

M I N U T E S

SPECIAL COMMITTEE ON EDUCATION

October 23 and 24, 1975

The Chairman, Representative Sellers, presided. All members were in attendance.

Staff present included Ben Barrett from the Legislative Research Department, Avis Badke from the Revisor of Statutes' Office and Dale Dennis, Director of School Finance and Statistics - State Department of Education.

October 23

Morning Session

Minutes

The minutes of the previous meeting were approved.

Proposal No. 11 - Suspension and
Expulsion of Pupils

The Committee reviewed briefly the draft report pertaining to this study and the proposed bill draft which amends the suspension and expulsion statutes. There was discussion concerning the proposed new provision (Sec. 2(d), page four) which would authorize cross-examination of witnesses as a component of procedural due process in long-term suspension and expulsion cases.

The Committee agreed to defer its consideration of the bill until later in the day in order to permit the staff to report on the opinion of the Kansas Supreme Court in the Smith case (213 K. 1) as it pertained to the right of cross-examination in school suspension and expulsion situations.

Proposal No. 66 - Out-District Tuition -
Youth at Certain Private Institutions

The Committee reviewed the draft report on this study. A motion by Representative Yonally was adopted unanimously that the report be approved for submission to the Legislative Coordinating Council.

Proposal No. 12 - Privacy of Records

The Committee reviewed its proposed bill draft which would amend the open records law to exclude from the provisions of that act the personally identifiable records of pupils.

A motion by Senator Hess, seconded by Representative Yonally, was adopted that the bill be recommended to the 1976 Legislature for its consideration. The motion also included the recommendation to the Legislative Coordinating Council that the bill be introduced in the Senate.

The staff was directed to draft a proposed Committee report relative to Proposal No. 12 and to circulate copies thereof to the Committee as soon as practicable.

Proposal No. 13 - School Bus Regulations

The Committee reviewed the bill draft prepared pursuant to its instructions at the last meeting (Attachment I). The bill contains four basic policy considerations, as well as several amendments which clarify and conform language in the various laws. The policy issues are:

1. The law would be amended to extend application of the laws pertaining to school buses to those vehicles normally defined as school buses which are used to transport students to nonpublic schools. Except as limited in (2) below, a school bus is defined as a vehicle owned by a public or governmental agency or one that is privately owned and is used for the transportation of children to or from school or to or from interschool or intraschool activities.
2. The definition of school bus is restricted so that it does not apply to a motor vehicle with a manufacturer's rated capacity of nine passengers or less, which vehicle is owned and operated for pupil transportation, if the number of children transported is equal to or less than the rated capacity.

3. A six-year grandfather clause is provided during which time a school bus that met equipment and safety requirements at the time of its purchase would not be required to be modified to meet new or changed standards. Administration of this provision would be by the Secretary of Transportation.
4. When promulgating rules and regulations pertaining to the design and operation of school buses, the Secretary of Transportation would be required to consult with the Commissioner of Education before adopting such rules and regulations. The Secretary further would be required to confer and consult with school officers and administrators and others responsible for school transportation services concerning the effect of the rules or regulations. Such rules and regulations would be applicable to privately-owned school buses operated under contract with a school district or nonpublic school.

The policy questions incorporated in the bill draft were given tentative approval by the Committee. Additional technical changes in the bill will be prepared by the staff and the bill will be considered again at the next meeting.

The staff will prepare a draft report on this subject for review by the Committee.

Afternoon Session

Proposal No. 66 - Out District Tuition - Youth at Certain Private Institutions

A bill draft providing for the repeal of K.S.A. 38-552 was reviewed by the Committee (Attachment II). The section proposed for repeal is an obsolete and unused provision requiring tuition payment by school districts in certain instances.

A motion by Representative Bower, seconded by Senator Bell, was adopted unanimously that the bill be recommended for consideration by the 1976 Legislature.

Proposal No. 11 - Suspension and Expulsion
of Students

The Committee discussed the opinion of the Kansas Supreme Court in the Smith case as it applies to due process requirements in proceedings involving suspension or expulsion from school. The opinion of the U.S. Supreme Court in Goss v. Lopez also was considered in this regard.

