

MINUTES OF THE HOUSE EDUCATION COMMITTEE

The meeting was called to order by Vice-Chairman Deena Horst at 9:00 A.M. on February 15, 2005 in Room 313-S of the Capitol.

All members were present except:

Kathe Decker- excused

John Faber- excused

Charlie Roth - excused

Committee staff present:

Carolyn Rampey, Kansas Legislative Research

Theresa Kiernan, Revisor of Statutes Office

Art Griggs, Revisor of Statutes Office

Ann Deitcher, Committee Secretary

A motion was made by Representative Storm and seconded by Representative Huebert to accept the committee minutes of January 13, 18, 20 and 21 as approved. The motion carried on a voice vote.

HB 2212 - Teacher contract non-renewal procedures

Representative Frank Miller appeared before the Committee in support of **HB 2212**. (Attachment 1).

Speaking in favor of **HB 2212** was Patricia Baker, Deputy Exec. Dir./General Counsel, KASB. (Attachment 2).

Don Wilson, United School Administrators, appeared as a proponent for **HB 2212**. (Attachment 3).

Appearing in opposition of **HB 2212** was David Schauner of KNEA. (Attachment 4).

Following a question and answer period the hearing on **HB 2212** was closed.

HB 2252 - relating to school districts; concerning the changing of member district boundaries.

Representative Bill Otto offered testimony supporting **HB 2252**. (Attachment 5).

Appearing as a proponent for **HB 2252** was Ann Foster of Kaw Valley CARES. (Attachment 6).

The hearing was then closed on **HB 2252**.

The meeting was adjourned at 10:50 a.m. The next meeting is scheduled for Wednesday, Feb. 16, 2005.

STATE OF KANSAS

C. FRANK MILLER
REPRESENTATIVE, TWELFTH DISTRICT
MONTGOMERY, CHAUTAUQUA, AND
ELK COUNTIES
HOME ADDRESS: P.O. BOX 665
INDEPENDENCE, KANSAS 67301
TOPEKA OFFICE: STATEHOUSE, RM 431-N
TOPEKA, KANSAS 66612
(785) 296-7646



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: EDUCATION
HEALTH AND HUMAN
SERVICES
ETHICS AND ELECTIONS
LEGISLATIVE POST AUDIT

Thursday, February 10, 2005

Honorable Representative Kathe Decker, Chairman
Members of the House Education Committee

It is my pleasure to stand before you today in support of HB 2212.

The first Education Committee meeting we attended for the 2005 session was very inspiring and made all of us proud of our Kansas teachers. The group of eight outstanding teachers that came before the committee that day and told us their story of success was most enlightening. But as I recall, one of the teachers mentioned that if just one teacher does not perform in an accountable manner, it can slow down a class that must later be brought up to speed by the next teacher. This is a serious problem.

The intent of this bill is to simplify the process of teacher contract non-renewal. This is a bill that should help the schools refine their teacher staffing in less time and less stress. Funding requests for education this year will be more justifiable if reforms are also implemented that enhance the ability of schools to be more efficient. This bill is especially fair to teachers that are capable and highly competent, and who uphold their obligations of accountability to their students.

Two charts are attached to my testimony that offer a more graphic explanation. The first chart details the present system of teacher contract non-renewal. It is a cumbersome system that may require up to 155 or more days. No company that I have worked for has had such a complicated procedure for terminating an employee. The second chart explains the system that would be put in place were the new bill made into law. HB2212 focuses on the reduction of time of teacher contract non-renewal. Termination of any employee is never pleasant and both parties benefit by not extending the agony any longer than necessary.

In summary this is what the bill does:

1. The length of time allowed for each step of the hearing process is shortened.
2. The number of hearing officers is increased from 5 to 7.
3. The request for a second list of hearing officers is stricken from the bill.
4. The restriction that a hearing officer is not eligible to serve if he or she has already served in the past 5 years is reduced to only one year. This would provide for a more flexible pool of qualified attorneys to act as hearing officers.

It is very important that we support our good teachers by replacing those teachers that hamper the efforts of the good teachers, and thus making the process less stressful. As the saying goes "one bad apple can spoil the whole barrel"! It is so important that our students get the education they deserve, and that should be our priority here today.

I urge the committee to support this bill.

Thank you Madam Chairman and I stand for questions.

