

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Julia Lynn at 8:30 am on Thursday, March 10, 2016, 548-S of the Capitol.

All members were present except:
Senator Susan Wagle – Excused

Committee staff present:
Debbie Bartuccio, Kansas Legislative Committee Assistant
Reed Holwegner, Legislative Research Department
Edward Penner, Legislative Research Department
Chuck Reimer, Office of Revisor of Statutes

Conferees appearing before the Committee:
Mark Tallman, Associate Executive Director, Kansas Association of School Boards. Mr. Tallman also represented: Kansas National Education Association, Kansas School Superintendents Association, and United School Administrators of Kansas
Kristina A. Polansky, Private Citizen, Manhattan, Kansas
David Schauner, General Counsel, Kansas National Education Association
Justin McFarland, Deputy Chief Counsel, Kansas Department of Labor

Others in attendance:
[See Attached List](#)

Senator Longbine moved, seconded by Senator Denning, to approve the minutes for March 3, 2016. The motion passed.

Possible hearing continuation on: SB469 — Recertification of professional employees' organizations under the professional negotiations act.
Chairperson Lynn continued the hearing on **SB 469**.

Chairperson Lynn recognized the following conferees:

Mark Tallman, Associate Executive Director, Kansas Association of School Boards, provided testimony in opposition to the bill. Mr. Tallman also represented Kansas National Education Association, Kansas School Superintendents Association, and United School Administrators of Kansas. ([Attachment 1](#))

Senator Melcher asked Mr. Tallman if he was generally in favor of lifetime terms. Mr. Tallman replied lifetime terms have not been discussed by his association. He said if Senator Melcher was referring to political representation, then Mr. Tallman indicated he would not be in favor of lifetime terms of office. Senator Melcher said there is essentially political representation with the National Education Association (NEA) and inquired if Mr. Tallman would be in favor of lifetime terms for the Governor

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and members of the Legislature. Mr. Tallman responded, within his organization, the issue of certification of the professional employees' organization was not addressed because it simply never came up as a problem during the negotiation process. He said each organization brought problems and concerns, and the effort was to reach an agreement in which all parties would have some of their concerns addressed.

Senator Melcher asked if Mr. Tallman thought the current agreement served teachers well. Mr. Tallman responded he was not there to speak for the teachers, but to report from the viewpoint of the board members, and the current system was not raised as a problem. Mr. Tallman said he interpreted it to mean that the current law, which does allow for representation to be changed, was adequate. Senator Melcher agreed the current law is adequate for the union, however, many of the current teachers were not even born when the last time an election was held in many of the schools. If the current process was in place for the Legislators, it would take 30% of the constituents to sign a petition in order to have an opportunity to vote on the Legislators.

Senator Longbine requested Mr. Tallman to review the decertification process for the Committee. He inquired, in the event of a decertification, what would occur with the negotiation process. Mr. Tallman said he was not an expert on the negotiation process. He stated it was his understanding if decertification occurs, there is an option for the teachers to choose a new representative, or the teachers can be without representation, in which case the board does not collectively bargain.

Senator Pilcher-Cook inquired if this option was even considered by the school boards. Mr. Tallman responded alternative specific proposals on this subject were not placed before the members. He reviewed past history concerning the negotiation process. Recently, members were concerned there were too many items being negotiated and the process was taking too long. He said the board heard nothing about the current teacher representation process being a problem issue that needed to be addressed. Senator Pilcher-Cook questioned how the petition process would work. Mr. Tallman responded he was not familiar with the details of the process.

Senator Faust-Goudeau inquired if the accuracy of the expense outlined in the fiscal note had been verified, and questioned whether this legislation would increase the quality of education. Chairperson Lynn responded Justin McFarland, Kansas Department of Labor, would address the expense issue. Senator Faust-Goudeau said, in reviewing the bill, it appeared if the organization failed to receive the required percentage of votes or if no election was held within the time period required, the professional employees' organization would no longer be recognized and the employees would not be represented. Mr. Tallman deferred to the staff for the mechanics of the bill, however, he said the concept was for an election to be held every year in all districts of the state. If the incumbent association prevailed in the election, then they would continue to negotiate as has been done in the past. If a new organization was chosen, then the board would enter into negotiations to develop a replacement contract. If a majority of all teachers did not vote and a replacement group was not chosen, then the board would consult with the teachers.

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Senator Faust-Goudeau questioned how a new educator is provided with information concerning the negotiation process. Mr. Tallman responded a new employee is automatically covered under the agreement, but he could not speak as to how school districts provide information to their employees. Senator Faust-Goudeau asked if employees have the ability to opt out of the association. Mr. Tallman replied the employee is not required to belong to the association but would be covered by the negotiated agreement.

Senator Longbine questioned what would happen if the Kansas Department of Labor was either unable to or refused to conduct the election. Mr. Tallman stated it was his understanding, if no election was held, then the association would not be recognized and the professional employees would not be represented.

Senator Holland asked if there had been any feedback from the teachers wanting to eliminate these bargaining units. Mr. Tallman said this had not been an issue from the teachers. Senator Holland stated he understands the reasoning of the proponents concerning the bill. He said he was troubled by the fact that not one teacher has stepped forward to speak in support the bill. He questioned if the proponents had contacted Mr. Tallman concerning the bill prior to proposing it. Mr. Tallman replied he had not been notified. Senator Holland said he was interested in who introduced the bill. Mr. Tallman responded he did not know how the bill was introduced.

