

APPROVAL: March 15, 2011

Date

MINUTES OF THE HOUSE EDUCATION COMMITTEE

The meeting was called to order by Chairman Clay Aurand at 9:00 a.m. On February 11, 2011, in Room 784 of the Docking State Office Building.

All members were present, except:

Representative Pat Colloton, excused

Committee staff present:

Sharon Wenger, Kansas Legislative Research Department

Reagan Cussimano, Kansas Legislative Research Department

Eunice C. Peters, Kansas Revisor of Statutes

Norm Furse, Kansas Revisor of Statutes

Dale Dennis, Deputy Commissioner, Kansas State Department of Education

Jan Johnston, Committee Assistant

Conferees appearing before the Committee:

Mark Tallman, Kansas Association of School Boards

Terry Collins, Doniphan West, Doniphan County Education Cooperative

Brenda Dietrich, USD 437

Jim Lentz, USD 402

Randy Watson, USE 418

David Schauner, KNEA

Written testimony:

Cheryl Semmel, USD Kansas

Tom Schwartz, Principal Abilene

Blake West, KNEA

Others attending, see attached sheet.

HB 2191 – Concerning school districts; relating to teachers

Chairman Aurand opened the hearing on **HB 2191**.

Chairman Aurand asked Eunice Peters, Kansas Revisor of Statutes, to explain to the Committee what the bill does.

Ms. Peters explained that the Bill would increase the term of employment threshold requirement needed to attain tenure for teachers for school districts, area vocational-technical schools and community colleges. The Bill would increase the amount of time that a teacher must work from three to five consecutive years. In addition, the Bill would increase the time for those teachers who have had previous tenure with a school district, area vocational-technical school or community college from two to three consecutive years of employment.

Mark Tallman, Kansas Association of School Boards, spoke to the Committee as a proponent of **HB 2191**. This will would lengthen the probationary period before teachers are provided with the full due process rights we refer to as "tenure" from three to five years. KASB has a long-standing position in support of a longer probationary period.

We want to make two things clear at the outset. First, board of education members support Kansas teachers. Our members have voted for local tax increases and supported tax increases to pay for such salaries and avoid teacher layoffs. KASB has consistently supported funding to improve teacher salaries and benefits. Second, we support the need for a process that provides protections from arbitrary and capricious dismissal. (Attachment 1)

CONTINUATION SHEET

Minutes of the House Education Committee at 9:00 a.m. On February 11, 2011, in Room 784 of the Docking State Office Building.

Terry Collins, Director of Doniphan County Education Cooperative/Inter-local #616. I am a current member and a Past President of the Kansas Association of Special Education Administrators (KASEA). I am here to testify as a proponent for **HB 2191**.

As you know, Kansas has experienced a shortage of teachers, especially special education teachers. Very few students elect to major in special education and there are certified teachers who are Certified teachers who are removing special education from their endorsements. Most of the teachers I have hired in the last six or seven years have been hired on waivers. Some of them have become excellent special education teachers. Some need lots of professional development. Some do not succeed. (Attachment 2)

Brenda Dietrich, Superintendent, USD 437 Auburn-Washburn, spoke to the Committee as a proponent of **HB 2191**. My reasons for supporting this bill are really very simple. I believe we need to give more intentional and targeted support for certified staff who are new to our profession and, by the very nature of their newness, need more time to hone their skills. I look at this bill as giving our inexperienced staff the very precious "gift of time". **HB 2191** allows us an opportunity we do not currently have to strengthen our profession. It provides more time for us to devote to helping those teachers who are standing on the edge of a cliff after 3 years in our district who do not quite have the skill base we require in order to continue in our employ. The cliff is created by the current teacher tenure law in the state of Kansas. We need a longer induction phase in order to work with these teachers who just need some more time to meet our standards for effective instruction. (Attachment 3)

Jim Lentz, Superintendent, USD 402 Augusta Public Schools, spoke to the Committee as a proponent of **HB 2191**. The mission of USD 402 Augusta Public Schools is "Student Achievement is #1". I know that sounds simplistic and not like other mission statements you may have read or heard before. In reality, our mission is very easy to teach to staff, students and community, but let me assure you that we take it very seriously. Student achievement, student learning and student success is what we are about and what we do. The mission is the driving force behind our Board of Education "Success Plan", our approach to budgeting and it is the driving force behind teacher recruitment, placement and retention. (Attachment 4)

Randy Watson, Superintendent, USD 418 McPherson, spoke to the Committee as a proponent of **HB 2191**. While some in our profession may disagree with me, I view this bill as pro-education, pro-teacher and most importantly pro-student.