Testimony submitted by

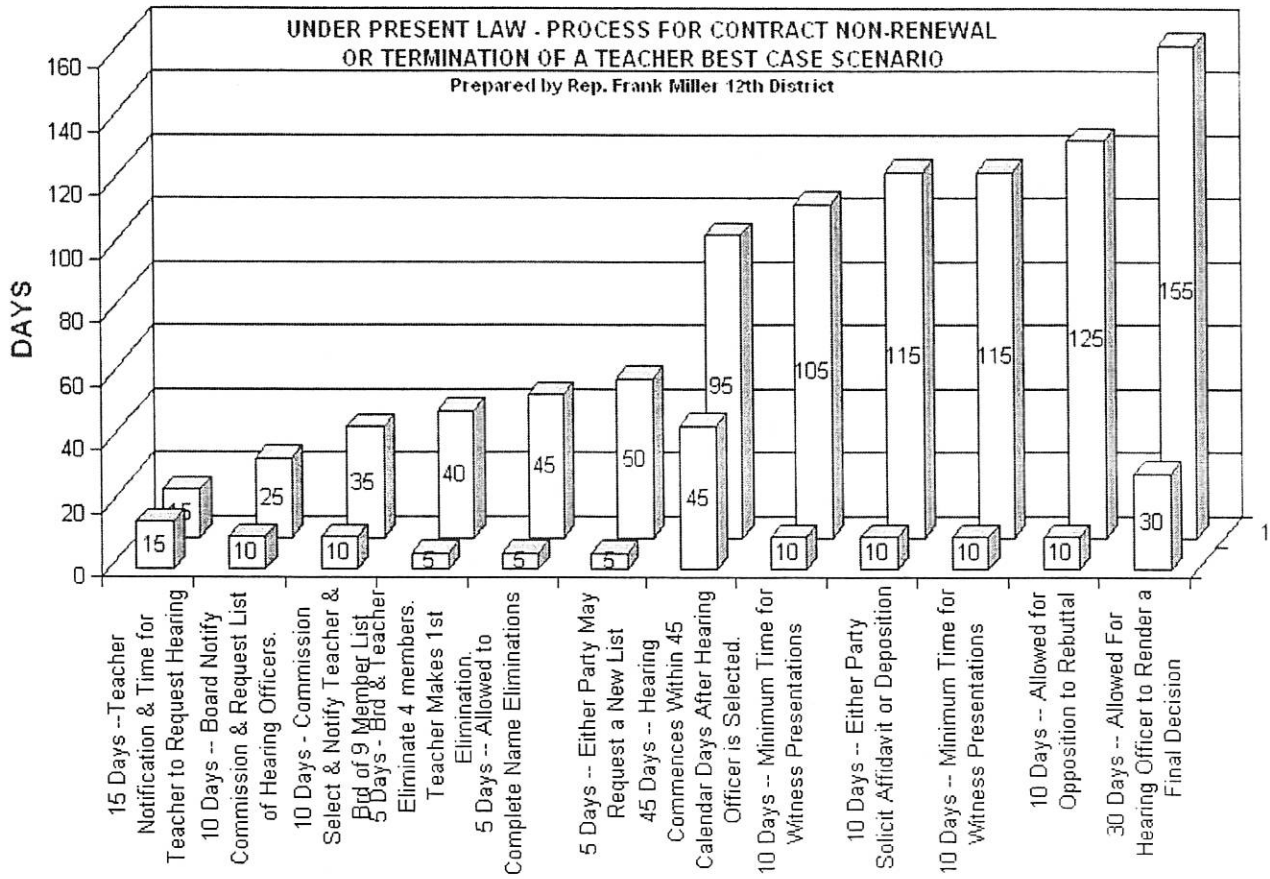
A handwritten signature in black ink that reads "C. Frank Miller". The signature is written in a cursive, slightly slanted style.

