

MINUTES OF THE HOUSE EDUCATION COMMITTEE

The meeting was called to order by Chairman Kathe Decker at 9:00 A.M. on February 17, 2005 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research
Theresa Kiernan, Revisor of Statutes Office
Art Griggs, Revisor of Statutes Office
Ann Deitcher, Committee Secretary

Conferees appearing before the committee:

Mark Tallman, KASB
Val DeFever, Schools for Quality Education

HB 2134 - Kansas State High School Activities Assoc.

The Chair told the Committee that KSHAA is voting in April on this particular thing within their own group, so it was decided to wait to see what happens then. If nothing gets changed or if it's still an issue after that, it can be re-opened next year.

HB 2135 - Establishing the Kansas school board development program.

Representative Horst moved and Representative Storm seconded the motion that the Committee accept HB 2135 for discussion. The motion passed on a voice vote.

Representative Storm moved to amend HB 2135 by deleting "each year" in section 3 (a), line 22 of page one and inserting "the first year of service as a school board member and five credit hours each year thereafter. A credit hour is sixty minutes of board development time", (Attachment 1). The motion was seconded by Representative Horst and passed on a voice vote.

It was moved by Representative Storm and seconded by Representative Horst that HB 2135 be passed as amended. The motion failed on a show of hands.

HB 2247 - Concerning school records of certain pupils.

Representative Decker made the motion which was seconded by Representative Yonally that HB 2247 be worked by the Committee.

A motion was made by Representative Flaharty and seconded by Representative Crow to amend HB 2247 to say that SRS will have 2 years to turn over records that consist of two years of data. The motion passed on a voice vote.

Theresa Kiernan pointed out the deletion of "subsection (b)" on line 34 in sub-section (c) in HB 2247.

A motion was made by Representative DeCastro to accept this amendment to HB 2247. Representative seconded the motion and it carried on a voice vote.

Representative Horst moved to publish HB 2247 in the state register. The motion was seconded by Representative Yonally and passed on a voice vote.

Representative Crow made the motion to amend HB 2247 to change (b) to (c) on page 1, line 38. The motion was seconded by Representative Horst and passed on a voice vote.

Representative Yonally moved that HB 2247 be passed favorably as amended. Representative Storm seconded the motion and it passed on a voice vote.

CONTINUATION SHEET

MINUTES OF THE House Education Committee at 9:00 A.M. on February 17, 2005 in Room 313-S of the Capitol.

HB 2333 - Relating to out-of-state students.

Representative DeCastro spoke to the Committee regarding **HB 2333**. (Attachment 2).

Speaking in opposition of **HB 2333** was Mark Tallman. (Attachment 3).

Val DeFever testified in opposition of **HB 2333**. (Attachment 4).

Written testimony was offered from Robert Loftin, board of education member, Weskin, Kansas. (Attach.5)

The hearing was then closed on **HB 2333**.

HB 2252 - concerning school districts; relating to the provision of special education and related services.

A motion was made by Representative Otto and seconded by Representative Horst that **HB 2252** be accepted as a Committee bill. The motion passed on a voice vote.

Representative Storm made the motion to pass **HB 2252** favorably out of Committee. The motion was seconded by Representative Colloton and passed on a voice vote.

HB 2212 - relating to schools; concerning procedures relating to teacher contracts.

Representative Miller moved that **HB 2212** be accepted to work as a Committee bill. The motion was seconded by Representative DeCastro and passed on a voice vote.

It was moved by Representative Miller and seconded by Representative Huebert that discussion begin by the Committee on **HB 2212**. The motion passed on a voice vote.

A balloon bill to **HB 2212** was pointed out to the Committee. (Attachment 6).

A motion was made by Representative Miller and seconded by representative Holland to amend **HB 2212** and to also re-amend with the language offered on page 4. The motion to amend passed on a voice vote.

Representative Crow made the motion to amendments to **HB 2212** on page 2 line, 28 and page 4, line 37 to restore "five years" and delete "year" in both. The motion to amend was seconded by Representative Flaharty and passed on a voice vote.

