

## Written and Oral Testimony

To: Senator Molly Baumgardner, Chair Senate Education Committee

From: Stan Keim, graduate of Sabetha High School, parent and grandparent of USD 113 students

Date: Thursday, March 16, 2023

Re: 2023 SB 304 authorizing the state board of education to establish new school districts and providing for administrative and judicial review of resolutions to permanently close a school building

Request to provide written and oral testimony

Neutral

The proposed legislation in SB 304 amends two different statutes.

K.S.A. 72-635 provides a means by which the residents of any school district may submit a petition and force a vote on whether the district should be disorganized. I have been told that no such petition has been submitted since this statute was enacted in 1967.

Under the current statute, if the electors vote to disorganize a school district, all territory of the district must then be assigned to other existing districts. There are no means by which a new district may be created from the newly disorganized district's territory. SB 304 creates such an opportunity.

I reside in USD 113, which is comprised of Preschool-12 schools in Sabetha, Axtell and Wetmore. This unique marriage of schools, which are a considerable distance from each other, resulted from two different rounds of consolidation.

On February 13, 2023, after four months of public meetings and hearings, the USD 113 Board of Education voted to close the Wetmore Academic Center. Those who opposed this action are now circulating a petition to disorganize USD 113. Their hope is that by disorganizing the entire school district, the State of Kansas will allow the organization of their own stand-alone district to serve their total enrollment of 125 students.

I have several concerns about the proposed amendments to K.S.A. 72-635.

1. This legislation would incentivize small schools in consolidated districts to seek disorganization of their entire school district with an unrealistic goal of breaking free and becoming their own school district.
2. The State of Kansas has traditionally promoted consolidating smaller schools into one district, and has previously provided financial incentives for schools to do so. This legislation would represent an about-face, and potentially result in more school districts with smaller enrollments.
3. The cost to educate students in smaller schools is substantially greater than in schools with larger enrollments. Education already represents 60.6% of the State General Fund expenditures. This number will only increase if smaller districts are created.

K.S.A. 72-635 is presently void as to what happens when a school district is disorganized by vote of the electors. Section 1 of SB 304 does promote clarity by providing the process by which territory and assets of the disorganized district will be transferred to one of more adjacent districts. This portion of the proposed legislation is necessary and appropriate.

SB 304 also amends K.S.A. 72-1431 by creating both administrative and judicial review of a decision by local Board of Education to close a school building. I also have several concerns about these amendments.

1. This appeals process would necessarily take months, if not years. Local school districts, which by nature of the fact they just voted to close a school building, are probably already struggling financially. It may be impossible for the district to afford the inordinate legal fees that will result from the appeals process, especially when combined with the cost of maintaining and operating a school building may not be fiscally viable. Further, the emotional toll to students, staff and the community, while the future of a school building is put on hold, could be devastating.
2. In Kansas, members of each local Board of Education are duly elected by the residents of the school district. This proposed legislation transfers power from the duly elected representatives of each school district, to district and appellate court judges. Decisions made by board members with years of service to the school district, and after numerous public hearings, can be reversed by judges with no ties to the district and no knowledge of any facts not presented in a single court hearing.
3. The proposed legislation, in K.S.A. 72-1431(e), would allow a dissatisfied resident 90 days in which to request administrative review of a local board of education's resolution to close a school building. Yet, K.S.A. 72-1431(e) reduces this same time period to 30 days. Perhaps those who are dissatisfied with the decision of the USD 113 Board of Education to close the Wetmore school building requested the modification from 30 to 90 days, as their 30-day time period has already lapsed.
4. According to the Office of Revisor of Statutes, this legislation raises some distinct constitutional questions. Under Article 6 of the state constitution, the State Board is granted general supervision of public education while locally elected school boards are granted authority over the operation of the school districts. Generally, the State Board of Education does not exercise any direct oversight of school district operations. The appeals process set forth in SB 304 would usurp the authority of locally elected school boards.