

MINUTES OF THE SENATE COMMITTEE ON EDUCATION.

The meeting was called to order by Chairperson Dwayne Umbarger at 1:35 p.m. on March 19, 2002 in Room 123-S of the Capitol.

All members were present except: Senator Hensley (excused)

Committee staff present: Ben Barrett, Legislative Research
Theresa Kiernan, Revisor of Statutes
Dale Dennis, Deputy Commissioner of Education
Judy Steinlicht, Secretary

Conferees appearing before the committee: Senator Dave Kerr
Brilla Scott, USA
Brad Stauffer, Topeka USD 501
Diane Gjerstad, Wichita Public Schools
Dr. Gary Norris, Salina USD 305
Mark Desetti, KNEA

Others attending: See Attached List

SB638--Employment after retirement for certain school retirants

Senate President Dave Kerr gave testimony in support of **SB638**. Currently, if a teacher or administrator were to retire, they cannot return to the same district and earn more than \$15,000. Sometimes a person is eligible to retire but they are not really ready to fully stop teaching. With the teacher shortage, this bill is proposed as a partial, temporary solution to the shortage of teachers in certain teaching fields. This bill would allow a teacher who has retired to come back and teaching in the same district. ([Attachment 1](#)) Senator Kerr offered a balloon to amend **SB638**. The balloon adds a three year sunset and authorizes an interim study. The study would be to determine whether this bill has helped with the teacher shortage. On page two, section C of the balloon, the hard-to-fill list would be reviewed on an annual basis. On page four, the amendment would authorize the change and then sunset the provision in July 2005. The change would also protect those who took advantage of the provisions of the bill. Employment would be at the discretion of the school board. ([Attachment 2](#)) Senator Kerr acknowledged that KPERS has a concern about the IRS regulations for someone who retires early and comes back to the district to teach. KPERS has provided additional language to handle this situation. ([Attachment 3](#)) Chairman Umbarger provided a copy of the fiscal note for **SB638**. ([Attachment 4](#))

In discussion, it was noted that in the provisions of the bill, the program would sunset one year prior to the interim study. Senator Kerr acknowledged this and said that those dates were flexible if the Committee wished to make changes. Also, there was no objection to making the provisions effective with the Kansas register.

Brilla Scott, Executive Director, United School Administrators offered support of **SB638**. USA has one basic concern with the bill in the section that defines and limits the hard-to-fill positions to an underserved or geographic area of the state. USA believes this is a statewide problem and recommends that the hard-to-fill listing represent a statewide list rather than a geographic area. ([Attachment 5](#))

Brad Stauffer, Director of Communications, Topeka Public Schools gave testimony in support of **SB638**. Topeka Public School District believes this bill will provide another option to help fill teacher positions. It would be to the advantage to the schools and the students to keep these teachers because these teachers know the students, the district and the community. ([Attachment 6](#))

Diane Gjerstad, Wichita Public Schools, agrees with **SB638**. Although they do not believe the bill will draw large numbers back into the classrooms, any additional tools from the legislature to attract and retain teachers would be greatly appreciated. Diane also noted that the shortage of qualified school district staff

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION at on March 19, 2002 in Room 123-S of the Capitol.

is not limited to teachers, but they also have difficulty in hiring principals and coordinators. (Attachment 7)

Dr. Gary Norris, Superintendent, Salina Public Schools, is supportive of **SB638**. Forty percent of the teachers in Salina School District are eligible for retirement in the next five years. Dr. Norris feels this bill should help the district to partially deal with the teacher shortage. This bill could potentially save recruiting, interviewing and hiring costs associated with filling vacancies. Keeping more senior teachers in place should increase student achievement. (Attachment 8)

Mark Desetti, KNEA, made comments on **SB638**. KNEA agrees that some teachers would like to return to their same school after retirement and it would be a benefit to the school district. KNEA has a problem with taking out the due process protection of the current law. They believe that retired teachers who stay in their district should be given the same consideration as their non-retired peers. (Attachment 9)

Chairman Umbarger recommended that the Committee work the bill next week. Senator Oleen reminded the Committee of the upcoming deadline and suggested the bill be worked later this week. Chairman Umbarger agreed and plans to work the bill on Thursday as soon as the amendments are ready. He urged other Committee members to study the bill and be ready with amendments on Thursday.

Senator Oleen reported to the Committee that K-State had their annual job fair last week. Last year there were four states recruiting and this year there were eleven states. Eight states offered signing bonuses on the spot, two states had three year programs and were signing people with a BS in English or History and no teaching experience. For three years they would be in a masters program and if they stay the three years, all bills would be paid. They are coming back to interview experienced teachers the next time. This is unprecedented in Manhattan.

Senator Teichman made a motion to approve the minutes for March 11, 13 and 14, 2002. Seconded by Senator Vratil. Motion carried.