A motion was made by Representative Crow to amend page1 of **HB 2212** by adding that "all evidence the board bases their decision on be made available to the teacher". The motion was seconded by Representative Storm but failed on a voice vote.

Representative Holland made a motion and seconded by Representative Storm that would reinstate the number "45" and delete the number "15" on both page 2, line 31 and page 4, line 40. The motion passed on a voice vote.

Representative DeCastro called the question.

The motion to pass out of Committee failed on a voice vote.

The meeting was adjourned at 10:50. The next meeting of the Select Committee is Friday, February 18, 2005.

HOUSE BILL No. 2135

By Committee on Education

1-21

9 AN ACT establishing the Kansas school board development program.

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

11 Section 1. There is established the Kansas school board development
12 program. As used in this act, "school board" means the board of education
13 of a unified school district.

14
15 Sec. 2. The state board of education shall adopt rules and regulations
16 for administration of the Kansas school board development program and
17 shall prescribe and adopt standards and procedures for accreditation of
18 sponsors of courses, programs or other school board development activ-
19 ities for school board members. The state board of education may estab-
20 lish reasonable fees to offset the cost of administering the program.

21 Sec. 3. (a) Each member of a school board shall earn a minimum of
22 ten credit hours of board development in ~~each year~~

the first year of service as a school board member and five credit hours
each year thereafter. A credit hour is sixty minutes of board development
time

23 (b) Credit hours shall be reported to the state board of education in
24 such form and manner prescribed by the state board.

25 (c) The state board may grant waivers or extensions of time to com-
26 plete development program requirements because of hardship, disability
27 or other good cause.

28 Sec. 4. (a) An organization or person desiring accreditation as a spon-
29 sor of courses, programs or other school board development activities for
30 board members of this state, may apply for accreditation to the state
31 board. The state board shall accredit a sponsor if the state board is sat-
32 isfied that the sponsor's program will meet the standards prescribed un-
33 der section 2, and amendments thereto, and the sponsor pays the fee, if
34 any, required by the state board.

35 (b) The state board may reevaluate, at any time, an accredited spon-
36 sor. If after such reevaluation, the state board finds there is cause for
37 revocation of the accreditation of a sponsor, the state board, after a hear-
38 ing held upon 30 days' written notice, may revoke the accreditation of
39 the sponsor. If the state board determines that a course fails to meet the
40 standards for accreditation, it may deny or withdraw approval for the
41 course even though offered by an accredited sponsor.

42 Sec. 5. A school board member seeking credit for attendance at or
43 participation in an educational activity which was conducted by a non-

House Education Committee
Date: 2-17-05
Attachment # 1

WILLA DECASTRO
 REPRESENTATIVE 96TH DISTRICT
 MAJORITY CAUCUS CHAIR



COMMITTEE ASSIGNMENTS
 MEMBER HEALTH & HUMAN SERVICES
 K-12 EDUCATION
 SOCIAL SERVICES BUDGET
 JT COMMITTEE ON CHILDREN'S ISSUES

TOPEKA
 ———
 HOUSE OF
 REPRESENTATIVES

February 16, 2005
 HB 2333

Thank you Madame Chair and members of the Committee.

Historically, some may feel Representative Bill Mason is still here; from that vantage point it can be said, fair and good ideas don't usually go away.

In 2003 a request was made to the Department of Education to ask neighboring states about the possibilities of reciprocal agreements. It was discovered that other Departments of Education do not have authority in this arena. However, individual school district do.

Consider this data regarding tuition:

	Colorado	Missouri	Nebraska	Oklahoma
1) Your student attending Kansas			pay tuition	
2) Kansas student attending their state	may charge tuition	charge tuition	may collect tuition (negotiate)	will <u>not</u> bear cost
3) DOE have authority to have reciprocal contracts with bordering states	No (districts can then count in state)	No	Yes	No
4) Districts have reciprocal contracts with bordering states	Yes	Yes		Yes

The basis of the bill directs individual districts to negotiate with sending districts to have funding follow the student. If agreement cannot be reached and a good faith effort has been shown, the Kansas district may ask the State Board of Education to allow the district funding but the State Board cannot exceed the state average.

