

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

The meeting was called to order by SENATOR JOSEPH C. HARDER at
Chairperson

1:30 ~~XXXX~~ p.m. on THURSDAY, FEBRUARY 7, 1985 in room 254-E of the Capitol.

All members were present except:

Committee staff present:

Mr. Ben Barrett, Legislative Research Department
Ms. Avis Swartzman, Legislative Revisor's Office
Mrs. Millie Randell, Secretary

Conferees appearing before the committee:

SB 124 - An act establishing the state council on vocational education;
abolishing the state advisory council for vocational education

Proponents:

Mr. Lawrence Foth, Executive Director, Kansas Advisory Council for
Vocational Education

SB 98 - An act concerning professional negotiation between boards of edu-
cation and professional employees thereof; relating to certain
rights of boards of education. (Education)

Proponents:

Mr. Robert Wright, Division Director, Employment Relations Division,
Wichita Public Schools
Dr. Bill Curtis, Asst. Executive Director, Kansas Association of
School Boards
Dr. Bruce Henoch, Superintendent, Seaman USD 345, Shawnee County

Opponents:

Mr. Craig Grant, Director of Political Action, K-NEA

SB 99 - An act concerning professional negotiation between boards of edu-
cation and professional employees' organizations; affecting the
definition of terms and conditions of professional service.
(Education)

Proponents:

Dr. Bruce Henoch, Superintendent, Seaman USD 345, Shawnee County
Dr. Bill Curtis, Asst. Executive Director, Kansas Association of
School Boards

Opponents:

Mr. Craig Grant, Director of Political Action, K-NEA

Following a call to order by the Chairman, Mr. Lawrence Foth of the Kansas
Advisory Council for Vocational Education testified in support of SB 124
which relates to some modest changes within the composition and role of the
Council in order to be in compliance with the Carl Perkins Vocational
Education Act of 1984. (Attachments 1 and 2)

Senator Warren moved and Senator Karr seconded a motion to recommend
SB 124 favorably for passage and to have the bill placed on the Consent
Calendar of the Senate. The motion carried.

SB 98 - The Chair recognized Mr. Robert Wright of the Wichita Public Schools
who testified in support of SB 98. (Attachment 3)

The Chairman recognized Dr. Bill Curtis of KASB who spoke in favor of
SB 98. (Attachment 4)

Dr. Bruce Henoch, Supt. of USD 345, Seaman, stated that he is supporting
SB 98 on behalf of the United School Administrators and the Kansas Associa-
tion of School Administrators. (Attachment 5)

When Mr. Craig Grant of K-NEA was called upon to testify, he opposed
SB 98, and his statements of opposition are found in Attachment 6.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION,
room 254-E, Statehouse, at 1:30 ~~a.m.~~^{xx} p.m. on THURSDAY, FEBRUARY 7, 1985

SB 99 - Dr. Bruce Henoeh, Superintendent of USD 345, spoke in support of SB 99, and his testimony is found in Attachment 7.

When Dr. Bill Curtis of KASB was called upon to testify, his testimony supported passage of SB 99. (Attachment 8)

Mr. Craig Grant of K-NEA stated that his organization is opposed to passage of SB 99, and his testimony is found in Attachment 9.

The Chairman announced that SB 99 will be held in Committee for consideration at a later date.

Senator Allen moved and Senator Karr seconded a motion to approve Committee minutes of February 6. The motion carried.

The Chairman adjourned the meeting.