After considerable discussion, a motion by Senator Pomeroy, seconded by Representative Bower, was adopted. The motion amended the Committee bill draft on the last line of page three by inserting the words "but not limited to" after the word "including". The purpose of this change is to clarify that the subsequent listing of procedural due process rights is not exhaustive of the protections that might be afforded in extended-term suspension or expulsion cases. A further amendment deletes the new subsection (d) of Section 2 where it appears on page four. In lieu thereof a provision will be added to extend to the hearing officer the authority to issue such subpoenas as he determines to be appropriate. Any interested party involved in the hearing would be permitted to request the issuance of subpoenas. A further provision is that whenever any person appears at a hearing as a witness, in response to a subpoena or voluntarily, such person would be subject to cross-examination by the parties to the hearing.

The staff was instructed to prepare the revised bill draft for consideration by the Committee at its next meeting. The Committee report will be revised to reflect the above changes.

Proposal No. 10 - Special Education

The Committee discussed the principles and philosophy of a proposal for revising the method of funding school district special education programs. (For a description of the basic elements of the proposal, see Committee minutes of July 29, 1975.) Other methods of funding special education also were considered. A bill draft designed to implement most of the major provisions of this proposal was reviewed (Attachment III). No action was taken on the draft, as the Committee agreed to continue its discussion of the proposal on the following day.

October 24

Morning Session

Proposal No. 10 - Special Education
(Continued)

The staff described how a plan for implementing power-equalization of special education would function. Also, the Committee reviewed the report of the Special Committee on Special Education and Other Education Matters to the 1974 Legislature. That report contained a recommendation to "power-equalize" special education. It also recommended that a special education categorical aid program be continued.

Dale Dennis presented material showing how power-equalization would work in certain selected school districts: Salina, Norton, McLouth, LaCygne, Harper-Anthony and Clay Center.

It was estimated that power-equalizing the special education tax levy in 1976-77 would cause an increase in state aid of about \$9.5 million in that year.

A motion by Representative Braden, seconded by Representative Bower, was adopted directing the staff to prepare a bill draft to implement power equalization of the special education mill levy and repeal of the present 1.5 mill levy authority for special education purposes. In making the transition, a school district would have added to its base general fund budget the higher of the 1974 or 1975 levy for special education. The proposed bill draft and a proposed Committee report will be reviewed by the Committee at the November 3 meeting.

The meeting was adjourned.

Prepared by Ben Barrett

Approved by Committee on:

11/3/75

Date

10/23/75

PROPOSED BILL NO. _____

By Special Committee on Education

Re: Proposal No. 13

AN ACT concerning school buses; relating to the definition and regulation thereof; amending K. S. A. 8-1461, 8-1730, 8-2009 and 72-8301, and repealing the existing sections; also repealing K. S. A. 72-8315.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K. S. A. 8-1461 is hereby amended to read as follows: 8-1461. "School bus" means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to ~~and~~ or from school, or to ~~and from~~ activities, as defined in K. S. A. 72-133, or or from interschool or intraschool functions or activities, and every motor vehicle privately owned and operated ~~for compensation~~ for such transportation of children; but does not include within its meaning any motor vehicle with a manufacturer's rated capacity of nine (9) passengers or less which is owned and operated for such transportation if the number of children so transported is equal to or less than such rated capacity.

Sec. 2. K. S. A. 72-8301 is hereby amended to read as follows: 72-8301. As used in this act: (a) "Board" or "board of education" means the board of education ~~or other governing body~~ of any school district.

(b) "School district" means any public school district except a community junior college district.

(c) The words "provide or furnish transportation" in addition to their ordinary meaning shall mean and include the right of a school district to: (1) Purchase, operate and maintain ~~public~~ school buses; (2) contract, lease or hire buses for the transportation of pupils, students and school personnel; and (3) reimburse persons who furnish transportation to pupils, students or school personnel in privately owned motor vehicles.

(d) "Student" or "pupil" means any person regularly enrolled and attending school in those grades maintained by a school district.

(e) "School bus" means ~~*(1) Any public school bus owned by the school district; or (2) any privately owned motor vehicle under contract or hire to a school district for~~ every motor vehicle owned by a school district and operated for the transportation of pupils, students or school personnel to or from school or to or from interschool or intraschool functions or activities, and every motor vehicle privately owned and operated for such transportation of pupils, students or school personnel; but does not include within its meaning any motor vehicle with a manufacturer's rated capacity of nine (9) passengers or less which is owned and operated for such transportation if the number of pupils, students or school personnel so transported is equal to or less than such rated capacity.

(f) "State board" means the ~~constitutional~~ state board of education.