Fiscal information: Currently 571 students x \$9,480 (State Average) = \$5,413,080

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

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

Testimony on
HB 2333 – Out-of-State Students and School Funding

Before the
House Committee on Education

By Mark Tallman, Assistant Executive Director/Advocacy
February 16, 2005

Madam Chair, Members of the Committee:

The KASB Delegate Assembly has adopted the following position statement:

“KASB believes that the decision to enroll students who are not residents of a school district should be made by the board of education of that district. If non-resident students are enrolled, they should be counted for funding purposes as if they were residents of the district. These provisions should apply to students who are not residents of Kansas.”

As the final sentence of this policy notes, KASB believes that Kansas school districts should be allowed to enroll students who are not residents of Kansas, and receive funding as though such students are residents. **HB 2333** would not prohibit this, but would require a “good faith” effort to negotiate an agreement with the out-of-state district to address the cost of educating the student in Kansas.

There appears to be little incentive for out-of-state school districts to negotiate an agreement that would cost them more financially. Therefore, it is impossible to know whether this bill would produce any financial benefits to Kansas. But it would require additional administrative effort for Kansas schools that enroll non-residents.

We believe that the vast majority of students in Kansas districts who live in another state have strong ties to Kansas communities. Such students live very close to the border. For most families, the school community becomes the focus of work, shopping and services. Many families pay property taxes on land or businesses in Kansas, pay Kansas sales tax, and contribute to Kansas in many ways. Perhaps there are exceptions, but we believe the advantages of opening our borders to students from neighboring states outweigh the modest additional costs.

Thank you for your consideration.

House Education Committee
Date: 2-17-05
Attachment # 3



Schools for Quality Education

Bluemont Hall Manhattan, KS 66506 (785) 532-5886

Out-of-State Students
February 15, 2005
Val DeFever

In past years this body has struggled with the issue of out of state students: children who for one reason or another come across state lines to attend schools in Kansas. As you have looked at those reasons it has become apparent that this is not a simple issue with a simple answer. Twelve months has not changed that.

Why do families from neighboring states, bring their children to schools in Kansas?

They live in a remote area of their state and the Kansas school is significantly closer than schools in their home district.

One or both parents work in the community where the child attends school.

A parent works for the school district where the child is attending.

Grandparents or other after-school caregiver lives in the community.

The family owns land in both states, but their house just happens to be the other state.

The channel of a river (state boundary line) changed and when all was said and done, the families hadn't moved but found they now were living in the neighboring state.

Most of these reasons were amendments to past legislation and they make sense. If families are coming to Kansas communities to work and do business, they feel these are their communities. They are buying their goods and services in Kansas. All too often these communities rely on a broad service area to exit. If family members are working in Kansas they are paying Kansas income taxes. If they own land in Kansas they are paying Kansas property taxes. If they are buying goods and services they are paying sales taxes. For all intents and purposes they are citizens of two states. We must be careful in our effort to find extra dollars not to consider these situations.

I have read through the responses from our neighboring states as to what they are legally able to do in regard to these students. It would seem that most do not want to address the issue, as in every case the various Depts. of Ed are unable to negotiate for the local districts. Comments have been made that it is the responsibility of local districts to come to some agreement. I would suggest that our children are a wonderful resource of

"Rural is Quality"

House Education Committee
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our state. We often lament that Kansas does not have the population growth we would like. Increased population is of course adults but is it not also children? Yet we don't seem to value them for what they are today and will grow to be in coming years--- our future. If they stay in close proximity to their roots, they will continue to be shared citizens of the two states, contributing to both.

When we have other resources that cross state lines we have agreements with those states. These agreements are fostered not by borderline communities but by the state, the entity with the most clout.

