Approved _____
Date

MINUTES OF THE House COMMITTEE ON Labor and Industry.

The meeting was called to order by Representative Arthur Douville at
Chairperson

9:00 a.m./~~p.m.~~ on February 15, 1985, 19__ in room 526-S of the Capitol.

All members were present except:

Representatives Hensley and Green, both excused.

Committee staff present:

All present.

Conferees appearing before the committee:

Mr. Craig Grant, Kansas National Education Association
Mr. Tom McLaughlin, Kansas Public Employees Union, Council 64

Chairman Douville called Craig Grant to the speakers stand. Mr. Grant spoke as an opponent to H.B. 2013. See attachment number 1. A lengthy question and answer pericd followed.

The next opponent to H.B. 2013 to take the speakers stand was Mr. McLaughlin. See attachment number 2.

Chairman Douville told the committee that starting next week the committee will discuss employment security and then the following week will have committee discussion on H.B. 2013 and voting on any propositions that are advanced.

Labor & Industry

2-15-85

Name	Representing	City
Wayne Maichel	AFL-CIO	Top
Tom McLaughlin	AFSCME	Topeka
Ruth Wilkins	AAUP	"
Marvin T. Long	GCIU	Topeka
Paul Kendall	PERB-DHR	"
Faith Loretto	Dept. of Labor.	"
Spud Kent	DofA/DPS	"
Darrell Hoffman	DofA/DPS	"
Richard Funk	KAJB	"
Jean Yagan	Regents	"
KEVIN DAVIS	DofA	
Harry D. Nelson	AFL-CIO	Wichita
Jerry Mallatt	KSCIJ	Topeka
Ralph McGee	KS. AFL-CIO	TOPEKA
Craig Grant	KNEA	Lawrence

KANSAS-NATIONAL EDUCATION ASSOCIATION / 715 W. 10TH STREET / TOPEKA, KANSAS 66612

1-15-85 Att. #1

Craig Grant Testimony Before The
Labor & Industry Committee
February 12, 1985

Thank you, Mr. Chairman. Members of the Committee, my name is Craig Grant and I am representing Kansas-NEA. I appreciate this chance to visit with you about HB 2013.

The public employer-employee relations act has received a great deal of attention during the last year. Much rhetoric was given around this topic last summer and fall during the interim. We have heard eloquent testimony starting on Wednesday that the entire state will fall into disarray if we do not implement HB 2013. Let's try to cut through that eloquence and take a good look at what the bill does.

There are two basic changes that need to be discussed. All other changes are editorial or evolve from these two changes. The first is on page 5 of the bill, lines 161 to 166. As you can see, this change means that, if enacted, neither the employer nor the employee organization have to "meet and confer in good faith." This key definition is further changed in lines 163 through 166 by indicating that the groups no longer "have the mutual obligation...to endeavor to reach agreement." What we are saying is that no one has to try to reach agreement.

The second change to be noted is on page 12 of the bill. Lines 418 through 423 state that there must be joint agreement to request assistance from the PEER board. Only then could a mediator and a fact-finding board be appointed. The reality of this change is that there would never be mediation and/or fact finding again. Dr. Harder's testimony on Thursday substantiates

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this statement. To think that the parties would voluntarily go through mediation or fact-finding when an impasse is reached is faulty reasoning. Too often emotions or emotional issues have blocked the process, even if both parties are negotiating in good faith. It is that impasse process which can bring the parties back to reality. To deny that process is to put an obstacle in that orderly process which has worked since it was enacted in the early 70's.

Further examination of the rhetoric, Mr. Chairman and Members of the Committee, exposes many myths that surround HB 2013. I submit that these assumptions are unsupported by the facts in this situation. The myths which readily come to mind are:

MYTH #1 - THE SUPREME COURT DECISION DRAMATICALLY CHANGES THE RELATIONSHIP BETWEEN THE EMPLOYER AND EMPLOYEE ORGANIZATION.

Facts: The Supreme Court ruling on the appeal by the Board of Regents basically dealt with only two items--who the real employeer was and what issues needed to be discussed by the parties. The Regents, who make the majority of decisions, did not want to be part of the process. The Regents wanted to leave the process to the local unit. The other item was whether or not to include eight issues as part of what had to be discussed. The Supreme Court upheld the PEER Board ruling that all eight had to be discussed. It is ironic that a scope issue case has caused such a furor.

