

Approved March 25, 1986  
Date

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION

The meeting was called to order by Representative Don E. Crumbaker at  
Chairperson

3:38 ~~am~~/p.m. on March 19, 1986 in room 519-S of the Capitol.

All members were present except: Rep. Kline, Brady, who were excused.

Committee staff present: Avis Swartzman, Revisor of Statute's Office  
Ben Barrett, Legislative Research  
Lynda Cory, Secretary to the Committee

Conferees appearing before the committee:

Bill Curtis	Marc Marcano	Pat Baker
Gerald Henderson	Gerald Henderson	Craig Grant
Richard Funk	Paul Dickoff	

The Chairman invited Bill Curtis to present SB 451. Mr. Curtis from Kansas Association of School Boards supported SB 451 even though it was only a temporary solution to insurance premiums outside the budget limit restrictions. (Attachment 1)

Gerald Henderson from United School Administrators supported SB 451. (Attachment 2)

The Chairman concluded hearings on SB 451.

Richard Funk from Kansas Association of School Boards supported SB 593 if it could be amended to have line 67 read "within two weeks" rather than the word "promptly." Rep. Bowden asked and received the answer that there would be no objection from KASB if SB 593 was also amended to read that schools contact law enforcement officers if a child leaves school at the end of the 30-day time period without proof of identity. (Attachment 3)

Marc Marcano from State Migrant Coordinating Council opposed SB 593 because using a birth certificate for proof of identity would discourage the undocumented worker from entering their children in the school system out of fear of deportment. Children from second grade up are recorded on a computer in Little Rock, Arkansas, but younger children of undocumented and documented migrant families are not on this computer. (Attachment 4)

The Chairman brought the committee's attention to the written handout from Michael Boyer, Supervisor of Missing Persons System and member of the Attorney General's Task Force on Missing and Exploited Children. There was to have been a Brenda Braden from the Attorney General's office attend the committee meeting as a conferee, but she could not make it. Their objection to SB 593 would be heard at a later date. (Attachment 5)

Gerald Henderson, United School Administrators, supported SB 593 with some reservations since proof of identity was necessary, but not at the expense of the migrant families. (Attachment 6)

The Chairman invited Paul Dickoff to present SB 647. Mr. Dickoff from the Labor and Management Department of the Human Resources Office presented an amendment to SB 647 that would allow them to subpoenae teachers, administrators and other individuals to appear at hearings to resolve disputes between school boards and teachers. This amendment would correct the powers of subpoenae according to the statutes. (Attachment 7)

Pat Baker, Kansas Association of School Boards, and Craig Grant, Kansas-National Education Association, both supported the amendment as presented by Paul Dickoff.

Rep. Denise Apt moved that SB 451 be passed as favorable. Seconded by Representative Jo Ann Pottorff. Representative Robert D. Miller moved to amend SB 451 to read from Statute book to State Register. Motion adopted. Representative Denise Apt moved to pass SB 451 favorably as amended. Seconded by Representative Jo Ann Pottorff. Motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION,  
room 519-S, Statehouse, at 3:38 ~~3:00~~ p.m. on March 19, 1986.

Representative Robin Leach moved to amend SB 647 with the clarification of subpoena powers for the Department of Human Resources. Seconded by Representative Rick Bowden. Motion adopted.

Representative Robin Leach moved to pass SB 647 favorably as amended. Seconded by Representative Elaine Hassler. Motion carried.

The meeting adjourned at 4:43 p.m.





TESTIMONY ON S.B. 451

before the

House Education Committee

by

Bill Curtis, Assistant Executive Director  
Kansas Association of School Boards

March 19, 1986

Mr. Chairman and members of the committee, we appreciate the opportunity to testify today on behalf of the 303 member boards of education of the Kansas Association of School Boards. S.B. 451 was introduced by the Senate Education Committee at the request of KASB. Quite simply, S.B. 451 adds an exception to the budget limits. In addition to social security contributions and utilities, S.B. 451 would add insurance premiums to the list of items outside the budget limit restrictions.