Sec. 3. K. S. A. 8-1730 is hereby amended to read as follows: 8-1730. (a) Every school bus, in addition to any other equipment and distinctive markings required by this act, shall be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall display to the front two (2) alternately flashing red lights located at the same level and to the rear two (2) alternately flashing red lights located at the same level, and these lights shall be visible at five hundred (500) feet in normal sunlight.

(b) Any school bus, in addition to the lights required by subsection (a), may be equipped with yellow signal lamps mounted near each of the four (4) red lamps and at the same level but closer to the vertical centerline of the bus, which shall display two (2) alternately flashing yellow lights to the front and two (2) alternately flashing yellow lights to the rear, and these lights shall be visible at five hundred (500) feet in normal sunlight. These lights shall be displayed by the school bus driver at least two hundred (200) feet, but not more than one thousand

(1,000) feet, before every stop at which the alternately flashing red lights required by subsection (a) will be actuated.

(c) The secretary of transportation is authorized to adopt rules and regulations promulgating standards and specifications applicable to lighting equipment on and special warning devices to be carried by school buses consistent with the provisions of this act, but supplemental thereto. Such standards and specifications shall correlate with and so far as consistent with the provisions of this act conform to the specifications then current as approved by the society of automotive engineers.

(d) The provisions of this section shall be subject to the provisions contained in section 5 of this act.

Sec. 4. K. S. A. 8-2009 is hereby amended to read as follows: 8-2009. (a) The secretary of transportation, ~~by and with the advice of the commissioner of education,~~ shall adopt and enforce rules or regulations not inconsistent with this act to govern the design and operation of all school buses ~~when owned and operated by any school district or privately owned and operated under contract with any school district in this state, and such:~~ Provided, That all seats on school buses shall be forward-facing and shall be securely fastened to that part or parts of the school bus which support them, and any rule or regulation of the secretary providing for any other seating arrangement shall be null and void. The secretary of transportation shall confer and consult with the commissioner of education before adopting any of said rules or regulations, and shall confer and consult, at such time or times as deemed necessary or advisable, with school officers and administrators and other persons responsible for school transportation services as to the effect of said rules or regulations. When any privately owned school bus is operated under contract with any school district or nonpublic school in this state, said rules or regulations shall by reference be made a part of any such contract with a school district or with a nonpublic school. Every school district, its officers and employees, and every nonpublic school, its officers and employees, and every person employed under contract by a

school district or a nonpublic school shall be subject to said rules or regulations ~~provided that all seats on school buses shall be forward-facing and shall be securely fastened to that part or parts of the school bus which support them, and any rule or regulation of the secretary providing for any other seating arrangement shall be null and void.~~

(b) Any officer or employee of any school district who violates any of said rules or regulations or fails to include obligation to comply with said rules or regulations in any contract executed ~~by him or her~~ on behalf of a school district shall be guilty of misconduct and subject to removal from office or employment. Any person operating a school bus under contract with a school district who fails to comply with any of said rules or regulations shall be guilty of breach of contract and such contract shall be canceled after notice and hearing by the responsible officers of such school district.

(c) The provisions of this section shall be subject to the provisions contained in section 5 of this act.

New Sec. 5. (a) Every school bus, as defined in K. S. A. 3-1461, shall be governed by the requirements of law and rules or regulations of the secretary of transportation applicable to design, lighting equipment, distinctive markings, special warning devices, and any other equipment which are in effect on the date any such school bus is purchased or otherwise acquired, and shall be exempt from the requirements of law and rules or regulations which become effective at any time during a period of six (6) years from such date. The secretary of transportation is hereby required to approve any such school bus as to design, and as to lighting equipment, special warning devices, distinctive markings, and any other equipment required by law and rules or regulations, for operation as a school bus during such six-year period upon submission of a request for such approval.

(b) The secretary of transportation is authorized to establish the procedure to be followed when request for approval of any such school bus is submitted under this section. The approval shall be in writing and the written approval shall be

carried in the school bus at all times, but failure to carry the written approval shall not affect the status of the school bus as an approved school bus. The secretary of transportation shall maintain a list of all such school buses which have been approved by the secretary.