Meeting adjourned at 2:30 p.m.

SENATE EDUCATION COMMITTEE GUEST LIST

DATE - 3-19-02

<u>NAME</u>	<u>REPRESENTING</u>
Bill Truck	Shawnee Mission #512
Brilla Scott	USA
Bush Staff	Topeka Public Schools, ^{USD} 501
Cheryl Thomas	Salina USD 305
Bill Gedy	SFFF
Mark Desetti	KNEA
Rosalea Snow	Self
Walter Snow	"
Ruth E. Hestman	Sub 512
Northern Valley High School - Jason Pibble	guest
Dane Gjerstad	Wichita Public Schools
Jack Plann	KPERS
Glenn Deek	KPERS
David Wysong	citizen
Mike Donaldson	president
Chae Hammond	student
Clinton Delhard	USD #212 student
Joshua Gypser	USD #212 Student
Jake Cox	USD #212 Student
Zimmer C. Lottan	USD #212 Student
Andy Tomkins	KSAE
Richard [unclear]	USD #212 student
Rachel Hays	USD #212 student

KANSAS STATE SENATE

COMMITTEE ASSIGNMENTS

CHAIRMAN:
INTERSTATE COOPERATION
LEGISLATIVE COORDINATING COUNCIL
ORGANIZATION, CALENDAR AND RULES

MEMBER:
COMMERCE
WAYS AND MEANS
STATE FINANCE COUNCIL
LEGISLATIVE POST AUDIT
PENSIONS, INVESTMENTS & BENEFITS

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PRESIDENT

Sen. Umbarger and Senate Education Committee

I am pleased to offer testimony in favor of SB 638 which is proposed as a partial, temporary solution to the shortage of teachers in certain teaching fields. I believe this shortage was due in part to the economic distortions of the late 90's and to some degree will self-correct in the cooler economic climate now in effect.

However, it is unlikely that the problem will go away entirely and SB 638 may offer potential to help. It would allow teachers who are eligible to retire to do so and return to their same school (KPERs Employer). At the present time, they would have to go to another KPERs employer (school district) if they want to earn more than \$15,000 per year. Many administrators and some teachers do this. This bill would make for less disruption and greater convenience for teachers in fields that are critically short of applicants.

Mr. Chairman, as we reviewed this bill, we identified numerous aspects that posed some degree of risk for future KPERs policy and financial well being. Therefore, I have prepared a balloon amendment to lessen those risks and make the bill more workable. The most important change is to put a three year sunset on the bill and to authorize an interim study to determine if it has helped alleviate the shortage of teachers in certain fields.

Thank you for your attention and I would like to explain the balloon in some detail.

Senate Education
3-19-02
Attachment 1

KANSAS STATE SENATE

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PRESIDENT

COMMITTEE ASSIGNMENT

CHAIRMAN:
INTERSTATE COOPERATION
LEGISLATIVE COORDINATING COUNCIL
ORGANIZATION, CALENDAR AND RULES

MEMBER:
COMMERCE
WAYS AND MEANS
STATE FINANCE COUNCIL
LEGISLATIVE POST AUDIT
PENSIONS, INVESTMENTS & BENEFITS

Unfilled teaching positions in certain fields as of August 1, 2001:

Special Ed	175
Music	42
Math	26 ½

SENATE BILL No. 638

By Committee on Ways and Means

2-28

Senate Education
3-19-03
Attachment 2

9 AN ACT concerning retirement; relating to certain school retirants; em-
10 ployment after retirement; requiring certain duties of state board of
11 education; amending K.S.A. 2001 Supp. 72-5445, 72-7513 and 74-4914
12 and repealing the existing sections.
13

46-1208a,

14 *Be it enacted by the Legislature of the State of Kansas:*

and legislative educational planning committee

15 Section 1. K.S.A. 2001 Supp. 72-5445 is hereby amended to read as
16 follows: 72-5445. (a) (1) Subject to the provisions of subsection (b), the
17 provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto,
18 apply only to: (A) Teachers who have completed not less than three con-
19 secutive years of employment, and been offered a fourth contract, in the
20 school district, area vocational-technical school or community college by
21 which any such teacher is currently employed; and (B) teachers who have
22 completed not less than two consecutive years of employment, and been
23 offered a third contract, in the school district, area vocational-technical
24 school or community college by which any such teacher is currently em-
25 ployed if at any time prior to the current employment the teacher has
26 completed the years of employment requirement of subpart (A) in any
27 school district, area vocational-technical school or community college in
28 this state.

29 (2) Any board may waive, at any time, the years of employment
30 requirements of provision (1) for any teachers employed by it.

31 (3) The provisions of this subsection are subject to the provisions of
32 K.S.A. 72-5446, and amendments thereto.