The heart of student achievement lies in the quality of the teacher we put with our students. I have instructed our staff that hiring quality teachers and training them is the most important work that we can do to impact student achievement. We spend a great deal of time and effort recruiting and securing the most talented teaching staff we can find. The research is crystal clear – an effective teacher is the single most important factor, controlled by schools, in impacting student achievement. (Attachment 5)

Cheryl Semmel, Executive Director, USA Kansas, provided written testimony only to the Committee on **HB 2191**. Administrators are mindful that the state continues to experience an unprecedented economic crisis as revenues continue to fall. At the same time, the need for appropriate educational services continues to rise. We remain focused on the goal that each child in Kansas will receive a quality education that helps them reach their potential and become successful, productive citizens. As you know, Kansas students are making unprecedented academic achievement and we are on a path of continuous improvement. In many areas, Kansas students are performing above the national average and for that you should all be proud. (Attachment 6)

David Schauner, KNEA, spoke to the Committee as an opponent of **HB 2191**. Extending the probationary period from three years to five years not only does a disservice to professional educators it is also a disservice to those they educate.

CONTINUATION SHEET

Minutes of the House Education Committee at 9:00 a.m. On February 11, 2011, in Room 784 of the Docking State Office Building.

Some might call this flexibility. I call it an unsound expansion of management power and authority that is not related to sound educational policy or student performance. The current system of teacher evaluation is rigorous and provides reasonable assurance that before a teacher becomes non-probationary they have demonstrated their competence and classroom effectiveness. (Attachment 7)

Tom Schwartz, Principal McKinley School, Abilene, Kansas, provided written testimony only to the Committee on **HB 2191**. I have had the pleasure to work in my school with a diverse staff with a wide range of experience. Some have taught over 25 years. Others have been teaching between 10-25 years, and many started their teaching career at McKinley and now have two to six years of experience. I have always felt this wide range of experience was an asset to the students at my school. The give and take between experienced staff and new teachers allows for great collaboration to test new ways of thinking along with tried and true ways to help all students learn. The collaboration between the staff and the administrator is also an important aspect of helping students learn. It is crucial for the staff and administrator to learn and grow together. Not only are our students learners, but we are life-long learners too. (Attachment 8)

Blake West, KNEA, provided written testimony only to the Committee on **HB 2191**. This proposed legislation addresses Due Process for teachers. Due Process, as you know, provides that teachers may be non-renewed for cause. This would certainly include the ability to release a teacher who has demonstrated they are not up to the job and to reduce the teaching force when a district encounters financial hardship. (Attachment 9)

A question and answer session followed the presentations.

Chairman Aurand distributed a handout (Attachment 10)

Chairman Aurand closed the hearing on **HB 2191**.

HB – 2200 - School districts; relating to state aid for capital improvements and capital outlay.

Chairman Aurand made motion to amend HB 2200 to eliminate section C of new section 3, on page 5 of the Bill. Representative Bollier seconded. All in favor say “aye”, those opposed “no”. Motion Carried.

Representative Huebert moved to approve HB 2200 as amended. Representative Osterman seconded. All in favor say “aye”, those opposed “no”. By show of hands motion carried.

HB – 2016 -School districts; finances; bilingual weighting based on program enrollment.

Chairman Aurand asked the Committee as to what was their intent for **HB 2016**. It was the consensus of the committee to not work the Bill today.

The meeting was adjourned at 10:40 a.m. The next meeting is scheduled for February 15, 2011.

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KANSAS
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Testimony before the
House Committee on Education
on
HB 2191 – Teacher Tenure; Probationary Period

by
Mark Tallman, Associate Executive Director for Advocacy
Kansas Association of School Boards

February 11, 2011

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to comment on **HB 2191**. This bill would lengthen the probationary period before teachers are provided with the full due process rights we refer to as “tenure” from three to five years. KASB has a long-standing position in support of a longer probationary period.

We want to make two things clear at the outset. First, board of education members support Kansas teachers. Our members have voted for local tax increases and supported tax increases to pay for such salaries and avoid teacher layoffs. KASB has consistently supported funding to improve teacher salaries and benefits. Second, we support the need for a process that provides protections from arbitrary and capricious dismissal.

However, the teacher due process system has evolved over time into a system that our members believe makes it difficult, time-consuming and expensive to dismiss a tenured teacher for academic or student performance reasons. As a result, some administrators and school boards are reluctant to award marginally effective new teachers with a contract that in turn makes it very difficult to remove such teachers in the future. We hear from administrators who believe a teacher *might* improve with time, but don’t believe they can take the risk the marginal teacher *might not* improve. We hear from administrators about marginal teachers who may mature into effective educators if given more coaching, time and experience.