Representative Frank Miller

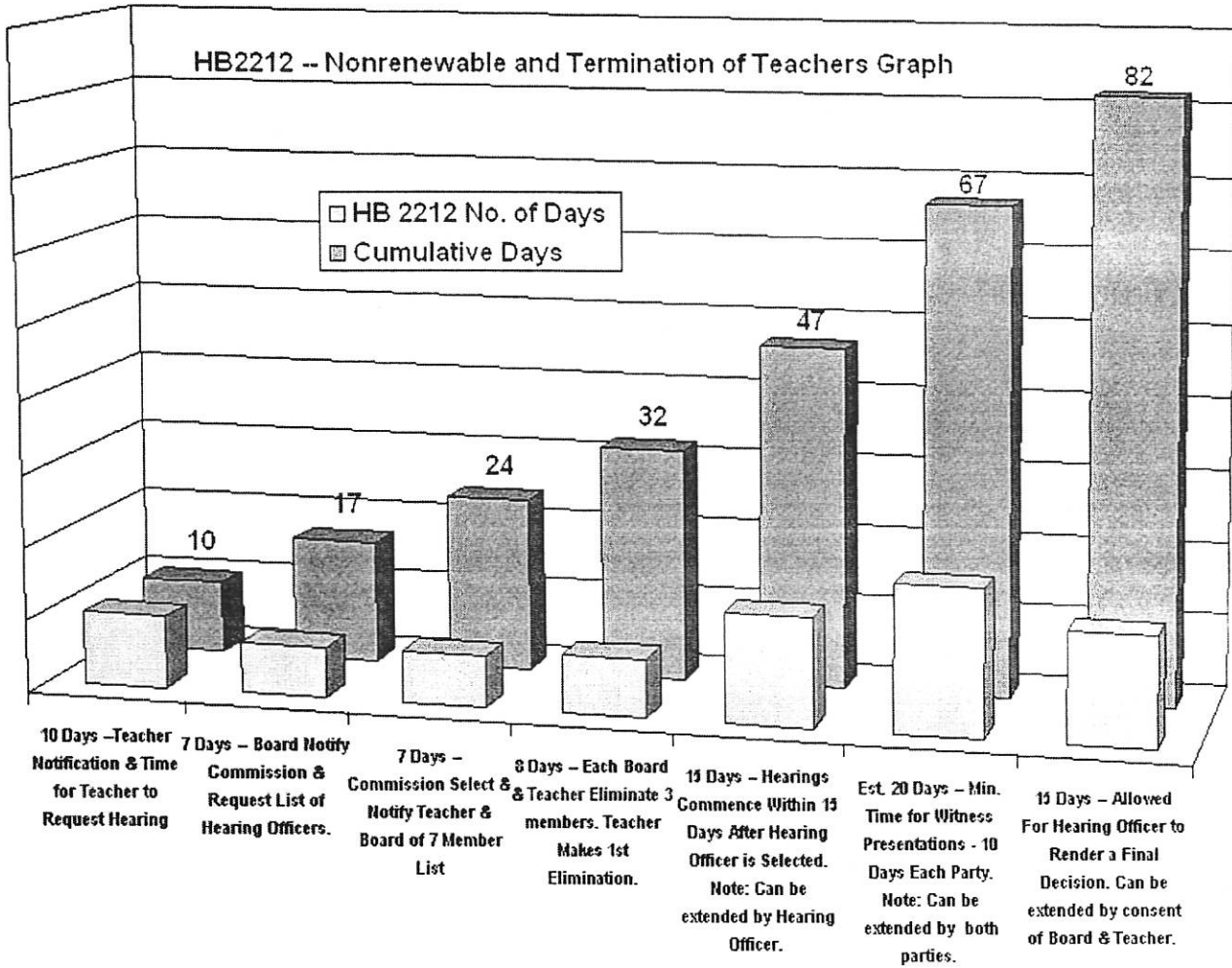
House Education Committee

Date: 2-15-05

Attachment # 1-1



HB2212 -- Nonrenewable and Termination of Teachers Graph



KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

Testimony on H. B. 2212
before the
House Education Committee

by

Patricia E Baker, Deputy Executive Director/General Counsel
Kansas Association of School Boards

February 10, 2005

Madam Chair, Members of the Committee, I appreciate the opportunity to appear in support of portions of H.B. 2212.