33 (b) The provisions of K.S.A. 72-5438 through 72-5443, and amend-
34 ments thereto, do not apply to any teacher whose certificate has been
35 nonrenewed or revoked by the state board of education for the reason
36 that the teacher: (1) Has been convicted of a felony under the uniform
37 controlled substances act; (2) has been convicted of a felony described in
38 any section of article 34 of chapter 21 of the Kansas Statutes Annotated
39 or an act described in K.S.A. 21-3412 or K.S.A. 2001 Supp. 21-3412a,
40 and amendments thereto, if the victim is a minor or student; (3) has been
41 convicted of a felony described in any section of article 35 of chapter 21
42 of the Kansas Statutes Annotated, or has been convicted of an act de-
43 scribed in K.S.A. 21-3517 and amendments thereto, if the victim is a

1 minor or student; (4) has been convicted of any act described in any
 2 section of article 36 of chapter 21 of the Kansas Statutes Annotated; (5)
 3 has been convicted of a felony described in article 37 of chapter 21 of
 4 the Kansas Statutes Annotated; (6) has been convicted of an attempt
 5 under K.S.A. 21-3301, and amendments thereto, to commit any act spec-
 6 ified in this subsection; (7) has been convicted of any act which is de-
 7 scribed in K.S.A. 21-4301, 21-4301a or 21-4301c, and amendments
 8 thereto; (8) has been convicted in another state or by the federal govern-
 9 ment of an act similar to any act described in this subsection; or (9) has
 10 entered into a criminal diversion agreement after having been charged
 11 with any offense described in this subsection.

12 (c) *The provisions of K.S.A. 72-5438 through 72-5443, and amend-*
 13 *ments thereto, do not apply to any teacher who is a retirant from school*
 14 *employment of the Kansas public employees retirement system.*

15 Sec. 2. K.S.A. 2001 Supp. 72-7513 is hereby amended to read as
 16 follows: 72-7513. In general, but not by way of limitation, consonant with
 17 other applicable statutory provisions, the state board of education shall:

18 (a) Adopt and maintain standards, criteria, guidelines or rules and
 19 regulations for the following:

20 (1) School libraries and other educational materials with the excep-
 21 tion of textbooks;

22 (2) courses of study and curriculum;

23 (3) accreditation of schools including elementary and secondary, pub-
 24 lic and nonpublic;

25 (4) certification of administrators, teachers, counselors, school nurses
 26 and supervisors of school districts and of the state department of edu-
 27 cation and of teachers and administrators of nonpublic schools; and

28 (b) administer the laws of this state concerning the matters named in
 29 this section and all other matters relating to general supervision of the
 30 public schools and institutions under supervision of the state board of
 31 education; and

32 (c) ~~determine and make available a list of hard-to-fill teaching disci-~~
 33 ~~plines [and underserved areas] in which there is a critical shortage of teach-~~
 34 ~~ers as required by K.S.A. 74-4914, and amendments thereto. The board~~
 35 ~~shall promulgate rules and regulations, if necessary, to carry out the pro-~~
 36 ~~visions of employment after retirement of teachers in hard-to-fill teaching~~
 37 ~~disciplines [and underserved areas] as provided in K.S.A. 74-4914, and~~
 38 ~~amendments thereto.~~

39 Sec. 3. K.S.A. 2001 Supp. 74-4914 is hereby amended to read as
 40 follows: 74-4914. (1) The normal retirement date for a member of the
 41 system shall be the first day of the month coinciding with or following
 42 termination of employment with any participating employer not followed
 43 by employment with any participating employer within 30 days and the

on an annual basis,

2 attainment of age 65 or, commencing July 1, 1993, age 62 with the com-
3 pletion of 10 years of credited service or the first day of the month co-
4 inciding with or following the date that the total of the number of years
5 of credited service and the number of years of attained age of the member
6 is equal to or more than 85. In no event shall a normal retirement date
7 for a member be before six months after the entry date of the participating
8 employer by whom such member is employed. A member may retire on
9 the normal retirement date or on the first day of any month thereafter
10 upon the filing with the office of the retirement system of an application
11 in such form and manner as the board shall prescribe. Nothing herein
12 shall prevent any person, member or retirant from being employed, ap-
13 pointed or elected as an employee, appointee, officer or member of the
14 legislature. Elected officers may retire from the system on any date on
15 or after the attainment of the normal retirement date, but no retirement
16 benefits payable under this act shall be paid until the member has ter-
17 minated such member's office.

17 (2) No retirant shall make contributions to the system or receive serv-
18 ice credit for any service after the date of retirement.

19 (3) Any member who is an employee of an affiliating employer pur-
20 suant to K.S.A. 74-4954b and amendments thereto and has not withdrawn
21 such member's accumulated contributions from the Kansas police and
22 firemen's retirement system may retire before such member's normal
23 retirement date on the first day of any month coinciding with or following
24 the attainment of age 55.