This is not about keeping bad teachers in place longer. It is about keeping teachers who are good enough to be given more time, but not good enough to grant the extraordinary job protection found in our current law.

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Last session, on a similar bill KASB supported an amendment that would make the requirement for a longer probationary period for teachers apply only to those hired after the bill takes effect. That amendment would address concerns the rules are being changed in the middle of the game for teachers currently hired but not yet granted tenure rights. We also supported an amendment that would extend the probationary period only with the agreement of the teacher and board.

We want to stress that this issue is only one part of a larger issue. KSDE, USA, KNEA and KASB are working together to improve evaluation systems for all certified school employees. We need to improve teacher evaluation, expedite the removal or improvement of weak teachers, and maintain a fair system of review of employment decisions.

Thank you for your consideration.

House Education Committee

Testimony on HB 2191

February 11, 2011

**Presented by: Terry Collins, Director
Doniphan County Education Cooperative/Inter-local #616**

Chairman Aurand and Honorable Representatives:

I am Terry Collins the Director of Doniphan County Education Cooperative/Inter-local #616. I am a current member and a Past President of the Kansas Association of Special Education Administrators (KASEA). I am here to testify as a proponent for HB 2191.

As you know, Kansas has experienced a shortage of teachers, especially special education teachers. Very few students elect to major in special education and there are certified teachers who are removing special education from their endorsements. Most of the teachers I have hired in the last six or seven years have been hired on waivers. Some of them have become excellent special education teachers. Some need lots of professional development. Some do not succeed.

Regular education teachers can be placed on a waiver to teach special education for three years maximum. Within those three years they must take select classes to become eligible for a provisional license. They typically have 4 years to complete a provisional program and receive a license. It may take up to 7 years before a license is granted. In order to receive categorical aid, these waived teachers must make progress towards a college-approved plan of study.

In order to guarantee categorical aid the teacher must sign a contract stating they fully understand that making progress toward a degree is a "condition of employment". That is no easy accomplishment. Contracts are mandatorily negotiable. HB 2191 will help solve a significant problem. Under current law a teacher comes off the probationary period when they sign a fourth consecutive contract. I am advised by lawyers including those at KASB, that "progress toward a degree as a condition of employment" could and most likely would be challenged resulting in a lengthy, expensive battle with highly questionable results. So the challenge becomes do you allow an un-licensed teacher to receive tenure? What about the teacher who looks promising but has not yet developed sufficiently? Why run the risk of not being able to collect categorical-aid if a teacher chooses to drop out or fails to make progress towards licensure? HB 2191 allows us to clear these hurdles.

Amending the continuing contract law, as set forth in HB 2191 allows us to ensure that waived teachers complete the requirements for licensure before completing their probationary period.

Thank you for your time.

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House Education Committee
HB 2191 School districts; due process
Friday, February 11, 2011
Dr. Brenda S. Dietrich
Superintendent, USD 437 Auburn-Washburn

Good afternoon,

Thank you for giving me the opportunity to visit with you today about **HB 2191** which would amend teacher tenure law by extending the parameters by which one can earn tenure from three consecutive years of employment and a fourth contract, to five years and a sixth contract.

My reasons for supporting this bill are really very simple. I believe we need to give more intentional and targeted support for certified staff who are new to our profession and, by the very nature of their newness, need more time to hone their skills. I look at this bill as giving our inexperienced staff the very precious "**gift of time**". HB 2191 allows us an opportunity we do not currently have **to strengthen our profession**. It provides more time for us to devote to helping those teachers who are standing on the edge of a cliff after 3 years in our district who do not quite have the skill base we require in order to continue in our employ. **The cliff is created by the current teacher tenure law in the state of Kansas**. We need a **longer induction phase** in order to work with these teachers who just need some more time to meet our standards for effective instruction.

If we had more time to mentor them, **we could provide very focused professional development to close their skill gaps**. We could give them even **more support and coaching with exemplary, mentor teachers and provide opportunities for them to learn and observe from the best of the best**. I strongly believe these probationary staff members would benefit greatly from the additional supports we could provide, which would save them

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edge of that cliff that leads to a non-renewal notice because they just needed a little more time and we could not give it to them.

In this economic climate, our direction to administrators in USD 437 is that **we cannot afford to take a risk** on our newest staff members if they have not met or exceeded our standards as indicated on the district's appraisal instrument. Our **principals have the responsibility to hire capable teachers and ensure they become and remain effective in the classroom**. However, if there is any doubt that these newer staff members are not highly skilled before they reach tenure at the end of three short years, then we are faced with a non-renewal simply because **we do not have the luxury of any more time with these teachers**.

