

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 1:40 p.m. on March 14, 2005, in Room 123-S of the Capitol.

Committee members absent: Senator Allen—Excused

Committee staff present: Kathie Sparks, Kansas Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Representative Bill Otto
Ann Foster, Kaw Valley CARES

HB 2252—Concerning boundaries of member districts of school boards

Theresa Kiernan, Revisor of Statutes Office, explained that **HB 2252** was introduced by Representative Otto and that it amends the current law regarding the size of local school board member districts. The bill would require that, when districts are redrawn, they must be drawn in a manner in which they are as compact as possible and equal in population as possible. An attempt should be made to keep whole voting precincts within the districts. If whole voting precincts cannot be used, whole census blocks would be used. Ms. Kiernan noted that a provision was added that, after October 2006, whenever the member districts vary in population more than 5% and the board fails to redraw the district boundaries, the county or the district attorney of the county in which the majority of the school district is located would file a civil action in the district court requesting that the court enter an order requiring the school board to adjust their member district boundaries.

Representative Bill Otto emphasized that **HB 2252** has nothing to do with consolidation but deals with district boundaries inside a school district. He explained that the bill was designed to help school boards follow the same election rules that other government entities are required to follow. Under current law, if districts do not comply, the only recourse is for a citizen to sue their own school district. He noted that most school districts have not changed their boundaries for 40 years. The bill would require school districts to follow the same redistricting rules as the Legislature, every 10 years, or when there is more than a 5% discrepancy between the largest and smallest districts. (Attachment 1)

Representative Otto confirmed for Senator Pine that all districts do not have subdistricts. In response to Senator Lee, he confirmed that the bill should be clarified by changing the language to read “more than 5% over or under the median.”

Ann Foster, Kaw Valley CARES, testified in support of **HB 2252**. She explained that, in 2003, Kaw Valley USD 321 had a school board election which was fueled by one issue, the redistricting of schools within the district. After the election, citizens realized that, based upon 2000 census data, member districts included populations ranging from 1,390 to 2,801 with the third district’s population being 2,280. She noted, “Our least populous member district was enjoying twice the representation of the areas of our district with more population.” In January 2004, the local board was requested to reapportion member districts to come into compliance with “one man, one vote.” In the end, the only recourse was to sue the school district. In October 2004, the board finally voted to approve a new map to bring the district in compliance. Ms. Foster noted that patrons assumed that reapportionment of member districts was a standard policy of the local board similar to the Legislative census process. They were surprised when they discovered that reapportionment had never been done in their district and that many other school boards across the state had ignored their constitutional duty to reapportion. She commented, “Even as our board voted to accept the reapportioned map, they still argued that they should represent communities and not equal numbers of patrons.” Ms. Foster contended that the bill was a step in the right direction to improve patrons’ voting rights with regard to local school board elections. She noted that, with the bill, patrons of the district would no longer become plaintiffs against the district. (Attachment 2)

Committee discussion followed at which time Senator Apple suggested that the bill be amended by striking “county attorney” so that a civil action could be filed only by the county. Senator Lee suggested that the bill

CONTINUATION SHEET

MINUTES OF THE Senate Education Committee at 1:40 p.m. on March 14, 2005 in Room 123-S of the Capitol.

needed language to ensure that the school district's population is actually checked often. Senator McGinn commented that, in her opinion, the school district's attorney could take a look at this on a periodic basis. Senator Teichman commented that not all school districts have an attorney. Senator Vratil noted that the bill would require school districts to use precincts or census blocks, but it was all tied to the most recent decennial census. In rapidly growing areas of the state, as long as it is tied to that decennial census, the bill would require board member districts to be way out of balance by the end of that ten year period of time. He noted, "The districts in my area rebalance board member district boundaries based on estimated population which is calculated by the election commission, and they may do it every two years to maintain the balance. I know your purpose behind this bill is to keep those member districts balanced, but in my area it will actually require them to be out of balance as long as you use the decennial census. I would like to amend this to allow the board to use estimated population determined by an election commission."

Representative Otto commented that the intent of the bill was to provide a needed enforcement mechanism, and he introduced the bill as a result of a problem which occurred in his district. In response to committee questions concerning the number of school districts which have been sued regarding redrawing boundaries, Dale Dennis, Deputy Commission, State Board of Education, informed the Committee that very few lawsuits of that nature have been filed in the state.

There being no others wishing to testify, the hearing on **HB 2252** was closed.

Senator Schodorf opened a discussion of a previously heard bill, **HB 2247** which would require the Secretary of SRS to transfer the school records of children in the custody of SRS immediately when they are moved to another school.

Senator Vratil explained that the purpose of an amendment he intended to offer was solely to make the bill into a vehicle that could be used for school finance purposes.

Senator Vratil moved to amend **HB 2247** on page 2, line 2, by changing the effective date to "publication in the statute book," seconded by Senator Steineger. The motion carried.

Senator Steineger moved to recommend **HB 2247** favorably for passage as amended, seconded by Senator Vratil. The motion carried.

For the Committee's information, Senator Steineger distributed copies of **SB 292** and explained that it was the school finance plan he presented at a previous committee meeting. He explained that the bill provides both spending and revenue. He noted that, essentially, the bill contains the Senate Republican plan except it implements entirely the first year instead of being phased in over a three-year period. The plan is funded by increased income and sales taxes. Also included is an optional local county earnings tax.

The meeting was adjourned at 2:20 p.m.

The next meeting is scheduled for March 15, 2005.

**SENATE EDUCATION COMMITTEE
GUEST LIST**

DATE: March 14, 2005

NAME	REPRESENTING
Ann Foster	Kaw Valley CARES
Nancy Lindberg	KS Children's Campaign
TERRY FOXSYTT	KWCAT
Jim Edwards	KASB
BILL REARDON	KCKS. AIST 500

March 14, 2005

Representative Bill Otto
Testimony for HB 2252

HB 2252 is designed to help school boards follow the same election rules that other government entities are required to follow. Current law calls for school districts to review their board sub-districts every two years. If the districts do not comply, the only recourse is for a citizen to sue their own school district.

The District Unification was passed in 1965, and most school districts have not changed their boundaries in the subsequent 40 years. I know of one school board member in the Iola district that was elected with just 3 votes. Not a margin of 3, but a total of 3.

HB 2252 simply requires school districts to follow the same redistricting rules as the Legislature, every 10 years, or when there is more than a 5% discrepancy between the largest and smallest districts. If districts do not comply, a citizen of the district can go to their county attorney and take action there, instead of having to hire his/her own lawyer and taking the district to Court.

*Senate Education Committee
3-14-05
Attachment 1*

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/Jennifer Foster
Of Kaw Valley CARES

March 14, 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.

*Senate Education Committee
3-14-05
Attachment 2*

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.