Sec. 6. K. S. A. 8-1461, 8-1730, 8-2009, 72-8301 and 72-8315 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

Attachment I

10/23/75

PROPOSED BILL NO. _____

By Special Committee on Education

Re: Proposal No. 66

AN ACT repealing K. S. A. 38-552, relating to school tuition payments for a youth required by order of a juvenile court or other court of record to attend school in a school district where a youth camp or home is located when the same is not located in the school district where such youth resides.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K. S. A. 38-552 is hereby repealed.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

10/23/75

PROPOSED BILL NO. _____

By Special Committee on Education

Re: Proposal No. 10

AN ACT concerning special education for exceptional children; relating to the financing thereof; amending K. S. A. 1975 Supp. 72-962 and 72-978, and repealing the existing sections; also repealing K. S. A. 1975 Supp. 72-934.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K. S. A. 1975 Supp. 72-962 is hereby amended to read as follows: 72-962. As used in this act, unless the context otherwise requires:

- (a) "School district" means any public school district.
- (b) "Board" means the board of education of any school district.
- (c) "State board" means the state board of education.
- (d) "Department" means the state department of education.
- (e) "Secretary" means the secretary of social and rehabilitation services.
- (f) "State institution" means the following institutions: Topeka state hospital, Osawatomie state hospital, Larned state hospital, Parsons state hospital and training center, Norton state hospital, southeast Kansas tuberculosis hospital, Winfield state hospital and training center, the youth center at Atchison, Kansas neurological institute, the youth center at Topeka, the youth center at Beloit, Kansas state school for the deaf and Kansas state school for the visually handicapped.

(g) "Exceptional children" means persons who: (1) Are school age, to be determined in accordance with rules and regulations which shall be adopted by the state board and said school age may differ from the ages of children required to attend school under the provisions of K. S. A. 72-1111; and (2) differ in physical, mental, social, emotional or educational character-

istics to the extent that special education services or specialized instruction is necessary to enable them to progress toward the maximum of their abilities or capacities.

(h) "Special education services" means programs for which specialized training, instruction, programming techniques, facilities and equipment may be needed for the education of exceptional children.

(i) "Specialized instruction" means programs of life and social adjustment provided in a state institution under the jurisdiction of the secretary.

(j) "Special teacher" means a ~~person~~ teacher employed by a school district for special education services who is ~~is~~ ~~(1)~~ ~~A~~ ~~teacher~~ qualified to instruct exceptional children as determined by standards established by the state board and who is so certified by the state board ~~or~~ ~~(2)~~ ~~a~~ ~~paraprofessional~~ ~~qualified~~ ~~to~~ ~~assist~~ ~~certificated~~ ~~teachers~~ ~~in~~ ~~the~~ ~~instruction~~ ~~of~~ ~~exceptional~~ ~~children~~ ~~as~~ ~~determined~~ ~~by~~ ~~standards~~ ~~established~~ ~~by~~ ~~the~~ ~~state~~ ~~board~~ ~~and~~ ~~who~~ ~~is~~ ~~so~~ ~~approved~~ ~~by~~ ~~the~~ ~~state~~ ~~board~~.

(k) "State plan" means the state plan for special education services authorized by this act.

Words and terms defined in article 70 of chapter 72 of Kansas Statutes Annotated shall have the same meaning in this act, and the act of which this act is amendatory, as is ascribed thereto in said article to the extent that the same are not in conflict.

New Sec. 2. On or before June 1 of each year, beginning June 1, 1976, the board of each school district shall submit to the state board, in such detail and form as is specified by the state board, the amounts proposed to be expended by the school district for each method of providing special education services, as authorized under K. S. A. 1975 Supp. 72-907, in the next succeeding school year. Upon receipt of such information, the state board shall review the same, and if it finds that the amounts specified are necessary and appropriate in order for the school district to comply with the requirements of the state plan and

the provisions of law to provide special education services, it shall approve such proposed expenses. Upon finding that any of the amounts specified are unnecessary or inappropriate, the state board shall consult with the school board furnishing the same and make such modifications as are necessary before approving such proposed expenses. All amounts approved by the state board may be included in the school district's budget for the next succeeding school year.