SENATE EDUCATION COMMITTEE

TIME: 1:30 p.m. PLACE: 254-E DATE: Thursday, Feb. 7, 1985

GUEST LIST

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
Dennis L Cantu	Augusta	ANEA
Pete Lawlor	Augusta	K-NEA Bldg Dir.
Craig Grant	Lawrence	H-NEA
Robert D. Wright	Wichita	Board of Education
Bill Shikes	Wichita	U.S. H. 259
Ruth Walker	Topeka	AAUP
K.T. GREGG	ULYSSES	
Tom Scates	Winfield	W-NEA
MaryAnn Bumgarner	Topeka	Dr. Burke-intern
Bruce Henock	Topeka	USA USD 345
Horace Fuddpucker	✓	unattached

SENATE EDUCATION COMMITTEE

TIME: 1:30 p.m. PLACE: 254-E DATE: Thursday, Feb. 7, 1985

GUEST LIST

NAME

ADDRESS

ORGANIZATION

Mike Whittier

Shawnee, Ks

Closeup - Kansas

Bill Curtis

Topeka

KASB

Jacqueline Dakes

Topeka

KASB

Donald Shultz

Topeka

USD 437

Lawrence J. Telle

Topeka

SACVE

Denise Everhart

Governor's Office

Norma Glass

Topeka

United Way



Advisory Council for Vocational Education

Kansas State Education Building

120 East 10th Street Topeka, Kansas 66612

Lawrence Foth, *Executive Director*
Phone: 913/296-2451

February 7, 1985

Chairman
James Dahmen
Parsons

Vice Chairman
Betty Loudon
St. Francis

Executive Committee
Floyd West
Chanute

R. M. Rogenmoser
Topeka

Robert Moody
Manhattan

Eldon Pankratz
Hillsboro

Carl Heinrich
El Dorado

Gary Withrow
Hutchinson

Dean Oberhelman
Clay Center

Heber Ramer
Hesston

Dale Shippo
Dodge City

Sharilyn Young
Wichita

Richard Hernandez
Topeka

David McKune
Hutchinson

Ada Williams
Kansas City

Marcia Biggs
Madison

Dean Stucky
Wichita

Lydia Gonzales
Garden City

Constance Buller
Piqua

Mary Lynn Schild
Herington

Lois Starr
Hutchinson

Paul Moore
Wichita

MEMO TO: Members, Senate Education Committee

FROM: Lawrence Foth, Executive Director

RE: S.B. 124 (Proposed Amendments to K.S.A. 72-4409
and 4410)

The Carl Perkins Vocational Education Act of 1984 was passed by Congress and signed by the President in October of last year. The bill provides for some modest changes in the composition and role of the Council.

The changes for membership include a reduction in number to thirteen (13) and a re-definition of some of the representative categories. There also appears to be a subtle shift in philosophy, inasmuch as the term "advisory" is omitted from the title. The new law also broadens the reporting parameters of the Council to include the Governor's office. Other than those modifications, there appears to be no other significant ramifications in the new legislation.

Attached you will find the section of the law relating to state councils. I would be pleased to respond to any questions from the Committee.

LF:bls

Encl.

"STATE COUNCIL ON VOCATIONAL EDUCATION

"SEC. 112. (a) Each State which desires to participate in vocational education programs authorized by this Act for any fiscal year shall establish a State council, which shall be appointed by the Governor or, in the case of States in which the members of the State board of education are elected (including election by the State legislature), by such board. Each State council shall be composed of 13 individuals, and shall be broadly representative of citizens and groups within the State having an interest in vocational education. Each State council shall consist of—

"(1) seven individuals who are representative of the private sector in the State who shall constitute a majority of the membership—

"(A) five of whom shall be representative of business, industry, and agriculture including—

"(i) one member who is representative of small business concerns; and

"(ii) one member who is a private sector member of the State job training coordinating council (established pursuant to section 122 of the Job Training Partnership Act), and

"(B) two of whom shall be representatives of labor organizations;

"(2) six individuals who are representative of secondary and postsecondary vocational institutions (equitably distributed among such institutions), career guidance and counseling organizations within the State, individuals who have special knowledge and qualifications with respect to the special educational and career development needs of special populations (including women, the disadvantaged, the handicapped, individuals with limited English proficiency, and minorities) and of whom one member shall be representative of special education.