MYTH #2 - THE SUPREME COURT DECISION HELD THAT THE PARTIES MUST REACH AGREEMENT.

Facts: Neither the Board nor the Court said agreement had to be reached--they just had to be discussed. This law is similar to the Wagner Act of 1932 which indicated that the federal government had to

deal in good faith with its employees, but did not have to reach agreement. It is quite interesting, as will be reported later, that all eight items have been incorporated into the last two agreements between Pittsburg faculty and the Board of Regents. You will also note in testimony to follow that the last two years' negotiations have resulted in agreements--and without any impasse assistance. It is amazing what happens when both sides are told to "endeavor to reach agreement."

MYTH #3 - THE SUPREME COURT DECISION CHANGES THE INTENT OF THE LEGISLATURE WHICH PASSED THE LAW IN 1971.

Facts: This statute has remained virtually intact since its initial passage. An attempt was made to limit meet and confer rights in 1976 but was defeated. Semantic games have been played with the terms "meet and confer" and "negotiate." Whatever term you use, I am confident that the 1971, 1976, and other legislatures wanted both the employer and employee organization to "endeavor to reach agreement." That is the essence of good faith--to try. Surely this legislature wants the Regents, the Department of Administration, or anyone else under the law to try to reach agreement. Nothing mandates agreement--only the attempt. The state of Kansas, under different administrations, has not had trouble dealing "in good faith." Only one agency did not wish to come under the law--the Board of Regents. Mr. Kaufman, representing the Regents, even admitted tht the Regents could "live with it if it is collective bargaining." Whatever semantic differences are noted, the legislature wanted both parties to make the "good faith" attempt. HB 2013 would eliminate that effort.

MYTH #4 - IF HB 2013 IS NOT PASSED, MANY MORE EMPLOYEE UNITS WILL JUMP AT THE CHANCE TO ORGANIZE UNDER THESE NEW "SET OF RIGHTS."

Facts: The PEER Board decision was handed down in January of 1982. The Supreme Court decision was given in the fall of 1983. Since that time, when these so called "new set of rights" were given, no state unit has organized and seven local units in three cities (Hutchinson, Junction City and Coffeyville) covering 194 employees have organized. Other public employee organizations realize that they gained nothing more than they had previously. The only real change has been that the Regents and PSU faculty have "endeavored to reach agreement" and have succeeded.

MYTH #5 - IF HB 2013 IS NOT PASSED, LOCAL UNITS OF GOVERNMENT WILL BE ADVERSELY AFFECTED.

Facts: As has been pointed out previously, local units of government have the option whether or not to come under the provisions of the act. If they do, they need some rules to govern the conferring with their employees. Local units can opt out if they feel that the process is not in their best interest. I am aware of no local units who have opted out since the decision was handed down.

The above mentioned myths have been contrived as scare tactics for this legislature in order to get changes in the law--changes which will eliminate any further meaningful discussions between public employers and employees. These changes will take Kansas from a position of encouraging meaningful discussions (not mandatory agreement but attempts to agree) to a position of actively discouraging dialogue between the public employer and its employees. We can call it meet and confer or negotiations or sit and talk, but I believe it is good public policy to ask the parties to try to deal with each other in a good faith manner. The present law gives the final authority

to the governing body (as in line 457 and 458 of the bill), but only after the body has attempted to reach agreement. It is only fair and proper that the endeavor continue.

Mr. Chairman, Members of the Committee, Kansas-NEA hopes that this committee does not react to the myths which have been created. We hope that the legislature keeps intact a procedure which has been shown to work. Kansas-NEA urges the committee to report HB 2013 unfavorably for passage.

Thank you for listening to our concerns.

AFSCME
Kansas Public Employees Union
Council 64

2-15-85 Att. #2

Good Morning Mr. Chairman, members of the House Labor and Industry Committee. Thank you for this opportunity to meet and confer with you concerning HR 2013, and the effects this legislation would have on the citizens of Kansas and our members who asked that I speak on their behalf.

I am Wayne K. Wianecki, the President/Director of AFSCME, Council 64, Kansas Public Employees Union. We currently are the certified representative and negotiate contracts for thousands of state, county and municipal employees in the State of Kansas.

Over the last fifteen years, I have had the opportunity to work with several different laws which provided a mechanism for public employees to have an effective input into their conditions of employment, standard of living and quality of life.

