during the summer. I also moved my books and other equipment to the school and spent a great deal of time acquainting myself with all the fourth grade text books.

At the end of August I met with the parents and many of the students I would be having. Then school began and for two weeks I tested and tried to organize the students into possible groups I could work with. This is a really difficult task and one that is most important for each student and teacher.

Then on Wednesday of the third week I was called away from my class to the principal's office. He informed me the school lacked 10 students for me to remain on staff there.

Because I was the only new teacher in the building this principal felt it only fair for me to be the teacher to be transferred. I could understand and appreciate his predicament, but I had already moved and changed grade level once this school year. He informed me that at the start of the next day I was to report to another school across town to teach

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sixth grade. The principal of this new school was a man I have known for many years and I had interviewed with him the previous spring. I knew I could not work well with this man and that, coupled with sixth graders, I knew it was the wrong situation for me.

When I expressed my concerns to the personnel director of Topeka Public Schools he brushed off my concerns by saying I was an excellent teacher and could adjust to the situation. Adjust, I knew I could, but at tremendous cost to me! I truly did not feel comfortable teaching sixth graders. I had taught pre-school through grade 8 and knew where I was most suited and that was in the primary grades. It would take some time for me to gather materials so I could teach these children on an individual basis as I know classrooms are never homogeneous groups.

I take teaching seriously and respect the individual rights of my students. I simply could not be a puppet whereby my strings are pulled and I automatically perform. It takes time to prepare lessons and present them to students so they can absorb and understand. I was requesting some time to visit the school, the class, the principal and other staff in order to have some knowledge about the organization of this different facility.

I saw this move no differently than moving a piece of furniture from one place to another. Teaching is a very important profession and I assumed the responsibility of educating every student.

We place our most precious possessions in the hands of teachers and then turn our backs! Teaching has not been given the respect it deserves as we do not respect teachers to have a voice in matters dealing with them. Doctors, lawyers, merchants, chiefs all have a voice as to how best they can work.

All I asked for was more time and more consideration so I could be an effective teacher. Just a little consideration regarding my assignment and transfer and I may be teaching today. Moving twice in the same school year was more aggravation than I felt I cared to sacrifice for Topeka Public Schools.

STATE OF KANSAS



OFFICE OF THE GOVERNOR

State Capitol
Topeka 66612

John Carlin Governor

Testimony To
House Education Committee

By
Bob Wootton
Legislative Liaison to the Governor
March 1, 1983

Mr. Chairman, Members of the Committee:

During the summer of 1981, I had the privilege of serving as a staff member for the Governor's Committee on Professional Negotiations. That distinguished Committee met on 8 separate occasions to examine the present statute which provides for professional negotiations between local boards of education and their personnel.

The Committee membership provided a reasoned balance of people who had had some direct experience in the education community and those who had not. A university professor, a former mayor, a former judge, three Kansas legislators, and representatives from the business, professional, and labor communities were involved as Committee members who submitted a final report on the first of November 1981. A copy of that report is available if the Committee wishes to examine it.

The recommendation which came from the Committee resulted in the introduction of House Bill 2890 from the 1982 Legislative Session. House Bill 2241 from the present Session is an exact replica of the previous year's bill.

In addition to expressing the Governor's support for House Bill 2241, I wish only to make the following three comments:

1. Elementary and secondary school teachers in the State of Kansas are underpaid to a serious degree in comparison with teachers in most other states;

2. Teachers in the State of Kansas presently bargain under a Professional Negotiations Act which allows local school boards, if they choose to do so, to nullify any previous negotiations by issuing unilateral contracts;
3. The supply of qualified teachers is shrinking at an alarming rate.

These three factors, when placed in perspective, demonstrate that our State faces critical shortages of qualified teachers in the very near future. The Committee will recall testimony from Dr. Jack Skillett of Emporia State University indicating that within the most recent decade entries into the teacher preparation program in the State of Kansas have dropped something over 50 percent. A partial reason for this drop can be attributed to the lessening financial rewards promised teachers for their professional services. The bill the Committee is addressing today would give teachers a better opportunity to have a more reasonable share in money which is contributed to public schools from state and local resources. This improvement in teacher salaries is a necessary prelude to any increase in the number of bright and eager college students who choose teaching as their life work.

While I am very much aware of the arguments which have been presented in opposition to the idea of arbitration as a final stage in the resolution of impasse, I nonetheless give ardent support in the Governor's name for this feature in House Bill 2241. The other conferees who will be speaking as proponents for this bill will describe far better than I the frustration and anger which result when long months of bargaining are nullified by a simple action of a local board of education which chooses to issue unilateral contracts. While the number of such boards constitutes a relatively small percentage of the school districts in the state, the number of teachers affected has in past years been significantly high.

I close by again expressing the Governor's support for House Bill 2241, and I urge the Committee's positive consideration of this important piece of legislation.

Thank you, Mr. Chairman, for your kind attention.