There are some probationary staff members that come to us with highly developed instructional skills who have a clear understanding of all of the factors of teacher effectiveness and know how to manage a classroom, understand best practices, and will have an immediate positive impact on improving student achievement. But there are those new to the profession who need much more attention and assistance to be the best teacher they can be; and, like anyone learning a new skill, **they will take longer than others to master that skill**.

I am not in any way opposed to teacher tenure. It serves an important purpose for helping to retain quality staff and for providing job protection afforded other professions. I was a tenured teacher when I was in the classroom and I understand the stability and protection it brings to our certified staff. I love my teachers. They are the reason our students are learning at the highest levels. I want to continue to provide our students in Auburn-Washburn with the best education possible, but our current law does a disservice to our newest teachers.

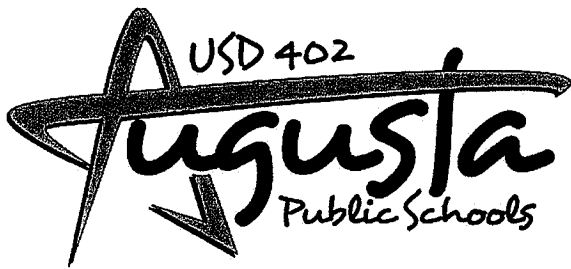
Some may argue that we can continue to work with them after they reach tenure. That is true. However, the protection afforded the newly tenured teacher changes the tenor of the conversation dramatically. The desire or

willingness on the teacher's part to engage in additional dialog, activities, workshops, observations, and data gathering tasks to hone their skills is, many times, met with resistance and apathy now. **The window of opportunity to provide the kind of coaching and training we believe he/she still needs, has closed.**

Other professions have longer induction periods to ensure that all the supports are in place for a successful career. I would think that we should be able to improve and **strengthen our profession and build tremendous capacity for teacher leadership and student achievement** if we could extend the development and probationary phase. I believe it would also provide the time we would need with our new staff in order to solidify **a shared understanding of what constitutes good teaching and best practices in our classrooms in Kansas.**

I support HB 2191, even though it may be somewhat controversial, because **I believe it is in the best interests of our profession and will make a positive impact on teaching and learning for the 475,000 children in our public schools in Kansas.** I hope you will support it, as well.

Thank you for your time. I would be happy to answer any questions you might have.



**Office of the Superintendent
"Student Achievement is #1!"**

Testimony on HB 2191
House Education Committee
Presented by: Jim Lentz, Superintendent, USD 402 Augusta Public Schools
February 11, 2011

Mr. Chairman, Members of the House Education Committee,

Thank you for the opportunity to testify today regarding HB 2191, a bill amending K.S.A. 72-5445 to require teachers to complete not less than five (5) years of consecutive employment, with an offer of a sixth (6) year before receiving full due process rights ("tenure").

I am testifying today in support of HB 2191.

The mission of USD 402 Augusta Public Schools is "Student Achievement is #1". I know that sounds simplistic and not like other mission statements you may have read or heard before. In reality, our mission is very easy to teach to staff, students, and community, but let me assure you that we take it very seriously. Student achievement, student learning and student success is what we are about and what we do!! The mission is the driving force behind our Board of Education "Success Plan", our approach to budgeting and it is the driving force behind teacher recruitment, placement and retention.

By Law in Kansas Teacher Due Process or Tenure, as it is commonly referred to, is currently determined by completion of three consecutive years in the same district and offer of the fourth contract. I do not believe that three years is sufficient time for all teachers to become truly effective in helping all students learn at high levels and achieve success.

Research in the field of education has given us the answer to many of the questions regarding student achievement. For example research has proven that:

1. The classroom teacher is the most important variable in student learning
2. The principal must be an instructional leader who expects quality teaching and learning
3. Five years of service is the ideal minimum for sufficient data to be accumulated on which to base tenure decisions.
4. Teachers who stay in education for five years and accept the sixth contract are more likely to stay in education and make it their lifetime career.
5. Educators, like everyone else, are born with certain talents but the knowledge and skill they acquire over time, determine how successful they are going to be in their chosen field.

There is a huge difference between the beginning teacher, the licensed or highly qualified teacher and the effective teacher. The real effective teacher can get consistently outstanding student achievement results year after year no matter what accountability test you use. Through the development of their talent they have learned how to successfully teach all students. The truly effective teacher is not only highly qualified but, also highly effective with all learners.