In selecting individuals under subsection (a) to serve on the State council, due consideration shall be given to the appointment of individuals who serve on a private industry council under the Job Training Partnership Act, or on State councils established under other related Federal Acts.

"(b) The State shall certify the establishment and membership of the State council at least 90 days prior to the beginning of each planning period described in section 113(a)(1).

"(c) Each State council shall meet as soon as practical after certification has been accepted by the Secretary and shall select from among its membership a chairperson who shall be representative of the private sector. The time, place, and manner of meeting, as well as council operating procedures and staffing, shall be as provided by the rules of the State council, except that such rules must provide for not less than one public meeting each year at which the public is given an opportunity to express views concerning the vocational education program of the State.

"(d) Each State council shall—

"(1) meet with the State board or its representatives during the planning year to advise on the development of the State plan;

"(2) advise the State board and make reports to the Governor, the business community, and general public of the State, concerning—

"(A) policies the State should pursue to strengthen vocational education (with particular attention to programs for the handicapped); and

"(B) initiatives and methods the private sector could undertake to assist in the modernization of vocational education programs;

"(3) analyze and report on the distribution of spending for vocational education in the State and on the availability of vocational education activities and services within the State;

"(4) furnish consultation to the State board on the establishment of evaluation criteria for vocational education programs within the State;

"(5) submit recommendations to the State board on the conduct of vocational education programs conducted in the State which emphasize the use of business concerns and labor organizations;

"(6) assess the distribution of financial assistance furnished under this Act, particularly with the analysis of the distribution of financial assistance between secondary vocational education programs and postsecondary vocational education programs;

"(7) recommend procedures to the State board to ensure and enhance the participation of the public in the provision of vocational education at the local level within the State, particularly the participation of local employers and local labor organizations;

"(8) report to the State board on the extent to which the individuals described in section 201(b) are provided with equal access to quality vocational education programs; and

"(9)(A) evaluate at least once every two years (i) the vocational education program delivery systems assisted under this Act, and under the Job Training Partnership Act, in terms of their adequacy and effectiveness in achieving the purposes of each of the two Acts and (ii) make recommendations to the State board on the adequacy and effectiveness of the coordination that takes place between vocational education and the Job Training Partnership Act and (B) advise the Governor, the State board, the State job training coordinating council, the Secretary, and the Secretary of Labor of these findings and recommendations.

"(e) Each State council is authorized to obtain the services of such professional, technical, and clerical, personnel as may be necessary to enable it to carry out its functions under this Act and to contract for such services as may be necessary to enable the Council to carry

out its evaluation functions, independent of programmatic and administrative control by other State boards, agencies, and individuals.

"(f)(1)(A) From the amounts appropriated pursuant to section 3(c) the Secretary shall make grants to State councils from amounts allotted to State councils in accordance with the method for allotment contained in section 101(a)(2), without regard to paragraph (3), except that no State council shall be allotted less than \$120,000 nor more than \$225,000 for each fiscal year.

"(B) For the purpose of subparagraph (A), the term 'State' shall not include the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(2) The expenditure of the funds paid pursuant to this subsection is to be determined solely by the State council for carrying out its functions under this Act, and may not be diverted or reprogramed for any other purpose by any State board, agency, or individual. Each State council shall designate an appropriate State agency or other public agency, eligible to receive funds under this Act, to act as its fiscal agent for purposes of disbursement, accounting, and auditing.

TESTIMONY IN SUPPORT OF SENATE BILL NO. 98
by Robert D. Wright, Division Director
Employment Relations Division, Wichita Public Schools

Every labor contract, in both the private and public sectors, is silent with respect to numerous mandatorily negotiable topics. Negotiators for labor and management have developed two alternatives for dealing with this situation. One alternative is to include a Management Rights Clause which, in essence, provides that management retains control over all topics not in the agreement. The other alternative is to include a Maintenance of Standards Clause which, in essence, provides that management must maintain its current practice without alteration in any mandatorily negotiable area on which the contract is silent. These two approaches are mutually exclusive; no contract anywhere contains both.