Sec. 3. K. S. A. 1975 Supp. 72-978 is hereby amended to read as follows: 72-978. In each school year, ~~in accordance with appropriations for special education services provided under this act,~~ the state board shall determine the amount of special education state aid each school district which has provided special education services in compliance with the requirements of the state plan and the provisions of this act, shall be entitled to receive as follows: (a) ~~Reimbursement for actual travel allowances paid to special teachers at not to exceed the rate specified in K. S. A. 1973 Supp. 75-3293 for each mile actually traveled during the school year in connection with teaching duties in providing special education services for exceptional children. Such reimbursement shall not exceed six hundred dollars (\$600) per special teacher per school year;~~ (b) ~~reimbursement in an amount equal to eighty percent (80%) of the actual travel expenses incurred for providing transportation for exceptional children to special education services. Such reimbursement shall not exceed six hundred dollars (\$600) per exceptional child per school year and shall not be paid if such child has been counted in calculating the state transportation aid received by the district under the provisions of K. S. A. 1973 Supp. 75-3293 for transportation to an amount equal to eighty percent of the actual expenses incurred for the maintenance of an exceptional child at the district's expense; such aid shall not be paid for transportation services. Such reimbursement shall not exceed six hundred dollars (\$600) per exceptional child per school year;~~ (c) ~~after~~

subtracting the amounts of reimbursement in subsections (a), (b) and (c) above from the total amount appropriated for special education services under this act, an amount which bears the same proportion to the remaining amount appropriated as the number of full-time equivalent special teachers employed by the school district for approved special education services bears to the total number of full-time equivalent special teachers employed by all school districts for approved special education services. For the purposes of this subsection, each special teacher who is a paraprofessional as defined in section 2 of this act shall be counted as one-half ($1/2$) full-time equivalent special teacher. No special teacher in excess of the number of special teachers necessary to comply with the ratio of special teacher to exceptional children authorized by the state board for the school district shall be counted in making computations under this section. Determine the number of full-time equivalent special teachers employed by the district for approved special education services.

(b) Compute the optimum number of exceptional children for whom special education services may be provided by the full-time equivalent special teachers employed by the district based upon the ratio of special teacher to exceptional children authorized by the state board.

(c) Determine the amount of the district's budget per pupil for the current school year.

(d) Determine the amount of the district's legally adopted budget for special education services for the current school year.

(e) Multiply the amount determined in (c) above by the number of exceptional children computed in (b) above.

(f) Subtract the amount determined in (e) above from the amount determined in (d) above. The remainder is the amount of special education state aid to which the district is entitled.

For the purpose of computing the amount of special education state aid to which a district is entitled under this section, "legally adopted budget for special education services" means the

amounts approved by the state board under section 2 and budgeted in the special education fund for special education services provided by a district, excluding amounts budgeted for special education services provided by a district pursuant to cooperative agreements with one or more other school districts for special education services.

New Sec. 4. In each school year, the state board shall determine the amount of special education state aid each sponsoring school district which has provided special education services in compliance with the requirements of the state plan and the provisions of law pursuant to a cooperative agreement made under authority of former K. S. A. 72-952 or K. S. A. 1975 Supp. 72-968 shall be entitled to receive as follows:

(a) Determine the number of full-time equivalent special teachers employed by the sponsoring district for furnishing approved special education services pursuant to a cooperative agreement made under authority of former K. S. A. 72-952 or K. S. A. 1975 Supp. 72-968.

(b) Compute the optimum number of exceptional children for whom special education services may be provided by the full-time equivalent special teachers employed by the sponsoring district based upon the ratio of special teacher to exceptional children authorized by the state board.

(c) Determine the total number of pupils enrolled in each district which is a party to such cooperative agreement on September 15 of the current school year.

(d) Determine the total number of pupils enrolled in all of the districts which are parties to such cooperative agreement on September 15 of the current school year.

(e) Compute the percentage of (c) above to (d) above.

(f) Multiply the percentage computed in (e) above by the number computed in (b) above for each contracting district.

(g) Determine the amount of the sponsoring districts' legally adopted budget for furnishing special education services for the current school year pursuant to the cooperative agree-

ment.

(h) Multiply the product determined in (f) above for each contracting district by the amount of each such contracting district's budget per pupil for the current school year. The amount so determined is the amount which each contracting district shall pay for special education services pursuant to the cooperative agreement.

(i) Add the amounts determined in (h) above.

(j) Subtract the sum determined in (i) above from the amount determined in (g) above. The remainder is the amount of special education state aid to which the sponsoring district is entitled for furnishing special education services pursuant to the cooperative agreement.

For the purpose of computing the amount of special education state aid to which a sponsoring district is entitled under this section, "legally adopted budget for furnishing special education services" means the amounts approved by the state board under section 2 and budgeted for special education services furnished by a sponsoring district pursuant to a cooperative agreement with one or more other school districts.

Sec. 5. K. S. A. 1975 Supp. 72-934, 72-962 and 72-978 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the official state paper.