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The development of highly qualified and highly effective teachers takes time and dedication on the part of the teacher and the district in which the teacher is employed. For teachers to become highly qualified they must successfully complete all of the state licensure requirements. For a teacher to become highly effective they must dedicate themselves to a lifetime of learning. They must continually improve their skills and knowledge about learning and how to use their skills and knowledge to help students learn. School districts must provide the time and opportunity for teachers to learn, to collaborate with their peers and time to study, reflect on and apply student learning data to instruction in the classroom. School districts must provide truly effective and consistent feedback on instruction through quality evaluation processes. Districts must also provide highly effective and ongoing mentoring programs.

We can obviously get into a discussion about the importance of districts and the state providing the necessary financial and technical resources necessary for success but, that is another chapter.

The bottom line is that it takes time and dedication on the part of the teacher and the district to truly develop an effective teacher. I believe that H.B. 2191 provides for that time.

Jim Lentz, Superintendent
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McPherson Unified School District 418

Randy Watson, Ed.D., Superintendent
Chris Ruder, Associate Superintendent

House Education Committee Testimony on HB 2191 – Teacher Tenure

Dr. Randy Watson, Superintendent
USD 418 McPherson

Friday, February 10, 2011

Good morning Mr. Chairman and members of the House Education Committee,

Thank you for the opportunity to speak today concerning HB 2191 which would amend K.S.A. 72-5445 and require teachers to complete not less than five consecutive years of employment and be offered a sixth contract before receiving full due process rights, commonly referred to as "tenure."

While some in our profession may disagree with me, I view this bill as pro-education, pro-teacher and most importantly pro-student.

The heart of student achievement lies in the quality of the teacher we put with our students. I have instructed our staff that hiring quality teachers and training them is the **most important work that we can do to impact student achievement**. We spend a great deal of time and effort recruiting and securing the most talented teaching staff we can find. The research is crystal clear - an effective teacher is the single most important factor, controlled by schools, in impacting student achievement.

Therefore, our district spends thousands of dollars in the recruitment and training of new staff. Every teacher coming into McPherson is given specific staff development training in brain based strategies, effective instruction and content specific strategies. This training continues for the first three years of employment. For the first three years of employment we provide mentoring and instructional coaching with a veteran, master teacher.

I mention these points to illustrate the commitment we have to see that the teachers we hire are successful in the classroom. It does not make economical or instructional sense to spend all this time and money, then non-renew the teacher and start over.

However, that is what is currently happening. The induction time is too short to effectively evaluate **some** teachers. If one looks back to the 1990s and earlier, it was rare that McPherson non-renewed a teacher. Over the last five years, we have non-renewed (or had teachers resigned in lieu of) 18% of the teachers hired. In many of these cases, we would **not have** moved to non-renewal if we could have extended the probationary period from three to five years. The standards to teach now are too high, the demands of teaching are many and the current time frame of three years is too short for **some teachers** to reach the level of competency that we desire to offer full due process rights.

As an example, we recently hired a young teacher who came to us full of potential, but was very immature. The teacher is a constant learner and has made great strides the last couple of years. If a decision had to be made today, I am afraid that the teacher is not up to the caliber that should be given full due process rights. However, I do believe in a few more years this person **may** become an outstanding teacher.

Non-renewing a teacher is not in anyone's best interest. It does not make sense to the organization in terms of time and money lost and it obviously hurts the teacher who just lost a job. Extending the time frame from three to five years, gives the organization and teachers the precious gift of time. Time for those new teachers who are still not quite ready to be granted full due process to improve, time for administrators, instructional coaches and the teacher to work together to sharpen their skills and to do so in a caring and supportive environment.

I support HB 2191 and believe that it is in the best interest of our profession.

Thank you for your time this morning. I am happy to answer any questions that you may have.

**House Education Committee
Testimony on HB 2191**

Presented by: Cheryl L. Semmel, Executive Director

February 11, 2011

The mission of United School Administrators of Kansas (USA|Kansas*), through collaboration of member associations, is to serve, support, and develop educational leaders and to establish USA|Kansas as a significant force to improve education.

Administrators are mindful that the state continues to experience an unprecedented economic crisis as revenues continue to fall. At the same time, the need for appropriate educational services continues to rise. We remain focused on the goal that each child in Kansas will receive a quality education that helps them reach their potential and become successful, productive citizens. As you know, Kansas students are making unprecedented academic achievement and we are on a path of continuous improvement. In many areas, Kansas students are performing **above** the national average and for that you should all be proud.

USA|Kansas is here today in support of HB 2191, a bill amending K.S.A. 72-5445 to require teachers to complete not less than five (5) years of consecutive employment, with an offer of employment for six (6) years before receiving full due process rights ("tenure").