The first Wichita teacher agreement, negotiated some seventeen years ago, contained a Management Rights Clause as has every agreement since then. NEA-Wichita has often proposed replacing that clause with a Maintenance of Standards Clause, but such has never been done. Now, Kansas courts have judicially imposed a Maintenance of Standards Clause on every school district in the state; even those districts that have a Management Rights Clause in their contract. This judicial imposition is without precedent in any other state in either the private or public sectors.

Senate Bill No. 98 would simply undo this judicial imposition thereby returning to the status quo which all parties believed existed prior to these recent court decisions. After passage of this bill, if the teachers in any school district do not approve of any policy which their local Board of Education adopts concerning a mandatorily negotiable topic, all they need do is submit proper notice on or before February 1 and that Board must negotiate the topic.

If, after numerous years of negotiating in a particular district, the teachers have not yet chosen to negotiate a mandatorily negotiable subject, it is fair to conclude that they are reasonably content with the Board having control of that subject. But it is important to remember that, even after passage of Senate Bill No.98, the teachers can assert their right to negotiate the subject any year they so choose.

The current situation is not just a theoretical problem. Real and serious harm is being done to our public schools. We are all well aware of the need to adapt to changing circumstances such as those addressed by the recent Nation At Risk report. I can best illustrate this problem by citing a few examples. Last fall we experienced severe heat in late August and early September. We were besieged by cries from students, teachers, and parents to do something to relieve the situation. We implemented a heat contingency plan which primarily involved simply moving school hours up one hour. We were correctly notified by NEA-Wichita that our agreement does not speak to the issue of school hours, that the courts have held that to be a mandatory issue of bargaining, and that we were therefore in violation of the law. A similar situation would exist whenever the administration or Board desired to change school hours for a school near an aircraft plant to adapt to shift changes for the purpose of pupil safety. I could go on and on with examples. The list is endless. But it serves only to illustrate that a school district that is powerless to adapt to such simple situations is also powerless to respond to pressing and urgent demands.

I would guess that one question you now have or will be given by opponents of this bill is "Why doesn't the Board simply negotiate school hours or the number of teaching periods." The answer in simplest form is "Since these vary building by building and even class by class, we don't know how to negotiate these topics short of having a separate agreement for each building and, in some cases, each teacher."

I would be pleased to respond to any questions.



TESTIMONY ON S.B. 98

by

Bill Curtis, Assistant Executive Director
Kansas Association of School Boards

February 7, 1985
Senate Education Committee

Mr. Chairman and members of the committee, we appreciate the opportunity to appear today on behalf of the 300 member boards of education of the Kansas Association of School Boards. We appear in support of S.B. 98 which was introduced by this committee at our request.

Three court decisions over the past several years, one in Dodge City and two in Wichita, have created a situation which in our opinion drastically alters the application of K.S.A. 72-5423. That statute presently states "Nothing in this act....shall be construed to change or affect any right or duty conferred or imposed by law upon any board of education...." However, those decisions have said that boards of education may not make changes in items which are mandatorily negotiable even if the items were not noticed by either party, discussed during negotiations, nor included in the existing agreement. Therefore, we have asked for S.B. 98. The major change can be found in lines 43-48 of the bill. That language would permit boards of education to formulate policies on items mandatorily negotiable until such time as those items did become a part of an agreement.

We thank you for the opportunity to express our views on this subject.

SENATE BILL NO. 98

February 7, 1985

MEMBERS OF THE SENATE EDUCATION COMMITTEE

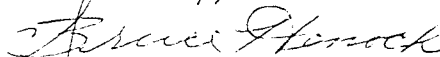
I am Bruce Henoch, Superintendent of U.S.D. #345 (Seaman) representing the United School Administrators and the Kansas Association of School Administrators. I am a member of U.S.A. and president of K.A.S.A.