Chairperson Lynn recognized David Schauner, General Counsel, Kansas National Education Association (KNEA), to address questions about the election process. Mr. Schauner said the current rule for decertification requires that the winning party must achieve a majority of the votes cast and that a majority of those in the unit must vote. The bill requires in the annual recertification election that the winner must have fifty-one percent of all of the professional employees in the bargaining unit.

Kristina Polansky, private citizen, from Manhattan, Kansas, provided testimony in opposition to the bill. ([Attachment 2](#))

Written only testimony was provided by:

Lisa Ochs, President, American Federation of Teachers - Kansas ([Attachment 3](#))

Bruce Tunnell, Executive Vice President, Kansas AFL-CIO ([Attachment 4](#))

Matthew Hall, Business Agent and Secretary Treasurer, Teamsters Local Union 696 ([Attachment 5](#))

Chairperson Lynn closed the hearing on **SB 469**.

*Senator Baumgardner moved, seconded by Senator Olson, to amend **SB 469**. ([Attachment 6](#))*

Senator Melcher made a substitute motion, seconded by Senator Denning, to amend the bill.

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*(Attachment 6) and direct the Revisor to make any necessary technical corrections to **SB 469** as amended.*

Revisor Reimer provided a review of the changes being made by the amendment.

The motion passed.

Senator Baumgardner moved, seconded by Senator Melcher, to amend the bill. (Attachment 7)

Senator Holland asked the reason for changing the election from the fall to the spring. Senator Baumgardner explained that in-service starts around the beginning of August. The change in date would allow whoever is the current representative for faculty an opportunity to communicate and share with the faculty members the services they provide and to prepare for the election in the springtime. Senator Holland questioned if there was decertification election in the spring would that cause any conflict with the contract negotiations coming up for the next school year. Senator Baumgardner responded since the list of items for contract negotiations are often developed in the spring and, since many negotiated contracts are for a 2 or 3 year period, she felt the timing of the election in this bill would fit right in with the contract negotiation sequence.

The motion passed.

*Senator Melcher moved, seconded by Senator Pilcher-Cook, to approve **SB 469** as amended.*

Senator Longbine asked for clarification concerning the motions which were voted on.

Senator Denning said he understood the motion to be approval of the balloon amendment. Senator Melcher then made the motion to direct the Revisor to make technical corrections. Senator Denning suggested Senator Melcher move to pass out **SB 469** as amended, allowing the Revisor to make any technical corrections.

Senator Holland said he wanted to offer a conceptual amendment based on the comments Senator Longbine talked about concerning the election process. Senator Holland questioned Justin McFarland, Kansas Department of Labor, as to what would happen if an election was not held. Mr. McFarland stated it would be the intent of the Department of Labor to hold the election as outlined in the bill, however, if that did not occur, there would be remedies available. Mr. McFarland said he would need to research the issue further to properly address the question.

Due to time constraints, Chairperson Lynn suggested the conceptual amendment not be pursued at this time.

*Senator Holland made a substitute motion, seconded by Senator Longbine, to amend **SB 469** with a conceptual amendment that if an election is not held, then the bargaining unit would not lose its*

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certification.

Senator Pilcher-Cook said she believed the amendment to be unnecessary. Senator Wilborn requested Senator Holland to repeat his conceptual amendment.

Senator Olson stated there has been a motion by Senator Melcher and a second on the bill and now there is a second motion. He said it was his understanding under Robert's Rules of Order, that unless there is a substitute motion, there cannot be two motions under consideration.

Chairperson Lynn suggested Senator Holland consider offering his amendment when the bill is on the floor for debate. Senator Holland stated he thought there should be an opportunity to offer conceptual amendments and debate them during the Committee meeting.

Senator Baumgardner said she was not opposed to including the caveat that certification is not lost if the election does not occur, however, the amendment must outline the acceptable reasons for which the vote did not occur. She expressed concern about the conceptual amendment being quite broad. In the bill, the purpose of the vote is to either maintain the status quo or to initiate a change to the status quo.

Senator Olson suggested the parties take some time to work on the conceptual amendment and bring it to the floor for debate.

Senator Holland withdrew his motion, stating he would propose an amendment on the floor.

Senator Melcher moved, seconded by Senator Pilcher-Cook, to pass out **SB 469** as amended, directing the Revisor to make any technical corrections. The motion passed.

Senator Pilcher-Cook commented she understood emotions can get high during bill discussions, but requested members to remain civil and refrain from involving statements concerning private citizens in the discussion.

Senator Faust-Goudeau said she respected the comments made today, however, a statement was made at yesterday's Senate Commerce Committee meeting that the bill would be moved out to the floor, prior to the Committee hearing from the opposition, and she disagreed with the Chairperson making this comment. Chairperson Lynn said her goal was to be transparent and her intent was to work the bill at today's meeting, regardless of the decision made by the Committee on the bill. She stated she also made an announcement on the Senate floor yesterday that the bill would be worked by the Committee today.

Final action on: HB2512 — Allowing students early access to the CPA examination.

Senator Olson moved, seconded by Senator Melcher, to approve **HB 2512**. The motion passed.

Senator Baumgardner stated she had an amendment to the bill, however, due to time constraints, she

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would offer the amendment on the floor.

Chairperson Lynn adjourned the meeting at 9:35 a.m. The next meeting is scheduled for March 15, 2016.

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