25 (4) Any member may retire before such member's normal retirement
26 date on the first day of any month coinciding with or following termination
27 of employment with any participating employer not followed by employ-
28 ment with any participating employer within 30 days and the attainment
29 of age 55 with the completion of 10 years of credited service, but in no
30 event before six months after the entry date, upon the filing with the
31 office of the retirement system of an application for retirement in such
32 form and manner as the board shall prescribe.

33 (5) If a retirant who retired on or after July 1, 1993, is employed or
34 appointed in or to any position or office for which compensation for serv-
35 ice is paid in an amount equal to \$15,000 or more in any one such calendar
36 year, by any participating employer for which such retirant was employed
37 or appointed during the final two years of such retirant's participation,
38 such retirant shall not receive any retirement benefit for any month for
39 which such retirant serves in such position or office. The participating
40 employer shall report to the system within 30 days of when the compen-
41 sation paid to the retirant is equal to or exceeds any limitation provided
42 by this section. Any retirant employed by a participating employer shall
43 not make contributions nor receive additional credit under such system

2-3

2.4

1 for such service except as provided by this section. Upon request of the
 2 executive director of the system, the secretary of revenue shall provide
 3 such information as may be needed by the executive director to carry out
 4 the provisions of this act. The provisions of this subsection shall not apply
 5 to retirants employed as ~~teachers in a hard-to-fill teaching discipline or~~
 6 ~~teaching in an underserved area~~ substitute teachers or officers, employ-
 7 ees or appointees of the legislature. ~~For purposes of this subsection (a)~~
 8 *"Hard-to-fill teaching discipline" means a teaching discipline in which*
 9 *there is a critical shortage of teachers as determined and specified by the*
 10 *state board of education.* ~~(b) "underserved area" means a geographic area~~
 11 ~~of the state in which there is a critical shortage of teachers as determined~~
 12 ~~and specified by the state board of education.~~ *Determination of whether*
 13 *an individual teacher is teaching in a hard-to-fill teaching discipline for in*
 14 *an underserved area shall be made by the participating employer of such*
 15 *teacher in conformity with the determination made by the state board of*
 16 *education as provided in K.S.A. 72-7513, and amendments thereto.* The
 17 provisions of this subsection shall not apply to members of the legislature
 18 prior to January 8, 2000. The provisions of this subsection shall not apply
 19 to any other elected officials prior to the term of office of such elected
 20 official which commences on or after July 1, 2000. The provisions of this
 21 subsection shall apply to any other elected official on and after the term
 22 of office of such other elected official which commences on or after July
 23 1, 2000. Except as otherwise provided, commencing January 8, 2001, the
 24 provisions of this subsection shall apply to members of the legislature.
 25 For determination of the amount of compensation paid pursuant to this
 26 subsection, for members of the legislature, compensation shall include
 27 any amount paid as provided pursuant to subsections (a), (b), (c) and (d)
 28 of K.S.A. 46-137a, and amendments thereto, or pursuant to K.S.A. 46-
 29 137b, and amendments thereto. Notwithstanding any provision of law to
 30 the contrary, when a member of the legislature is paid an amount of
 31 compensation of \$15,000 or more in any one calendar year, the member
 32 may continue to receive any amount provided in subsections (b) and (d)
 33 of K.S.A. 46-137a, and amendments thereto, and still be entitled to re-
 34 ceive such member's retirement benefit.

35 (6) For purposes of this section, any employee of a local governmental
 36 unit which has its own pension plan who becomes an employee of a
 37 participating employer as a result of a merger or consolidation of services
 38 provided by local governmental units, which occurred on January 1, 1994,
 39 may count service with such local governmental unit in determining
 40 whether such employee has met the years of credited service require-
 41 ments contained in this section.

Sec. ~~4~~ K.S.A. 2001 Supp. 72-5445, 72-7513 and 74-4914 are hereby
 repealed.

Commencing July 1, 2002, and ending June 30, 2005, the provisions of this subsection shall not apply to retirants first employed as teachers in a hard-to-fill teaching discipline during such period, except that the provisions of this act may continue to not apply after June 30, 2005, to any such retirant still determined by such retirant's participating employer to be teaching in hard-to-fill teaching discipline.

and whether the provisions of this subsection shall not apply to such individual teacher

and nothing contained in this subsection provides a continuing contractual right beyond the term of the contract pursuant to this subsection or a vested right in any retirement benefit or other benefit provided in this subsection

Sec. 4. K.S.A. 2001 Supp. 46-1208a (SEE ATTACHMENT #1)

5.

46-1208a,

1 Sec. 5. This act shall take effect and be in force from and after its
2 publication in the statute book.

6.

2-5

Attachment 1

Sec. 4. K.S.A. 2001 Supp. 46-1208a is hereby amended to read as follows: 46-1208a.