I wish to support the passage of Senate Bill NO. 98 in its present form. Board policy needs to be adopted or modified at times to meet changing conditions. Those changed conditions often are not timed in accordance with negotiations. Boards of Education need some freedom to deal with those issues that are mandatorily negotiable but are not in the negotiated package.

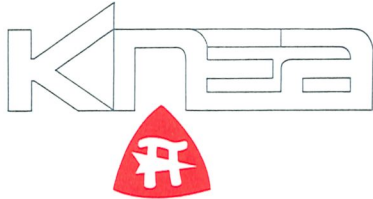
The adopted or modified board policy could then be effective until negotiated.

We ask your support of Senate Bill No. 98.

Sincerely,



Bruce Henoch
Superintendent



Craig Grant Testimony Before The
Senate Education Committee
February 7, 1985

Thank you, Mr. Chairman. Members of the Committee, my name is Craig Grant and I represent Kansas-NEA. I appreciate the opportunity to speak with you in opposition to SB 98. This issue is the same as we saw last year in SB 767.

SB 98 takes away an extremely important concept in labor relations--the concept of past practice. Past practice indicates how people are dealt with in the normal day to day administration of any business. Arbitrator Arthur Jacobs describes a contract or agreement as "far more than words on paper. It is also all the oral understandings, interpretations, and mutually acceptable habits of action which have grown up around it over the course of time." Kansas-NEA believes that stable and peaceful relations between parties depend on a satisfactory superstructure of understanding as to how people are to be dealt with over the course of a year. That understanding should not have to all be written down in an official contract. In the fifteen years I have negotiated for teachers, I did not bring to negotiations each and every condition of employment open for negotiations. I believed that teachers should bring problems which were of immediate concern to discuss possible solutions. Other items which I felt were working well in the district were left alone.

SB 98 would allow Boards of Education the opportunity to take away these "customs" or past practices which have worked to both parties advantage unilaterally with no discussions with the teachers until the next round of

negotiations. Line 33 of the bill which is current state law allows negotiation on the "request of either party at any time during the school year." Boards can, if they really have a serious concern, open discussion with regard to any term and condition of employment at any time. Addendums to contracts have and continue to be added during the term of the agreement. The worst scenario that can and should be pictured is that a Board would have to wait until the next school year to unilaterally change a past practice which has worked. If it had not worked, it would have been discussed in past negotiations. I know of few, if any, teachers' associations who would refuse to reopen a contract if there was a real need which had to be addressed. If changes are made unilaterally, even if negotiations follow in a few months, it will be extremely difficult to reverse the change after the fact. At least in negotiations teachers will learn the rationale for the change and can present ideas as to why the change would or would not be beneficial.

Kansas-NEA believes that the courts in Kansas and elsewhere have rightly upheld the concept of past practice in labor-management relationships. SB 98 would eliminate the stability in those relationships by allowing Boards to change existing terms and conditions of professional service without going through the process which this legislature has established.

Kansas-NEA asks that you report SB 98 unfavorable for passage.

Thank you, Mr. Chairman and Members of the Committee, for listening to the concerns of teachers.

SENATE BILL NO. 99


February 7, 1985

MEMBERS OF THE SENATE EDUCATION COMMITTEE

I am Bruce Henoch, Superintendent of U.S.D. #345 (Seaman). I am representing the United School Administrators and the Kansas Association of School Administrators. I am a member of U.S.A. and president of K.A.S.A.

We are in support of Senate Bill No. 99. A Board of Education should have the right to improve the education for students by establishing the number of periods existing within a school day without negotiating with teachers to accomplish it.

Sincerely,

A handwritten signature in cursive script that reads "Bruce Henoch".