In the last week I have attended these hearings and have listened to several persons speak to you on this proposed change in the PERB Law. I am saddened to hear some of the comments made to you by some of these people. While I respect them for stating their views and fully support their right to do so. I disagree with what they are proposing. this committee do with the current PERB Law and that simply is to gut any effective language that provides for a peaceful mechanism to resolve disputes between parties. In my opinion they are taking a knee jerk reaction to a decision by the Kansas State Supreme Court that found them guilty of acting in "bad faith" in their past actions in dealing with public employees.

Instead of accepting that decision in good faith, learning from this experience, they chose to ignore it and instead decided to propose their own solution to insure them from being cited for "bad faith" again. What is their solution? Change the Law, take out any conditons that could measure their actions and possibly again conclude they are acting in bad faith. It is like the parent finding his child with his hand in the cookie jar and instead of acting sensibly and intelligently to prevent future action of such nature by the child through explanation, punishment or other means, his or her solution would be to ban the manufacturing and

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distribution of all cookies - thereby forever avoiding any possibility of catching that child with his hand in the cookie jar again. Simple and straight forward - no cookies - no cookie jar - no hand in the cookie jar.

I strongly disagree with Secretary Harder's statements before this Committee. While he professes to be a friend of labor, I can assure you that with friends like that, we surely do not need any additional enemies. Secretary Harder raised six (6) issues as to his viewpoints and his reasons to have the PERB Law changed. Please permit me to offer my rebuttal to those issues.

1 & 2. I agree that the Legislature of Kansas has the power and should rightfully control the purse strings. However, I disagree with Secretary Harder's viewpoint on being an effective Manager. Purse strings are not the only criteria for the test of effectiveness. Once a budget is established, I see no problems with that Manager sitting down with the parties, working within the perimeters of the budget and reaching a mutually agreeable settlement. It would definitely be the responsible action of an effective Manager/Administrator.

Secretary Harder seems, by implication, to imply that we would act in an irresponsible manner but offers no proof to that effect. Let me assure you that our members are <u>also</u> taxpayers and are very concerned with the amount of taxes they have to pay, and therefore act in a responsible manner.

3. Secretary Harder's statement on uniformity is somewhat confusing. He does not take into consideration the fact that people are different and that people have different needs. The present Law does have defininitive provisions built into it to provide for uniformity to be accomplished and in my opinion it does work.

4. Secretary Harder's statement of his opinion in this area truly underlines his lack of knowledge and understanding of how AFSCME operates as an organization. I strongly object to his implication that we have neither earned nor have the respect of our members. That is simply not true. Our members

have an effective voice in how our organization is operated and they effectively set the organizational methods and goals. If Secretary Harder wishes to have a voice in how AFSCME is operated all he has to do is sign an authorization card and we will welcome and encourage his input. Until such time he has not earned that right to tell our members how to run their own organization.

5. I generally agree with Secretary Harder's statement as to the need for Accountability in state government. The present Law does provide for accountability and also the process for determining whether the parties act in a responsible and accountable manner. That is why I am chagrined and dismayed with the proposed changes in the existing Law. The Litmus test for Accountability under the Law was utilized by the PERB Board and the Kansas Supreme Court, and they found that the Board of Regents were not acting in a responsible and accountable manner. The citizens of Kansas need that independent review and I urge you to allow the continuance of that review.

6. Again, Secretary Harder is attempting to distort what he believes our members want. Our members have utilized their right under the Law, by vote in a democratic manner to have a representative of their own choosing. Nowhere have we stated that we want both the advantages or disadvantages of the Civil Service System and the advantages or disadvantages of bargaining under the present Law. We will take our chances with the provisions of the current Law to bargain in "good faith" if we are permitted to do so.

In conclusion I wish to leave you with the following three (3) points:

1) The present Law, while not perfect, does work, and I believe that the proposed changes would be detrimental to you and the people of Kansas and I urge you to keep the presest Law as is.

2) In your wisdom and if you choose to pass these changes, which you have the right to do, let me assure you that you will not supress the desire of the people of Kansas to be human in their desire to be treated with dignity and respect, to have a voice in their destiny of their pursuit of happiness, as well as to share

in the benefits of life.

3) Finally, in my first visit to our State Capitol, I was inspired by a plaque I saw on one of the walls of the Capitol. It stated, and I quote "If you got something to offer us, we got lots to offer you."

"The State of Kansas"

"We're not just another employer."

Thank you again for this opportunity to meet and confer with you this morning. This is an example of how the Meet and Confer Laws work. Let's make it a positive example.