(a) The legislative educational planning committee is hereby established and shall be composed of 13 members, seven of whom shall be members of the house of representatives and six of whom shall be senators. Members of the legislative educational planning committee shall be appointed by the legislative coordinating council. The legislative coordinating council shall determine the number of members of the committee who shall be members of the majority party and the number of members of the committee who shall be members of the minority party. The committee shall be permanent with membership changing from time to time as the legislative coordinating council shall determine.

(b) The legislative educational planning committee shall plan for public and private postsecondary education in Kansas, including vocational and technical education; explore, study and make recommendations concerning preschool and K-12 education in Kansas; review implementation of legislation relating to educational matters; and consider such other matters as the legislative coordinating council may assign. The committee shall annually make a report and recommendations to the legislature and the governor and may cause the same to be published separately from other documents which are required by law to be submitted to the legislative coordinating council. The reports and recommendations of the committee shall include a developmental schedule for implementation of educational goals established by the committee. The committee shall from time to time update such schedule as new or additional information is developed or refined. During the 2005 summer interim, the committee shall conduct a review of the utilization of re-entrants employed as teachers in hard-to-fill teaching disciplines pursuant to the provisions of subsection (5) of K.S.A. 74-4914, and amendments thereto, and submit as a part of the committee's annual report and recommendations

the legislature, such findings and recommendations as to the continued utilization of such retirants as teachers not subject to the provisions of subsection (5) of K.S.A. 74-4914, and amendments thereto.

(c) The provisions of the acts contained in article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the legislative educational planning committee to the extent that the same do not conflict with the specific provisions of this act applicable to the committee.

(d) Upon request of the legislative educational planning committee, the state board of regents and the state board of education shall provide consultants from the faculties and staffs of institutions and agencies under the respective control and jurisdiction thereof.

(e) The legislative educational planning committee shall meet upon call of its chairperson and may introduce such legislation as it deems necessary in performing its functions.



Kansas Public Employees Retirement System

March 19, 2002

Senator Dave Kerr
President
Kansas Senate
300 SW 10th Room 359E
Topeka KS 66612-1504

Dear Senator Kerr:

At the Ways and Means Subcommittee meeting on KPERS Issues on March 15th we briefly discussed the need to have the law firm of Ice Miller, our outside qualified-plan and IRS compliance consultants, review SB 638 for certain Internal Revenue Code issues involved in returning to work after retirement for the same employer. As you know, the current post-retirement earning limitations in K.S.A. 74-4914(5) are related solely to working after retirement for the same employer or one who employed the retirant within two years prior to retirement. Ice Miller attorneys advise us that SB 638 may be enacted without any difficulty under the Internal Revenue Code's various restrictions, with only slight changes. Specifically, Ice Miller advises that the amendment should be limited to teachers who either:

- are retiring under normal retirement (an unreduced benefit), or
- have already retired under early retirement (reduced benefit) prior to the date of enactment of this bill.

The reasons for expressing the above limitations in the bill are as follows. Generally speaking, the IRS views a return to employment with the same employer, especially if overtly pre-arranged between employer and employee before retirement, as a potential violation of the general rule precluding in-service distributions. (This rule flows from the concept that a qualified retirement plan exists for the payment of benefits upon retirement, which leads to analyzing whether the initiation of benefit payments is connected to a "bona fide retirement.") Based on a goal of having the KPERS retirement plan, as amended by this change, continue to require compliance with the IRS rule against in-service distributions, the particular rationale for the attached suggested rewording of SB 638's amendatory language is as follows:

(1) According to certain precedential IRS rulings, employing those who retire under normal retirement eligibility (non-reduced benefits) and return to work by pre-arrangement with the same employer is not viewed as a violation of the general rule against in-service distributions. The IRS precedent specifically limits this view of post-retirement employment circumstances to persons who, under the terms of the plan, were qualified for normal, non-reduced retirement. In the KPERS plan, such persons are those who retire under subsection (1) of K.S.A. 74-4914.

Senator Dave Kerr
March 19, 2002
Page 2

(2) Employing teachers who retired on early retirement (whose circumstances are not included in the above mentioned IRS precedent), and who return to work with the same employer to take advantage of this bill, will not be seen as violating the general rule against in-service distributions if their retirement occurred 30 days or more prior to the enactment of this bill. In the KPERS plan, early retirement is provided under subsection (4) of K.S.A. 74-4914.