Approximately 18 months ago the KASB office started to receive telephone calls from school districts concerning the availability of errors and omissions insurance. That type of insurance is liability protection for board of education members and also generally includes administrators. By the spring of 1985 it was obvious that the insurance crisis that had been limited to doctors, dentists, lawyers, architects, and engineers was also affecting school districts. A number of districts were having difficulty finding insurance at any price. The number of insurance companies providing liability coverage declined and the premiums increased at an alarming rate. Without getting too involved in a discussion of the insurance industry most of the problems could be attributed to

horrendous losses by insurance companies in the liability field. While the issue in S.B. 451 is not the availability of insurance, that factor has a tremendous impact upon premiums.

During October and November, 1985, KASB surveyed school districts to determine the extent of the problem. The survey dealt only with errors and omissions insurance. Approximately half of all districts purchased or renewed their policies during 1985. Historically, school districts purchase insurance on three year contracts and prepay the premiums. Consequently, those districts that purchased insurance or renewed their policies in 1983 and 1984 did not have to face the problem this year. However, they will face it during 1986 and 1987.

The range in premium differences during 1985 was a reduction of 26% to an increase of 481%. The median was an increase of 46%. Below is a summary of premium changes.

- 7 school districts had reduction of premiums.
- 17 school districts had no change.
- 9 school districts had an increase of from 1 to 10%.
- 14 school districts had an increase of from 11 to 20%.
- 8 school districts had an increase of from 21 to 29%.
- 9 school districts had an increase of from 30 to 39%.
- 9 school districts had an increase of from 40 to 49%.
- 2 school districts had an increase of from 50 to 59%.
- 5 school districts had an increase of from 60 to 69%.
- 18 school districts had an increase of from 70 to 79%.
- 8 school districts had an increase of from 80 to 89%.
- 7 school districts had an increase of from 90 to 99%.
- 25 school districts had an increase of over 100%.

Is the problem serious? Does it involve a large amount of dollars? In terms of the percent of the budget, probably not. But in terms of its impact on other levels of expenditures it will have an important effect. In one of the smallest districts in the state, the insurance premiums for all coverage increased \$3358. That district has 14 faculty members so the increase equates to about \$240 per teacher. In another district, the premium increase for all coverages amounted to \$14,000. With 122 faculty members, that equates to a little over \$100 per teacher.

Thank you for listening to our concerns. KASB believes S.B. 451 is important and we urge you to give it favorable consideration.



SB 451  
Testimony presented before the House  
Committee on Education  
by Gerald W. Henderson, Executive Director  
United School Administrators of Kansas  
March 19, 1986

Mr. Chairman and members of the committee.

USA supports the provisions of SB 451 which would grant school districts the same flexibility in dealing with volatile insurance premiums that they now have in handling utility costs.

We have all been made aware of the stories of doubled and tripled liability insurance premiums and deductibles climbing through the ceiling. Some districts have even reported having difficulty getting more than one or two bids on liability coverage.

While SB 451 does not address the root causes of this problem, it does provide districts with a tool to cope with it.

We ask that you recommend the bill favorably for passage.

KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS



5401 S. W. 7th Avenue Topeka, Kansas 66606  
913-273-3600

Testimony on S.B. 593  
before the  
House Education Committee  
by

Richard S. Funk, Assistant Executive Director  
Kansas Association of School Boards  
March 19, 1986

I appreciate the opportunity to appear before you on behalf of the 303 member boards of education of the Kansas Association of School Boards regarding S.B. 593. We support the intent and procedures outlined in S.B. 593.

We do, however, see a potential problem that could arise in the application of this bill if and when it becomes law.

Lines 0062 - 0068 provide for an investigation to be conducted by law enforcement personnel when the proof of identity of a child has not been presented to the school board within 30 days after enrollment of a child in a school. It is a fact that there are children who do not have birth certificates, i.e. asian, hispanic and in some cases those who have been born at home and the birth was not registered. We hope that when law enforcement personnel do conduct these investigations and determine that everything is alright that they do not become lax in future investigations. I would propose that some definitive guideline for law enforcement personnel be added to S.B. 593.