Those most likely to get the desired results negotiate water rights, with our neighboring states. Insinuating that our small rural communities aren't really trying to address the out-of-state student issue is a misplaced argument. We as a state want growth. We want commerce. We want more workers and more buyers all over the state.

The fact that the populations are small in these rural areas makes it is easier to detect those who are coming across state line to attend school. They are not stealing across in the dead of night. They are driving in to go to work and school because it is the most reasonable choice for them. Yet in the metropolitan areas children street addresses can easily be falsified and no one is the wiser when families choose to send their children to school that have wonderful math, science or band programs.

There is no doubt that something should be done. We look at this situation every year. Perhaps our mission is the wrong one. We want more people in Kansas. We don't want to slam the door shut on those who want to come to Kansas. We do want to have agreements with our neighbors so that the financial responsibilities are addressed. Those agreements should begin with discussions among top policy makers from the 5 states and be hammered out in corresponding legislation from those states. If we were talking about water rights this would not be left up to the whims of a few in remote areas of our state.

Testimony before the House Education Committee, concerning House Bill #2333, relating to counting out of state students for per-pupil state aid.

Presented by **Robert Loftin, member, Board Of Education, USD #242, Weskan, Kansas.**

When the Arapahoe, Colorado public school ceased operating after the 1983 school year, the parents of six of those students enrolled them into our school in Weskan. There were a variety of reasons for them to choose the Weskan School system. It is 2 miles closer to Weskan than to Cheyenne Wells, Colorado. Some of the parents were graduates of Weskan High. No doubt for some, the educational opportunity was brighter in Kansas. Our lower student to teacher ratio, our higher academic standards as compared to surrounding states, and our small community with high morals and positive peer pressure, made Weskan school the most attractive choice.

For the 1984-85 school year, the out-of-state student count grew to eleven. Lets keep in mind that in those times the general fund money was all levied on the local taxpayers entirely. I was elected to the Board of Education in 1985, and I do not recall ever hearing anyone being critical of the board for allowing those students to attend our school without paying tuition. It just seemed like the right thing to do.

In Western Kansas, it is mostly wide-open spaces. For many in western Wallace County, their closest neighbor lives in Colorado. Many of the Colorado folks have family ties in our school district. Of the 13 students currently enrolled, the parents of 11 of these, either work at the school in Weskan, work for a Kansas business, have farmland in Kansas, or otherwise pay taxes to the State of Kansas. That is not to mention, buying food, gas, incidentals, and paying sales tax as they follow their students to school activities **in Kansas.**

On a per pupil basis, these 13 students generated a little over \$119,000 in budget authority this year. Enough to buy copier paper for one of the big five Kansas school districts I suppose. At our place, this number is almost 10% of our budget. This would not necessarily be the death blow to us if the funds were not available, but it would most certainly be a blow to our effectiveness as a first rate school. A first rate school in a state where excellence is valued.

I could go on and on about the importance of the school in Weskan but I think that that would be to state the obvious. With school activities, everyone is included. From new parents, to grandparents, it is important to them all. I am sure that you all can think of examples of communities that are torn apart and die because the school closes. Just because the state line runs near our town, our community does not stop at that point. These same families attend our churches. These same students make up our 4-H clubs and youth groups.

I understand that you as legislators are charged with making decisions on the fiscal policies of our state. Are you prepared to make this decision that would disrupt communities on both sides of our border, all the way around the state? With students going both ways to the schools in nearby communities, shouldn't our aim be to help students get the best possible education? I think in our case, keeping the school open for the whole community is the best policy. It just seems like the right thing to do.

Thank you for your time, and thoughtful consideration.

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Attachment # 5

HOUSE BILL No. 2212

By Representative F. Miller

1-27

9 AN ACT relating to schools; concerning procedures relating to teacher
10 contracts; amending K.S.A. 72-5439 and 72-5443 and K.S.A. 2004
11 Supp. 72-5438, 76-11a06, 76-11a07 and 76-11a11 and repealing the
12 existing sections.