Thus, based on these considerations, KPERS' suggested language beginning on page 4, line 4 of SB 638 would read as follows:

. . . The provisions of this subsection shall not apply to retirants employed as substitute teachers or officers, employees or appointees of the legislature. *The provisions of this subsection shall not apply to retirants employed as teachers in a hard-to-fill teaching discipline or teaching in an underserved area, provided that such retirants either retired under the provisions of subsection (1) of this section, or, if they retired under the provisions of subsection (4) of this section, were retired more than 30 days prior to the effective date of this act. For purposes of this subsection: (a) "Hard-to-fill teaching discipline" means a teaching discipline in which there is a critical shortage of teachers as determined and specified by the state board of education; (b) "underserved area" means a geographic area of the state in which there is a critical shortage of teachers as determined and specified by the state board of education. Determination of whether an individual teacher is teaching in a hard-to-fill teaching discipline or in an underserved area shall be made by the participating employer of such teacher in conformity with the determination made by the state board of education as provided in K.S.A. 72-7513, and amendments thereto.*

If you have any questions, please contact me.

Sincerely,



Glenn Deck
Executive Director

cc: Senator Christine Downey
Julian Efrid, Legislative Research
Gordon Self, Office of the Revisor of Statutes

STATE OF KANSAS



DIVISION OF THE BUDGET
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Bill Graves
Governor

Duane A. Goossen
Director

March 19, 2002

The Honorable Dwayne Umbarger, Chairperson
Senate Committee on Education
Statehouse, Room 401-S
Topeka, Kansas 66612

Dear Senator Umbarger:

SUBJECT: Fiscal Note for SB 638 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 638 is respectfully submitted to your committee.

SB 638 makes several amendments to current law regarding employment of retired teachers. First, the bill exempts retired teachers from the teacher due process procedures in current law. The bill also directs the State Board of Education to determine and make available a list of hard-to-fill teaching disciplines and underserved areas in which there is a critical shortage of teachers. The State Board would issue rules and regulations, if necessary, to carry out the provisions of employment after retirement of teachers in hard-to-fill disciplines and underserved areas of the state. The bill defines hard-to-fill teaching discipline as a discipline in which there is a critical shortage of teachers, as determined and specified by the State Board of Education. The employing school district would make the determination on whether the teacher was teaching in one of these disciplines or areas, in accordance with the State Board's determination.

The bill also exempts retired teachers from the \$15,000 cap on annual earnings, if they are qualified to teach in a hard-to-fill discipline or in an underserved area. Under current law, if a retired teacher returns to work with the same employer from which he or she retired, a \$15,000 earning limit applies. Upon reaching that threshold, the teacher must either quit to continue receiving benefits or continue working and let his or her benefits be suspended for the rest of the year.

According to an actuarial study of this bill, if the teachers who are permitted to continue receiving KPERS benefits while working for the same school district come from the ranks of teachers who would have retired anyway, or from those retired in previous years, there would be

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3-19-02
Attachment 4

a negligible fiscal effect to the KPERS Fund. However, if this bill entices members to retire who otherwise would have remained active KPERS members, there would be a cost.

In addition to the increase in actuarial liability resulting from additional members retiring earlier than assumed, this bill has the potential to affect the contribution rate for the KPERS system in another way. Since the retiring teachers remain in their current positions, they are not replaced initially with a new employee as currently occurs. This will reduce the covered payroll for the system, or at a minimum, result in a lower covered payroll than would otherwise have occurred. Because the contribution rate is developed by dividing the dollar amount of normal cost and the payment on the unfunded actuarial liability by the covered payroll, a decrease in the covered payroll will result in an increase in the contribution rate.

Although it is reasonable to expect changes in SB 638 might affect retirement rates in future years, it is difficult to predict exactly how it would change the retirement pattern. For this reason, a range of additional retirements is used, rather than just a single, fixed number. The bill's cost to the KPERS Fund was determined by measuring the difference in the unfunded actuarial liability and actuarial contribution rate for the December 31, 2000 actuarial valuation, assuming additional retirements of 100, 250, and 500, and that members remained in their current position. The results are noted below:

	Number of Additional Retirements <i>(Dollars in Millions)</i>			
		<u>100</u>	<u>250</u>	<u>500</u>
Increase in Unfunded Actuarial Liability	\$7.70	\$19.40	\$38.70	
Increase in Actuarial Contribution	\$0.44	\$1.10	\$2.20	
Decrease in Estimated Payroll	\$4.70	\$11.80	\$23.50	
Net Effect on Total Actuarial Contribution Rate	0.02%	0.04%	0.09%	

According to KPERS, there would be no administrative costs to the agency with enactment of SB 638. For information, the Department of Education notes that there were 512 teaching vacancies on August 1, 2001. Any fiscal effect resulting from enactment of SB 638 is not accounted for in *The FY 2003 Governor's Budget Report*.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Jack Hawn, KPERS
Dale Dennis, Education

 Highfill Scott
Executive Director
bscott@usa-ks.org

M. Katharine Weickert
Director of
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Professional Development
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SB 638: Employment After Retirement

Testimony presented before the Senate Education Committee

by

Brilla Highfill Scott, Executive Director
United School Administrators of Kansas

March 19, 2002



Kansas Association of
Elementary
School Principals
(KAESP)