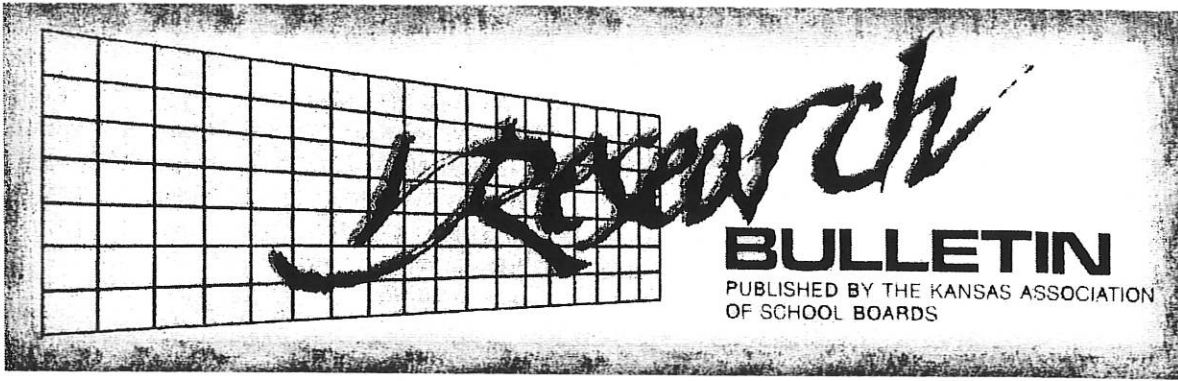
We agree that the time currently involved in conducting a due process hearing regarding the non-renewal or termination of a teaching contract has become burdensome for both the employer and employee. What was contemplated as an administrative hearing to insure that good cause existed for a tenured teacher's job loss, has taken on all the aspects of a major civil trial. It is a rarity for the teacher or the school board to know the employment status of a non-renewed or terminated teacher until well into the school year following any initial action.

In order to be workable, we also think that limitations must be placed on pre-hearing discovery and opportunities to delay the process.

I am not aware of cases where the use of the American Arbitration Association has been problematic. Possibly such situations do exist. However, since the use of AAA is voluntary on the part of the employer and employee, we do not think it necessary to delete this section.

Thank you for your consideration.

House Education Committee
Date: 2-15-05
Attachment # 2-1



KASB Survey of Teacher Employment Relations

February, 2005

Research Bulletin No. 5

2003-04 KASB Survey	1996-97	1997-98	1998-99	1999-2000	2000-01	2001-02	2002-03	2003-04	2004-05
Termination	6	8	10	14	21	12	12	9	
Non-renewal: Non-tenured	158	146	189	150	159	305	233	117	
Tenured	36	13	17	13	62	55	44	30	
Resignation instead of non-renewal	171	175	202	213	227	285	227	220	
Requests for Contract Release	359	406	336	363	534	435	378	275	270

KASB annually surveys school districts with questions on the workings of the teacher due process laws; these surveys gather data, not opinions. With consistent questions over a period of time, comparable characteristics of the data may be analyzed, as in the above table. The latest data shows terminations, non-renewals and resignations that occurred during the 2003-04 school year and requests for release from contracts covering the 2004-05 year.

As the above table indicates, some of the data appears to fluctuate over time and other items are usually about the same. Perhaps due to competition for experienced teachers, requests for release from signed contracts seems to vary the most, and this year there were again significant numbers of these requests. Non-renewals of non-tenured teachers, down from last year but still high, are perhaps increased by declining enrollment and uncertainty over the financial future of many districts.

Teacher Terminations

There were nine terminations during the 2003-04 school year in nine separate school districts. A "termination" is defined in our survey instrument as whenever a teacher is "...dismissed, discharged or fired by board action before the end of the contract term." Of these board actions, two teachers initially requested a hearing as the law provides they may, but none were eventually held. Oftentimes in these cases, prior to a hearing a settlement is negotiated between the board and the teacher.

Teacher Non-renewals

The continuing contract law provides that, unless notified otherwise by the board of education before May 1, a teacher's contract is automatically renewed for the following year. Due process rights attach to the process of non-renewal of a teacher contract, and those rights differ depending upon whether or not the teacher has taught for three years in the district: "tenure" is the term commonly used to describe the degree of protection afforded those teachers who have taught for more than three years.

Non-tenured: Our survey shows that 117 non-tenured teachers were non-renewed by 52 separate boards last year. Of these, 53 (45%) were first year teachers, 76 (31%) were second year teachers and 28 (24%) were third year teachers. One of these teachers requested a hearing but the hearing was not held. Usually, several boards report a significant number of non-renewals in special programs for which funding is uncertain. That was the case this year as 53 of the 117 non-renewals came from only four districts. Non-renewals also come from districts facing enrollment declines and the closure of some buildings with the realignment of curriculum in others.