Dr. Bruce Henoch, Superintendent



TESTIMONY ON S.B. 99

by

Bill Curtis, Assistant Executive Director
Kansas Association of School Boards

February 7, 1985
Senate Education Committee

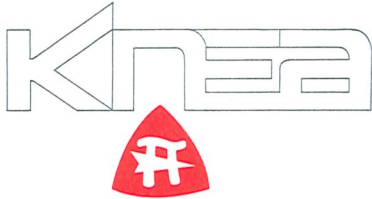
Mr. Chairman and members of the committee, we appreciate the opportunity to appear today on behalf of the member boards of education of the Kansas Association of School Boards. We appear today in support of S.B. 99 which was introduced by this committee at our request.

Senate Bill 99 changes the scope of items mandatorily negotiable by striking professional employee appraisal procedures, in lines 103 and 104 of the bill, and by excluding items which relate to the duration of the school term. The bill defines school term to mean duration and number of teaching periods, class periods, beginning and ending times of the school day, and beginning and ending dates of the school year, as found in lines 131-133 and lines 139-143.

Prior to 1981 and a change in the law, teacher evaluations, including all procedures, forms, methods and records in connection therewith, were not mandatorily negotiable. KASB is asking for a return to that status. Boards of education are required by article 90 of chapter 72 of Kansas Statutes Annotated to adopt policies of personnel evaluation. We believe boards of education ought to be able to adopt policies with regard to evaluation without negotiations.

Generally, court decisions have determined that the beginning and ending dates of the school term are not mandatorily negotiable but the statutory definition of a "school term" addresses only the minimum days, 180, or the minimum number of hours, 1080. KASB is asking for the number and duration of class periods, teaching periods, and the beginning and ending times of the school day be added to the definition of a school term.

Thank you for allowing us to appear and present our views.



Craig Grant Testimony Before The
Senate Education Committee
February 7, 1985

Thank you, Mr. Chairman. Members of the Committee, my name is Craig Grant and I represent Kansas-NEA. I appreciate the opportunity to speak to the committee in opposition to SB 99.

SB 99 is an attempt once more by the Kansas Association of School Boards to remove items from the list of mandatorily negotiable subjects. They made a similar attempt last year to remove these items in SB 777. Kansas-NEA's opinion has not changed since that time--we believe that these items definitely affect terms and conditions of employment and, as such, should be subjects for discussion during negotiations.

Proponents have stated that since evaluation is covered by statute, that it should not be included for negotiations. One just needs to read K.S.A. 72-9001 through 9006 to realize that this statute does not cover the appraisal procedures which we are talking about today. Nothing in statute guarantees that evaluators will spend a certain length of time observing teachers; it does not guarantee conferences will be held before or after observations so teachers understand what the evaluator will be looking for in his or her observation; nothing guarantees that help in the form of specific suggestions or assistance by other professionals will be given. These are the type of guarantees which we seek in the negotiations process. To eliminate our ability to speak to these issues will affect a key element to our professional lives--our evaluation procedure.

The second area of concern deals with the hours and amounts of work

required by the professional employee. Districts have wanted to change the number of periods, the length of those periods, the beginning and ending times of the school day and year. As these items affect students, we have no problem. But when these topics change the number of preparations or the length of time that a teacher is required to be in charge of a class, then that is when we need to have the ability to discuss the impact those changes will have on the teachers. No association that I am aware of has refused to talk about these items if the Board of Education gives notice. It is when districts try to force such changes unilaterally without good faith discussions that the problems occur. Districts have often responded to the Nation at Risk and other reports by proposing cosmetic changes which are geared to appease public opinion rather than really dealing with the serious issues of reform. Teachers need the right to discuss all issues which affect their professional employment.

Because of the above mentioned reasons, Kansas-NEA asks that you recommend SB 99 unfavorably for passage. We ask that you resist attempts by Boards to avoid the negotiations process on legitimate items of concern.

Thank you, Mr. Chairman and members of the committee, for listening to the concerns of teachers.