Kansas Association of
Middle School
Administrators
(KAMSA)

Kansas Association of
School Administrators
(KASA)

Kansas Association of
School Business
Officials
(KASBO)

Kansas Association for
Supervision and
Curriculum Development
(KASCD)

Kansas Association of
Special Education
Administrators
(KASEA)

Kansas Association of
Secondary School
Principals
(KASSP)

Kansas Council of
Vocational
Administrators
(KCVA)

Kansas School
Public Relations
Association
(KanSPRA)

Mister Chairman and Members of the Senate Education Committee:

I am Brilla Highfill Scott, Executive Director of United School Administrators of Kansas, and I am here in support of SB 638 which speaks to employment of teachers after retirement. Under this proposal, the Kansas State Board of Education would develop a list of hard-to-fill teaching areas.

SB 638 would remove the \$15,000 income limitation for retired teachers who qualify to teach in hard-to-fill disciplines, allowing them to return to work with their employer who participates in the Kansas Public Employees Retirement System (KPERS). This bill would enable a teacher to return to his/her district and retain retirement benefits.

Our only concern with the bill rests with the section that defines and limits the hard-to-fill positions to an underserved or geographic area of the state. The shortage of qualified educators is a reality in Kansas and crosses our state with no distinction between large or small, rural or city, or location within the state. Our recommendation would be that the hard-to-fill listing represent a statewide list rather than a geographic area.

We agree that contracts for individuals choosing to work after drawing KPERS benefits should not be subject to continuing contract laws or negotiated agreements. Local boards of education should determine salaries and length of contract in these instances.

United School Administrators of Kansas asks that you favorably report this incentive to retain quality teachers as presented in SB 638.

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March 19, 2002



**Testimony to the Senate Education Committee
Sen. Dwayne Umbarger, Chair
Senate Bill 638**

By Brad Stauffer
Director of Communications
Topeka Public Schools

Topeka Public Schools and other school districts across the state continue to struggle with finding quality teachers to fill vacancies—especially in certain subject areas such as special education. We believe Senate Bill 638 will provide us with another option to help fill these crucial teaching positions.

We know that some teachers take their KPERS retirement then go to another school district and continue teaching. TPS has no qualms with this practice. Our frustration is that those teachers do not currently have the option to teach full-time in the district they retire from.

TPS takes pride in its professional development program and in the learning environment we have created for our staff and students. Our veteran teachers know the students, the district and the community. It would be to our students' advantage to keep our effective teachers, rather than see them go to another district after retirement.

We feel that SB 638 will provide incentive for some teachers to continue teaching in our district upon taking KPERS. Teachers have to declare their intent to retire by April 1, so the affects of this act may not be fully felt until the 2003-2004 school year. If this act goes into effect, we would anticipate changes in our negotiated agreement that would be bargained this year. We would also recommend that the State Board's determination of hard-to-fill teaching disciplines and areas of critical shortage be made on an annual basis, well before April 1.

At the beginning of this school year we had 37 unfilled positions. Statewide, the figure was in excess of 500. Through the hiring of December graduates and other certified staff, we have whittled our vacancies to six. If this bill was in effect now, we feel at least two teachers who retired last year, and are now teaching elsewhere, would have stayed in TPS and reduced our special education vacancies.

With budget cuts threatening to further disadvantage our ability to offer competitive salaries, SB 638 will help us maintain quality instruction to the students of Topeka Public Schools. Mr. Chairman, we are in favor of this legislation and would encourage the committee's favor as well. I stand for any questions you may have.

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Attachment 6*



Senate Education Committee
Senator Umbarger, chair

March 19, 2002

Submitted by: Diane Gjerstad
Wichita Public Schools

Mr. Chairman, and members of the committee:

The Wichita Public Schools rises in support of S.B. 638 permitting districts to rehire teachers who have retired from their home district for hard to fill teaching positions.

We believe this bill would entice a small number of experienced teachers back into the classroom. The shortage of teachers is well documented. Additional tools from the legislature to attract and retain teachers would be greatly appreciated.

Wichita specifically supports keeping this class of teachers out of the traditional bargaining unit. Placing rehired retired teachers in the bargaining unit means delaying implementation of this bill until the 03/04 school year at best since proposals for negotiations were due on February 1. Exempting this class of teachers from the bargaining unit means retired teachers could return to the classroom of their home district this fall.

Remember, the retiring teacher has a choice – be rehired by the home district under these conditions or, as they can under current law, apply and be hired by any other district with due process and traditional wage scale. The choice is currently, and would remain, solely the teacher's choice.

And it is also important to note the shortage of qualified school district staff is not limited to teachers. We also have difficulty hiring principals and coordinators.

We believe a limited number of teachers will desire to be rehired if this bill is passed.