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

14 Section 1. K.S.A. 2004 Supp. 72-5438 is hereby amended to read as
15 follows: 72-5438. (a) Whenever a teacher is given written notice of inten-
16 tion by a board to not renew or to terminate the contract of the teacher
17 as provided in K.S.A. 72-5437, and amendments thereto, the written no-
18 tice of the proposed nonrenewal or termination shall include: (1) A state-
19 ment of the reasons for the proposed nonrenewal or termination; and (2)
20 a statement that the teacher may have the matter heard by a hearing
21 officer upon written request filed with the clerk of the board of education,
22 or the board of control or the secretary of the board of trustees within
23 ~~15~~ 10 calendar days from the date of such notice of nonrenewal or
24 termination.

25 (b) Within ~~10~~ seven calendar days after the filing of any written re-
26 quest of a teacher to be heard as provided in subsection (a), the board
27 shall notify the commissioner of education that a list of qualified hearing
28 officers is required. Such notice shall contain the mailing address of the
29 teacher. Within ~~10~~ seven days after receipt of notification from the board,
30 the commissioner shall provide to the board and to the teacher, a list of
31 five seven randomly selected, qualified hearing officers.

32 (c) Within five eight days after receiving the list from the commis-
33 sioner, each party shall eliminate ~~two~~ three names from the list, and the
34 remaining individual on the list shall serve as hearing officer. In the pro-
35 cess of elimination, each party shall eliminate no more than one name at
36 a time, the parties alternating after each name has been eliminated. The
37 first name to be eliminated shall be chosen by the teacher ~~within five~~
38 days after the teacher receives the list. The process of elimination shall
39 be completed within five days thereafter.

40 (d) ~~Either party may request that one new list be provided within five~~
41 days after receiving the list. If such a request is made, the party making
42 the request shall notify the commissioner and the other party, and the

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1 commissioner shall generate a new list and distribute it to the parties in
2 the same manner as the original list.

3 ~~(c)~~ In lieu of using the process provided in subsections (b) and (c), if
4 the parties agree, they may make a request to the American Arbitration
5 Association for an arbitrator to serve as the hearing officer. Any party
6 desiring to use this alternative procedure shall so notify the other party
7 in the notice required under subsection (a). If the parties agree to use
8 this procedure, the parties shall make a joint request to the American
9 Arbitration Association for a hearing officer within 10 days after the
10 teacher files a request for a hearing. If the parties choose to use this
11 procedure, the parties shall each pay one-half of the cost of the arbitrator
12 and of the arbitrator's expenses.

13 ~~(f)~~ ~~(d)~~ The commissioner of education shall compile and maintain a
14 list of hearing officers comprised of residents of this state who are attor-
15 neys at law. Such list shall include a statement of the qualifications of
16 each hearing officer.

17 ~~(g)~~ ~~(e)~~ Attorneys interested in serving as hearing officers under the
18 provisions of this act shall submit an application to the commissioner of
19 education. The commissioner shall determine if the applicant is eligible
20 to serve as a hearing officer pursuant to the provisions of subsection (h).

21 ~~(h)~~ ~~(f)~~ An attorney shall be eligible for appointment to the list if the
22 attorney has: (1) Completed a minimum of 10 hours of continuing legal
23 education credit in the area of education law, due process, administrative
24 law or employment law within the past five years; or (2) previously served
25 as the chairperson of a due process hearing committee prior to the ef-
26 fective date of this act. An attorney shall not be eligible for appointment
27 to the list if the attorney has been employed to represent a board or a
28 teacher in a due process hearing within the past five years year.