As administrators and lifelong educators, we embrace innovation and continuous improvement. New challenges confront school leaders and teachers, including technology, diversity, and relevant curriculum. We are called upon to build capacity in others and form strong teams; leadership must be a culture of shared responsibility throughout the educational organization. **As we strive to improve quality instruction and adequately support new teachers, administrators recognize that there is perhaps no greater investment than allowing new teachers time to strengthen and build upon those skills they have acquired through their educational experience. It is for that reason that we stand in support of HB 2191.**

Our support for HB 2191 is not intended to minimize or overlook the impact that quality instruction has on students. In fact, I would like to emphasize that USA|Kansas has historically advocated for additional funding for public education and asked that in these challenging times, we make no further cuts to K-12 public education. There has been a direct relationship between increased funding for K-12 public education and increased salaries and benefits for instructional personnel, as well as the increased number of education professionals statewide. **Administrators**

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know that quality instruction and leadership are critical to the support of our students and we have advocated that quality mentoring and professional development opportunities are critical to the success of our teachers and administrators.

Administrators also realize that the issues related to the recruitment and retention of highly qualified teachers and the comprehensive nature of teacher compensation and due process cannot fully be addressed here. However, we do believe that this bill gives administrators, boards and teachers more time for evaluation and targeted professional development. Districts struggle with issuing contracts that allow little room for targeted professional development for teachers who are performing "marginally" in their third year. In many cases, administrators believe that with additional support, these teachers can become effective educators over time.

Each year, the National Center on Teacher Quality releases the *State Teacher Policy Yearbook*. The report evaluates what states are doing to recruit and retain teachers. One indicator in the report is state requirements and policies on teacher tenure as part of an overall assessment of identifying effective teachers. The rationale for measuring this indicator is that tenure should be a significant and consequential milestone in a teacher's career. This particular report suggests that teacher effectiveness, rather than years of experience, should be the preponderant criterion in tenure decisions.

In February 2010, the Center for American Progress released *Ring the Bell for K-12 Teacher Tenure Reform*. The document makes a number of recommendations for federal and state policy reform related to state tenure laws and district processes. **Both this report and the State Teacher Policy Yearbook suggest that a minimum of five years of service were the ideal minimum for allowing sufficient data to be accumulated on which to base tenure decisions. Both reports emphasize that a longer probationary period allows for more professional development and enables districts to gather a greater body of evidence regarding teacher effectiveness.**

In closing, on behalf of education administrators, I would like to reiterate that our support for this bill is not an effort to undermine or challenge the belief that quality instruction is critical to student learning. Instead, we believe that this effort could help administrators and boards be more effective in supporting educators. Preparing our children requires a shared commitment, collaboration, and open dialogue among all stakeholders. Thank you for being partners in education and please know that we remain interested in working with you to ensure a successful future for Kansas children.



Making public schools great for every child

KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

David M. Schauner, Testimony
General Counsel KNEA
House Education Committee
February 11, 2011
House Bill 2199

Mr. Chairman and members of the Committee:

Due Process is not a vague and unimportant concept. The Kansas Supreme Court in 1957 recognized that due process for teachers was a sound public policy and they wrote the following "...to protect competent and worthy instructors and other members of the teaching profession against unjust dismissal of any kind – political, religious or personal, and secure for them teaching conditions which will encourage their growth in the full practice of their profession, unharried by constant pressure and fear but it does not confer special privileges or immunities upon them to retain permanently their positions or salary, nor permit their interference with the control or efficient operation of the public-school system; and, notwithstanding it grants tenure to those who have taught the requisite period, it nonetheless empowers Boards of Education to discharge them for just cause in an orderly manner by the procedures specified." *Million v. Board of Education*, 181 Kan. 230, 310 P.2nd 917 (1957)

The Kansas Supreme Court decision in *Million* was not only a recognition of the need to protect competent and worthy instructors but also a recognition that the 14th Amendment of the United States Constitution guarantees that the government, federal or state, may not take a citizen's life, liberty or property without due process. That property includes a teacher's contract of employment.

In 1992 the Kansas legislature extended the probationary period from two years to three years. There has been, and remains in place, a strict statutory scheme for evaluating the performance of probationary employees. That process, if followed, both in letter and spirit creates a specific set of processes that schools and professional educators follow to measure their growth in the profession and provide assurance that probationary

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teachers' performance is measured against reasonable standards. That process is used to determine whether a probationary teacher is entitled to become non-probationary after three years of careful examination and scrutiny by building administrators and others in the professional educator's work place.

