

KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS



1420 Arrowhead Road | Topeka, Kansas | 66604-4024  
785-273-3600 | 800-432-2471 | 785-273-7580 FAX  
www.kasb.org

Testimony before the  
**House Committee on Commerce, Labor and Economic Development**  
on

**HB 2085 – Amendments to the Teacher Professional Negotiations Act**

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

**Also Representing the Kansas School Superintendents Association**

**January 29, 2013**

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to testify today on behalf of the Kansas Association of School Boards. The Kansas Superintendents Association has also joined in these comments. We appear today as a proponent of **HB 2085** because it contains a provision our members have made a priority issue for the 2013 session. However, we would not support the entire bill in its present form. It contains several parts our members might support but we believe it requires further study and amendments. It also contains a provision that goes far beyond the current positions our members have adopted, and which we would not be able to support without much more input from our member school boards.

KASB members are not individuals. They are the locally elected boards of school districts and other educational agencies. We provide our members with a wide variety of services, including legal, labor relations, research, insurance, energy, board development and district leadership. Each member board is entitled to a vote at our Delegate Assembly, which determines the policy positions we take to the Legislature, Kansas State Board of Education and other governmental bodies. All of our voting delegates are local board members, working in collaboration with their superintendent.

When our Delegate Assembly adopts a policy, it remains in effect until repealed or amended by another Delegate Assembly. As a result, some of our positions may date back many years. Each year, however, our association appoints a Legislative Committee to review our policies, consider changes, and to develop one or more annual resolutions which set priorities for a single year. These proposals are shared with school districts and discussed at area meetings prior to any decision.

This past December, the KASB Delegate Assembly adopted a resolution called “First in Education, the Kansas Way.” This resolution contains our plan for making Kansas the top-performing state in the nation for educational attainment, based on strategies appropriate to the unique needs of Kansas and its 286 school districts. Using four measures of achievement, Kansas currently ranks seventh among the 50 states. To ensure Kansas students leave our K-12 system with the skills to meet state economic needs and the ability to enjoy a middle class lifestyle, we want to be number one.

The “First in Education” plan, which is the result of two years of study, community meetings, public opinion surveys and input from state and locally elected officials across Kansas, has three core principles: (1) raising standards for students, educators, schools and districts; (2) suitable finance for improving education; and (3) strengthening local school leadership. Under the first principle, raising

standards, we are supporting specific steps concerning effective educators. One of those is contained in **HB 2085**.

### **1. Evaluation Procedures**

We believe raising student achievement requires improving instruction, and the foundation for improved instruction is strengthening evaluation of teachers and administrators. The “First in Education” plan supports implementing a new system of educator evaluation that would require districts to meet standards set by the State Board, which are being developed under the No Child Left Behind waiver received last summer. Because schools and districts are held accountable for student achievement, we believe State Board policy and state law should require that an educator’s impact on student achievement should be the most important factor in evaluation, based on multiple measures.

In order to implement the new state requirements, the “First in Education” plan also supports removing evaluation procedures from the list of items boards must collectively bargain with teachers. That is addressed in **HB 2085** on Pg. 3, Lines 8-9. We support this change so boards do not have to bargain over compliance with mandatory state and federal requirements. To make these changes effective, we believe language must be added to make current language in contracts concerning evaluation procedures void. If not, boards would continue to be bound by previous agreements.

We also support a requirement that teachers and administrators have input into the development of evaluation systems *outside* of the negotiations process. We would further note that a bill establishing new evaluation standards and removing evaluation procedures from bargaining passed the House last session as **HB 2643**, on a vote of 94-30.

### **2. Length and Number of Teaching Periods**

The second major change in the bill is to clarify that only the hours and amounts of work outside of teaching periods are to be included in the terms and conditions of professional service (i.e. mandatorily negotiable). (Pg. 3, Lines 1-2) The bill further clarifies this point by specifically stating the length and number of teaching periods shall not be included within the meaning of terms and conditions of professional service and shall not be subject to professional negotiation. (Pg. 4, Lines 1-4)

KASB has a long-standing policy stating that mandatory topics should be limited to compensation, fringe benefits, hours and amounts of work, leaves, and number of holidays. This change would be consistent with that position. It would give districts more flexibility in assigning staff and structuring the school day. However, we would stress this change was not included in the “First in Education” resolution by our Legislative Committee or proposed at any of our membership meetings. If the committee works the bill, we would suggest consideration of several changes to clarify the intent.

### **3. Exclusive Representation for Individual Teachers**

The third major change in the bill is to remove the exclusive representative from the PNA by stating a representative may represent any of the professional employees in the unit at the discretion of each professional employee. (Pg. 4, Lines 17-20) The bill states that professional employees, individually or collectively, are allowed to enter into an agreement covering terms and conditions of professional service with the board. (The bill does not specifically state they will be entering into the agreements with the board. This may need to be clarified). (Pg. 4, Lines 23-26)

The bill also states that no provision of the section shall prohibit a professional employee from representing themselves in negotiation with the board and no provision of any agreement between a professional employees’ organization and the board will be imposed on a professional employee unless

the employee is a member of the organization and the employee does not negotiate on his or her own behalf. (Pg. 5, Lines 21-30)

Neither KASB's permanent policies nor the "First in Education" resolution support the idea of separate contracts covering all aspects of employment with individual teachers. KASB does have a long-standing policy that boards should have the authority to determine pay based on performance. However, this change would appear to go far beyond the issue of "merit" or differential pay by having boards negotiate entirely separate contracts with individual teachers. This proposal raises a number of practical and logistical concerns. Our members have not recently adopted or even debated a position on this issue. We think this concept requires considerable further study.

#### **4. Optional Negotiations**

Finally, the bill appears to make negotiations with the professional employees' organization voluntary instead of mandatory. (Pg. 8, Lines 12-16)

KASB's policies support a narrower list of mandatorily negotiable items and more flexibility in setting salaries. However, our policies do not support making the PNA optional. We do not believe we could support the bill with this provision included until our members have carefully studied the issue and adopted a specific position.

In conclusion, we support the first provision of the bill, dealing with teacher evaluation, as a top priority for this session. Although not identified as a priority, the second provision concerning negotiations over teaching periods, is consistent with our positions. The third provision, dealing with exclusive representation, is a new concept that requires additional clarification and study. The fourth provision, making collective bargaining optional, is not supported by our policies and we would oppose this change until we can determine the position of our members.

It is our desire to seek a broad agreement over reasonable changes in the Professional Negotiations Act that help improve teaching and learning. We also believe that changes in this law must be carefully crafted to provide clear legal understanding. We look forward to working with legislators and other organizations to achieve that goal.

Thank you for your consideration.