29 Sec. 2. K.S.A. 72-5439 is hereby amended to read as follows: 72-
30 5439. The hearing provided for under K.S.A. 72-5438, and amendments
31 thereto, shall commence within 45 15 calendar days after the hearing
32 officer is selected unless the hearing officer grants an extension of time.
33 The hearing shall afford procedural due process, including the following:

34 (a) The right of each party to have counsel of such party's own choice
35 present and to receive the advice of such counsel or other person whom
36 such party may select;

37 (b) the right of each party or such party's counsel to cross-examine
38 any person who provides information for the consideration of the hearing
39 officer, except those persons whose testimony is presented by affidavit;

40 (c) the right of each party to present such party's own witnesses in
41 person, or their testimony by affidavit or deposition, except that testimony
42 of a witness by affidavit may be presented only if such witness lives more
than 100 miles from the location of the unified school district office, area

(e) In lieu of using the process provided in subsections (b) and (c), if the parties agree, they may make a request to the American Arbitration Association for an arbitrator to serve as the hearing officer. Any party desiring to use this alternative procedure shall so notify the other party in the notice required under subsection (a). If the parties agree to use this procedure, the parties shall make a joint request to the American Arbitration Association for a hearing officer within 10 days after the teacher files a request for a hearing. If the parties choose to use this procedure, the parties shall each pay one-half of the cost of the arbitrator and of the arbitrator's expenses.

(f)

(g)

(h)

3 vocational-technical school or community college, or is absent from the
4 state, or is unable to appear because of age, illness, infirmity or impris-
5 onment. When testimony is presented by affidavit the same shall be
6 served upon the clerk of the board of education or the board of control,
7 or the secretary of the board of trustees, or the agent of the board and
8 upon the teacher in person or by first-class mail to the address of the
9 teacher which is on file with the board not less than 10 calendar days
10 prior to presentation to the hearing officer;

11 (d) the right of the teacher to testify in the teacher's own behalf and
12 give reasons for the teacher's conduct, and the right of the board to pres-
13 ent its testimony through such persons as the board may call to testify in
14 its behalf and to give reasons for its actions, rulings or policies;

15 (e) the right of the parties to have an orderly hearing; and

16 (f) the right of the teacher to a fair and impartial decision based on
17 substantial evidence.

18 Sec. 3. K.S.A. 72-5443 is hereby amended to read as follows: 72-
19 5443. (a) Unless otherwise agreed to by both the board and the teacher,
20 the hearing officer shall render a written opinion not later than ~~30~~ 15
21 days after the close of the hearing, setting forth the hearing officer's find-
22 ings of fact and determination of the issues. The decision of the hearing
23 officer shall be submitted to the teacher and to the board.

24 (b) The decision of the hearing officer shall be final, subject to appeal
25 to the district court by either party as provided in K.S.A. 60-2101, and
26 amendments thereto.

27 Sec. 4. K.S.A. 2004 Supp. 76-11a06 is hereby amended to read as
28 follows: 76-11a06. (a) Whenever a teacher is given written notice of in-
29 tention by the state board to nonrenew or to terminate the contract of
30 the teacher as provided in K.S.A. 76-11a05, and amendments thereto, the
31 written notice of the proposed nonrenewal or termination shall include:

32 (1) A statement of the reasons for the proposed nonrenewal or termina-
33 tion; and (2) a statement that the teacher may have the matter heard by
34 a hearing officer upon written request filed with the commissioner of
35 education within ~~15~~ 10 days from the date of such notice of nonrenewal
36 or termination.

37 (b) Within ~~10~~ seven calendar days after the filing of a written request
38 by any teacher to be heard as provided in subsection (a), the state board
39 shall notify the secretary of labor that a list of qualified hearing officers
40 is required. Such notice shall contain the mailing address of the teacher.
41 Within ~~10~~ seven days after receipt of notification from the state board,
42 the secretary shall provide to the state board and to the teacher a list of
43 ~~five~~ seven randomly selected, qualified hearing officers.

44 (c) Within ~~five~~ eight days after receiving the list from the secretary
45 of labor, each party shall eliminate ~~two~~ three names from the list, and the

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remaining individual on the list shall serve as hearing officer. In the process of elimination, each party shall eliminate no more than one name at a time, the parties alternating after each name has been eliminated. The first name to be eliminated shall be chosen by the teacher within five days after the teacher receives the list. The process of elimination shall be completed within five days thereafter.