But let us not forget the goal – every child deserves a great teacher. If we can keep a few great teachers in our classrooms a few more years, the winners are the kids. That should be our goal – not the adult agendas of statutes and contracts.

Thank you, Mr. Chairman and members of the committee. I urge your favorable support of S.B. 638.

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**Schools For Fair Funding Testimony
SB 638**

Senate Education Committee

By

**Dr. Gary Norris, Superintendent
Salina Public Schools**

March 19, 2002

1:30 p.m.

Senate Bill 638 is a good Bill and should help school districts partially deal with the staggering teacher shortage that is looming over our state and nation. We urge you to support this Bill with several slight modifications.

BACKGROUND INFORMATION

1. Please note the increase in the number of teachers that we have had to hire in Salina the last four years.

Year	New Teachers Hired to Begin the Year	Resignations From Previous Year	Retirees From Previous Year	Retirees Working Outside of District	Retirees Working Part-Time In District
2001-2002	75	42	33	1	8
2000-2001	58	41	17	4	1
1999-2000	58	35	23	2	3
1998-1999	38	20	18	1	2

2. Retirees from other districts currently teaching in U.S.D. #305:

Position	School	Name	Experience
Counselor	Heusner Elementary School	Barbara W.	Entered with 27 years experience

3. We have significant numbers of teachers (40+%) that will be eligible for retirement in the next five years. The teacher shortage, unfortunately, leads us to believe that many classrooms may have to be staffed by teachers without the appropriate qualifications.

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4. Positions unable to fill in recent years:

Position	Date of Opening	Steps Taken to Insure Curriculum Would Not Be Interrupted
Chemistry/Physics	June	Filled by requiring a move within our district
Band	July	Filled by bringing back a retiree part time and overloading another teacher
Journalism/Yearbook	September	Filled by requiring a move within our district
Counselor	Early Opening - .7 position	Filled within by reducing counselor's sabbatical time to .5 and hiring a retiree .5
High School Math	May	Filled by overloading five other teachers
Spanish	May	Filled by overloading several other teachers

5. Senate Bill 638 will potentially save recruiting, interviewing and hiring costs associated with filling vacancies.
6. Having the ability to keep many of our more senior teachers in place should increase student achievement.
7. Board's of Education need flexibility to decide which teachers, in which areas, would qualify. This provision should not be an automatic "right" for all persons approaching retirement. In the event that it is not good for students, the local BOE must have the authority to make that determination.
8. There is also a shortage of administrators in the state and nation. To begin combating this shortage, Salina, Junction City and Manhattan partnered with Kansas State University in a Professional Administrative Leadership Academy (PALA). After two years of hard work and long hours, we are graduating 22 potential principals this month. Unfortunately, this type of Herculean effort is probably not possible for smaller rural districts in Kansas.

We respectfully ask the committee to change the designation "hard to fill teaching disciplines" to "hard to fill certified positions." We have significant numbers of administrators (70+%) that will be eligible for retirement in the next five years. The administrator shortage, unfortunately, leads us to believe that many schools may have to be staffed by administrators without the levels of experience that a district like Salina has been able to attract in previous years. The effective school research shows that the principal is critical to student achievement.

9. Thank you for this opportunity to meet with you today.



Mark Desetti Testimony
Senate Education Committee
Tuesday, March 19, 2002

Thank you, Mr. Chairman. I am Mark Desetti and I represent Kansas NEA. I appreciate this opportunity to make comments on Senate Bill 638.

This past summer, when we testified before the Joint Committee on Pensions, Investments, and Benefits, KNEA supported the concept of allowing teachers to retire as they do now, draw their retirement, and return to teach in that same school district without being subject to the \$15,000 limitation in the retirement statute. Currently teachers can and do retire and go to the next district to work without the limit placed upon them. One cannot blame the teachers for doing this; it is a financial advantage for them to make this change. For the teacher and the district from which they retired, it might have been preferable for them to stay in the same district rather than move. Some would have stayed in their own classroom in the same building. This continuity would have helped all involved, especially in this time of teacher shortages.

We have no problem with the State Board of Education stating the areas of shortage, either subject matter or geographic area. What we do have a problem with in the bill, as many of you might expect, is the provision that strips these teachers of the due process protections of the current law. The district will make the initial decision as to whether or not to offer the contract. And since the district would be unlikely to offer a contract to a teacher they did not consider an excellent teacher, we do not see any reason that these good teachers should not have some protection over arbitrary actions. If the district believes these teachers are good enough to offer a position, why would they not be deserving of some legal protections? We fear that a district, later finding a new graduate in the hard-to-fill area, might just summarily dismiss the veteran teacher to save money.

We would like to work something out in this bill so retired teachers who stay in their district are given the same consideration as their non-retired peers. Thank you for listening to our concerns about SB 638.

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Attachment 9
Web Page: www.knea.org