Extending the probationary period from three years to five years harms not only the professional educator's career it also harms education and students. The words from the Kansas Supreme Court in *Million* resonate more importantly today than in 1957. The need to protect competent and worthy instructors in an ever changing world through the continued use of a reasonable probationary period is not only a worthy goal but sound public policy.

I am certain the committee will hear proponents of the change use the word flexibility to describe the need for expanding the probationary period. I believe the word flexibility is code for expanding the class of professional educators who may be non-renewed from year to year with no reason given. It would relieve administrators and others of any need to participate in effective, quality evaluation of teachers and would in essence create a larger class of employees with little or no job security.

At a time when national educational policy discussions value quality public schools and improving student performance, the creation a larger underclass of educators works at cross purposes with that national goal. It is important to keep in mind that under Kansas law a probationary teacher may be released at the end of his or her teaching contract with no more formality than a written letter delivered by the statutory deadline telling them that their services are no long needed.

That lack of job security strikes at the heart of why Kansas created a due process system in the first place. "To protect competent and worthy instructors... against unjust dismissal of any kind - political, religious or personal, and secure for them teaching conditions ...unharried by constant pressure and fear."

Extending the probationary period from three years to five years not only does a disservice to professional educators it is also a disservice to those they educate.

Some might call this flexibility. I call it an unsound expansion of management power and authority that is not related to sound educational policy or student performance. The current system of teacher evaluation is rigorous and provides reasonable assurance that before a teacher becomes non- probationary they have demonstrated their competence and classroom effectiveness.

I ask this committee to reject this proposed change.

Tom Schwartz
Principal, McKinley School
Abilene, Kansas

To the House Education Committee Members:

It has come to my attention that your committee will be debating a bill (HB 2191) that would extend the probationary period for teachers to five years from the current three year period. I have been an Elementary Principal for 11 years in the Abilene School District and I would like to give you my perspective on the effects of this bill on students, teachers, and administrators in Kansas Schools.

I have had the pleasure to work in my school with a diverse staff with a wide range of experience. Some have taught over 25 years. Others have been teaching between 10 - 25 years, and many started their teaching career at McKinley and now have two to six years of experience. I have always felt this wide range of experience was an asset to the students at my school. The give and take between experienced staff and new teachers allows for great collaboration to test new ways of thinking along with tried and true ways to help all students learn. The collaboration between the staff and the administrator is also an important aspect of helping students learn. It is crucial for the staff and administrator to learn and grow together. Not only are our students learners, but we are life-long learners too.

I have had six first-year teachers and four new teachers to the district begin in my building. They have either completed or are presently in their three-year probationary period. It is a time of learning where teachers new to the profession are mentored by fellow peers and the principal in that building. My job, as the administrator, is to not only help new teachers to the profession, but also my experienced staff, to identify their weaknesses and to seek opportunities and experiences to strengthen those weaknesses.

It has been my experience with the new teachers that we have hired, that they are well prepared, they know the latest research on how students learn best, and the three year probationary period allows enough time for teachers new to the profession to develop their skills and learn the curriculum unique in each district so that they can deliver the education that all students deserve. As I mentor a new teacher, we work on their skills because each child in that room deserves a great education. A three-year probationary period allows that to happen, and it should not be less than that so that administrators and districts can take the time and use the resources to help good young professionals become wonderful teachers. The district has made an investment in that teacher for the first three years. ***At the end of that period, the administrator must make a determination on what is best for the future students of that school and for that young professional. I have never felt that I needed more time than that to know if a young teacher was going to become the kind of teacher that I wanted to have in my building.***

At the end of that three-year period if the administrator and district feel that the probationary teacher has demonstrated the skills that make him or her a true professional, then that person should be treated as such, and should have the due process rights he or she has earned.

When a teacher has due process rights, it does not mean that I, the administrator, quit working with that teacher. It is my job to ensure that my teachers are providing the best education possible to the students that enter our building. I am there to help each teacher be the best educator possible. Through the evaluation system that is in place in each district, there are opportunities to evaluate non-probationary teachers, and if a person is not performing for the good of the students in that school, then the administrator needs to do their job and work with that teacher to correct the problems.

No public school teacher has "tenure." What they have is due process, and that only means that the administrator needs to document any problems or concerns that arise. The administrator can not dismiss a teacher because they have a difference of opinion or if a certain parent in that community

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has a problem with that teacher. It is a safe guard for all involved. There must be an educational reason to dismiss a teacher.

My fear is that this bill has other intentions during a time where I as an administrator feel that there are so many other important issues for our students and public education. ***There is not a problem with the three-year probationary period, or the due process procedure, or the evaluation system in place in our schools.*** If there is a problem with any of these procedures, then I would say it is a problem with the administrator in that building, or there is another non academic reason that a district would have problems with the current procedures.