~~(d) Either party may request that one new list be provided within five days after receiving the original list. If such a request is made, the party making the request shall notify the secretary of labor and the other party, and the secretary shall generate a new list and distribute it to the parties in the same manner as the original list.~~

~~(c) In lieu of using the process provided in subsections (b) through (d), if the parties agree, they may make a request to the American Arbitration Association for an arbitrator to serve as the hearing officer. Any party desiring to use this alternative procedure shall so notify the other party at the time written request for a hearing is filed by the teacher. If the parties agree to use this procedure, the parties shall make a joint request to the American Arbitration Association for a hearing officer within 10 days after the teacher files the request for a hearing. If the parties choose to use this procedure, the parties shall each pay 1/2 of the cost of the arbitrator and of the arbitrator's expenses.~~

~~(d)~~ (d) The secretary of labor shall compile and maintain a list of hearing officers comprised of residents of this state who are attorneys at law. Such list shall include a statement of the qualifications of each hearing officer.

~~(g)~~ (e) Attorneys interested in serving as hearing officers under the provisions of this act shall submit an application to the secretary of labor. The secretary shall determine if the applicant is eligible to serve as a hearing officer pursuant to the provisions of subsection (h).

~~(h)~~ (f) An attorney shall be eligible for appointment to the list if the attorney has: (1) Completed a minimum of 10 hours of continuing legal education credit in the area of education law, due process, administrative law or employment law within the past five years; or (2) previously served as the chairperson of a due process hearing committee prior to the effective date of this act. An attorney shall not be eligible for appointment to the list if the attorney has been employed to represent the state board or a teacher in a due process hearing within the past five years year.

Sec. 5. K.S.A. 2004 Supp. 76-11a07 is hereby amended to read as follows: 76-11a07. The hearing provided for under K.S.A. 76-11a06, and amendments thereto, shall commence within 45 15 calendar days after the hearing officer is selected unless the hearing officer grants an extension of time. The hearing shall afford procedural due process, including the following:

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2 (a) The right of each party to have counsel of such party's own choice
3 present and to receive the advice of such counsel or other person whom
4 such party may select;

5 (b) the right of each party or such party's counsel to cross-examine
6 any person who provides information for the consideration of the hearing
7 officer, except those persons whose testimony is presented by affidavit;

8 (c) the right of each party to present such party's own witnesses in
9 person, or their testimony by affidavit or deposition, except that testimony
10 of a witness by affidavit may be presented only if such witness lives more
11 than 100 miles from the location of the state school, or is absent from the
12 state, or is unable to appear because of age, illness, infirmity or impris-
13 onment. When testimony is presented by affidavit the same shall be
14 served upon the commissioner of education or the agent of the state board
15 and upon the teacher in person or by first class mail to the address of the
16 teacher which is on file with the state board not less than 10 days prior
17 to presentation to the hearing officer;

18 (d) the right of the teacher to testify in the teacher's own behalf and
19 give reasons for the teacher's conduct, and the right of the state board to
20 present its testimony through such persons as the state board may call to
21 testify in its behalf and to give reasons for its actions, rulings or policies;

22 (e) the right of the parties to have an orderly hearing; and

23 (f) the right of the teacher to a fair and impartial decision based on
24 substantial evidence.

25 Sec. 6. K.S.A. 2004 Supp. 76-11a11 is hereby amended to read as
26 follows: 76-11a11. (a) Unless otherwise agreed to by both the state board
27 and the teacher, the hearing officer shall render a written decision not
28 later than ~~30~~ 15 days after the close of the hearing, setting forth the
29 hearing officer's findings of fact and determination of the issues. The
30 decision of the hearing officer shall be submitted to the teacher and to
31 the state board.

32 (b) The decision of the hearing officer shall be final, subject to review
33 in accordance with the act for judicial review and civil enforcement of
34 agency actions.

35 Sec. 7. K.S.A. 72-5439 and 72-5443 and K.S.A. 2004 Supp. 72-5438,
36 76-11a06, 76-11a07 and 76-11a11 are hereby repealed.

37 Sec. 8. This act shall take effect and be in force from and after its
publication in the statute book.