Tenured: The survey shows that 30 tenured teachers were non-renewed by 18 separate boards last year. Of these, five teachers requested hearings and all were eventually held. Four hearing officers found for the boards involved and upheld the non-renewals, but one hearing officer in a case involving Lawrence USD 497 has yet to issue a final report. Most of these staff reductions appear to be in districts facing enrollment and financial constraints.

Resignation Instead of Non-renewal

As a practical matter, resignation of the teacher often happens when he or she is informed by the administration that non-renewal is a probability. This circumstance is covered by our survey. Ninety-eight separate districts reported a total of 220 such resignations: 191 non-tenured teachers and 29 tenured teachers. Declining enrollments and program cuts may play a part in these cases.

Requests for Release from 2004-05 Contracts

Even though the continuing contract law binds the teacher and the board to employment obligations, each year a number of teachers request release from these contracts for a variety of reasons. This year's survey reveals a total of 270 such requests. Of the total, six were subsequently withdrawn by the teacher, nine were denied by the board and 255 were granted.

Of the 255 granted, only 84 included the assessment of liquidated damages, another 14 happened even though no replacement had been found, and 157 occurred when a suitable replacement was found. Of the nine denied, four teachers returned to the district and the other five left anyway. Only one of these cases was reported by the board of education to the State Board, seeking to have certification removed.

Non-renewals, Terminations, and Finding New Jobs

We also asked districts to report the number of teachers who found new jobs in other districts, having been non-renewed, terminated, resigned from or released from their contract in their original district.

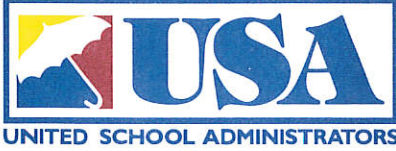
Of the 270 teachers requesting contract release, 98 (36%) were known by the releasing district to be headed for other employment in another Kansas public school district. Of the 376 terminations, non-renewals and resignations reported, 143 (38%) were known by their districts to have found employment in another Kansas school district.

This bulletin is being sent to all board members, superintendents, clerks and board attorneys. For extra copies, or if you have questions, email Jim Hays at research@kasb.org or call 800-432-2471.

2-3

James L. Menze
Executive Director
jmenze@usa-ks.org

M. Katharine Weickert
Director of
Administrator Services
kweickert@usa-ks.org



Feb. 15, 2005

Madam Chairman and
Members of the House Education Select School Finance Committee

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
Career and Technical
Education Administrators
(KCCTEA)

Kansas School
Public Relations
Association
(KanSPRA)

The United School Administrators of Kansas is a proponent of HB 2212. It is our position that the reduction in waiting periods would expedite the procedures which should be a positive to all parties concerned.

Don Willson
Governmental Relations
United School Administrators



David Schauner, testimony
House Education Committee
February 15, 2005
House Bill 2212

Dear Madam Chairman and members of the House Education Committee. I appear before you today in opposition to **HOUSE BILL 2212**. This bill is suggested as a way to streamline the due process procedure currently available to Kansas teachers. Although it may change the number of days within which certain decisions or requests must be made it does not in any material way shorten or streamline the process.

It does however remove the American Arbitration Association option as a place from which to secure Hearing Officers. I believe this is not good public policy.

To begin with, American Arbitration Association arbitrators are highly skilled fact finders and have a long history of providing quality decision making. In fact, private industry throughout the country has turned to the American Arbitration Association as a source for resolving personnel disputes and other matters. This alternative to state or federal district court litigation has proven to be efficient and cost effective. The suggestion of removing the AAA option is not good public policy.

One additional proposed change is to move from a five year exemption to a one year exemption for those persons who want to serve as a hearing officer. Kansas NEA opposes that change. To permit an advocate to sit out only one year before becoming a Hearing Officer sends the wrong message. The system is based upon a perception of fairness and if Hearing Officers begin to be perceived as advocates for one side or the other, the system loses credibility and ceases to serve one of its major functions.

Kansas NEA opposes all changes contained in **HOUSE BILL 2212** and respectfully suggests to the Committee that the current system operates efficiently and provides protection both for school districts and for non-probationary employees.