It is hard work to help someone with promise grow when they may have a weakness. It is rewarding when you help a person become better and they become a real asset to your building, your students, and your community. It is too easy to just dismiss someone in your building who is at the end of their probationary period even though they may be a wonderful teacher with great promise. It is easier to just bring in the next group of young teachers to run through the process another three years. ***Unfortunately, with the cuts in state aid that we have seen in recent years, I know there are districts who they see a five-year probationary period as a way to release teachers with promise to bring in a group of new teachers to meet a budget problem. This is not what is best for the students in Kansas.*** What we have in place now has served us well for years. I do not see any educational reason to extend the probationary period beyond the current three year period.

Yours sincerely,

Tom Schwartz
Principal, McKinley School
Abilene



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Blake West, Testimony
House Education Committee
House Bill 2191
February 11, 2011

Mr. Chairman, members of the committee, thank you for this opportunity to provide testimony regarding House Bill 2191.

This proposed legislation addresses Due Process for teachers. Due Process, as you know, provides that teachers may be non-renewed for cause. This would certainly include the ability to release a teacher who has demonstrated they are not up to the job and to reduce the teaching force when a district encounters financial hardship.

We would also emphasize that Due Process is a key protection to the integrity of the instructional process. It helps us make sure that politics, poor performance of a student with a powerful parent, or a bad coaching season don't force decisions to release a good teacher.

The question then becomes, is three years the correct number of years before a beginning teacher is sufficiently experienced to determine if she/he has achieved an appropriate level of competence and is on a career path of continuous improvement?

Based on our extensive work with the development of new teacher mentoring and induction programs and our work to help districts formulate their teacher evaluation processes, we believe that three years is more than ample to make this determination. While every professional educator continues to grow and develop throughout her/his career, a district's teacher appraisal system should be sufficiently rigorous and relevant to measure that a teacher IS performing well enough to keep that person in a classroom.

On behalf of the members of KNEA, we believe that lengthening the time for teachers to move from probationary to non-probationary status weakens the education system and is a disservice to students.

We believe that lengthening the probationary period will allow districts to lessen their emphasis on mentoring of new teachers – it will take the pressure off the district to ensure that newer teachers are developing the professional skills to do a good job working with students. New teachers should be provided the support to hone their skills within three years. To do anything less means that students are not receiving the quality instruction that we want to ensure they have. Frankly, we fear that a district that has not provided induction support to new teachers during the first three years will be even less likely to provide that additional support during years four and five if the teacher was still not making successful progress.

Lengthening the probationary period will extend for years the time before a young teacher will have the job security to know they should put down roots – buy a home, become a full member of the community. This legislation does nothing to provide additional support to a beginning professional.

We are also concerned that lengthening the probationary period is a sign that administrators are not doing their jobs. After the probationary period is up, administrators must simply justify and document their decision. Under this bill, administrators get five years during which they can non-renew a teacher without giving any reason or rationale knowing that the teacher has no right to an impartial hearing. Three years is plenty of time to find out if a teacher is just not a good fit.

Please consider this: during her first three years in the profession, a typical high school teacher will have taught over 2,000 lessons and worked with 400 to 1,000 or more students on a day to day basis. An elementary teacher will have taught far more lessons. Surely an administrator who is making appropriate classroom visits should be able to observe and determine if a teacher has grown and demonstrated professional competence within 2,000 lessons taught over three years.

If we are NOT evaluating teachers with enough frequency and rigor to determine their competence over three years, then we are failing to provide our students with the learning environment they deserve.

Teachers deserve a timely determination – within three years – if they are going to make it. They deserve the assurance that they can become full members of the community where they teach. It is a matter of respect, courtesy, and even decency for a teacher to be provided with a reason for termination so that she/he can utilize that information to help make improvements as a professional or to have frank feedback if teaching is not a profession she/he should pursue.

Students deserve the assurance that school administrators are providing every new teacher with mentoring support. Students deserve the assurance that administrators are conducting meaningful evaluation within a reasonable time frame to ensure their teachers are up to the job.

We urge you to oppose HB 2191 on behalf of both the teachers and students in our schools.

After a teacher has completed not less than two ^{may} consecutive years of employment, the board of education of the school district and the teacher ~~ay~~ enter into an agreement under which the school district may offer the teacher a contract of employment for a third and fourth year and the teacher agrees that the provisions of KSA 72-5438 through 72-5443, and amendments thereto, shall not apply to such teacher unless a fifth contract is offered to the teacher.

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