House Education Committee
Date: 2-15-05
Attachment # 4

Bill Otto
Testimony

Most Kansas school districts have not redrawn their district lines since 1965. The problem with this is that current law has no teeth and requires attention every two years. This bill would correct this problem

House Education Committee
Date: 2-15-05
Attachment # 5

USD 321



Kaw Valley CARES

Kaw Valley Citizens Alliance for Reformed and Excellent Schools
P.O. Box 25, St. Marys, KS 66536-0025 kawvalleycares@yahoo.com

Testimony on **HB 2252**
Before the
Committee on Education

By

Ann Foster
Of Kaw Valley CARES

February 15, 2005

Madam Chairperson, and members of the Committee:

My name is Ann Foster and I live near Rossville, Kansas which is part of Kaw Valley Unified School District No. 321. I am the President for Kaw Valley CARES, Inc., the Citizens Alliance for Reformed and Excellent Schools, a Kansas non-profit organization focused on improving education in our local district and also statewide. Thank you for the opportunity to appear here today in support of House Bill No. 2252.

In 2003, we experienced a school board election, which was fueled by one issue, the restructuring of our district to include one combined high school, one middle school and four K-5 grade schools. This would have resulted in an estimated savings for our district of over \$500,000 per year while increasing education opportunities to our students by adding or regaining 26 courses to the high school curriculum. Needless to say new board members were elected and the restructuring plan was reversed.

After the election, we recognized that the basic right of "one man one vote" was not being met. Kaw Valley U.S.D. 321 consists of three member districts with two board members elected from each member district and one member at-large. Based on 2000 census data our member districts included populations ranging from 1,390 to 2,801 with the third district's population being 2,280. Our least populous member district was enjoying twice the representation of the areas of our district with more population.

House Education Committee

Date: 2-15-05

Attachment # 6-1

In January of 2004 we requested that our local board reapportion member districts to come into compliance with "one man one vote" in our testimony we mentioned that if the board did not redraw boundaries a patron's only recourse was to sue alleging violations of constitutional rights. I believe the only item in our two page testimony that was heard by the board was "sue", and in one local paper it was suggested that we try "honey not vinegar". We then went in search of honey. The journey included; certified letters to Attorney General Phil Kline and Pottawatomie County Attorney Barry Wilkerson, conversations with the League of Women Voters, Mary Galligan of the Legislative Research Department, Kevin Ireland an attorney with State Dept. of Education, a follow up phone call with Barry Wilkerson and finally testimony to the State Board of Education. Not to say that we got stung on our search for "honey", but we confirmed that our only recourse was to sue the school district, vinegar.

Our local board did discuss reapportionment at their May meeting, but only placed the subject on the August agenda at the request of our attorney. The school board continued with their debate of the reapportionment question and on October 31, 2004 they voted 4 to 3 to approve a new map finally bringing our district into compliance with "one man one vote".

Yes, you could say that the system worked we were able to use an attorney and the threat of legal action to convince our board to reapportion. The prospect that a patron would have to sue in order to enforce a basic right of our democracy was foreign to all of us. We assumed that reapportionment of member districts was a standard policy of the local board similar to the process the Legislature accomplishes after every census. Imagine our surprise to discover reapportionment had never been done in our district and that many other school boards across the state have ignored their constitutional duty to reapportion. Our district had not experienced a change in member district configuration since unification. The political realities in our district had been frozen in place for 40 years, so why would we expect changes in the location of attendance centers to be any more flexible. Even as our board voted to accept the reapportioned map, they still argued that they should represent communities and not equal numbers of patrons. They only voted to approve the new maps because their attorney had advised them to, not because they swore an oath to uphold the Constitution of the State of Kansas and the United States.

We feel that HB 2252 is a step in the right direction to improve patrons voting rights in regards to local school board elections. This law will "require" school boards to reapportion member districts instead of just "directing" them to make adjustments. This bill will make reapportionment a regular maintenance priority, a constitutional requirement which can no longer be ignored as it has been by so many school boards. HB 2252 will also place enforcement in the hands of the county or district attorney and not the patrons, allowing us to be patrons of the school district and not plaintiffs against the school district.

We also have concerns about other school board election statutes which we consider antiquated and harmful to districts that need to move forward to better serve the children of this state. We would be happy to share our thoughts on this matter as well.

Thank you for the opportunity to appear here today. I would be happy to respond to any questions.