Specifically, on line 0067, if the word "promptly" would be deleted and the words "within two weeks" be added, as illustrated in the attached example.

We would ask that you do report S.B. 593 favorably for passage. Thank you for your consideration.

0047 school operating in this state.

0048 (2) "School board" means the board of education of a school  
0049 district or the governing authority of a nonpublic school.

0050 (3) "Proof of identity" means, in the case of a child enrolling  
0051 in kindergarten or first grade, a certified copy of the birth  
0052 certificate of the child or, as an alternative, for a child who is in  
0053 the custody of the secretary of social and rehabilitation services,  
0054 a certified copy of the court order placing the child in the  
0055 custody of the secretary; and, in the case of a child enrolling in  
0056 any of the grades two through 12, a certified transcript or other  
0057 similar pupil records or data.

0058 (b) Whenever a child enrolls or is enrolled in a school for the  
0059 first time, the school board of the school in which the child in  
0060 enrolling or being enrolled shall require, in accordance with a  
0061 policy adopted by the school board, presentation of proof of  
0062 identity of the child. If proof of identity of the child is not  
0063 presented to the school board within 30 days after enrollment,  
0064 the school board shall immediately give written notice thereof to  
0065 a law enforcement agency having jurisdiction within the home  
0066 county of the school. Upon receipt of the written notice, the law  
0067 enforcement agency shall promptly conduct an investigation to  
0068 determine the identity of the child. No person or persons claim-  
0069 ing custody of the child shall be informed of the investigation  
0070 while it is being conducted.

0071 (c) Schools and law enforcement agencies shall cooperate  
0072 with each other in the conducting of any investigation required  
0073 by this section. School personnel shall provide law enforcement  
0074 agencies with access on school premises to any child whose  
0075 identity is being investigated. School personnel shall be present  
0076 at all times any law enforcement agency personnel are on school  
0077 premises for the purpose of conducting any such investigation.  
0078 School personnel who are present during the conducting by a  
0079 law enforcement agency of an investigation on school premises  
0080 to determine the identity of a child in accordance with the  
0081 requirements of this section are subject to the confidentiality  
0082 requirements of the Kansas code for care of children.

0083 (d) Upon receipt by a school of a notice from a law enforce-

within two weeks



State Migrant Coordinating Council  
512 West 6th Street  
Topeka, Kansas 66603

March 19, 1986

The Honorable Don E. Crumbaker  
Chairperson  
House Committee on Education  
Kansas House of Representatives  
Topeka, Kansas 66612

Dear Representative Crumbaker:

The State Migrant Coordinating Council wishes to express our concerns about S.B. 593, which would require "certain proof of child's identity upon first enrollment in or transfer to a school." Although the Council agrees with the intent of S.B. 593, we oppose it because of the effects it would have on the state's migrant and seasonal farmworker population.

First, we believe that migrant and seasonal farmworkers will have problems in complying with this law. Migrant children rarely complete a full year of school at one institution since they are constantly moving with their parents to where work is available. Few, if any, would have their birth certificates with them as they travel through Kansas. Trying to obtain birth certificates from other states and counties could take longer than the allotted 30 days. Furthermore, a significant number of migrants are born outside of hospitals by midwives; consequently, they do not have birth certificates.

Second, we believe passage of the bill would have a detrimental effect on the schooling of some migrant children. Much of our nation's migrant and seasonal farmworker population is undocumented. However, the Supreme Court has ruled that these children can not be denied an education in the United States public school system. When parents of these children are required to provide birth certificates, many will choose not to send their children to school. Thus, these children will not receive an adequate education necessary to become productive citizens of our state and nation.

We feel the Senate amendment to change the bill to read, "whenever a child enrolls in a public or nonpublic school for the first time, the school board is required to secure proof of identity" would have less of a negative effect on the state's migrant and seasonal farmworker population, since school records could be used as proof of identity instead of a birth certificate. If S.B. 593 is to be accepted, we urge your committee to support the bill as amended by the Senate to limit problems for the migrant and seasonal farmworker population. However, because of the reasons cited above, we urge your committee to explore other methods to protect "missing children" in our nation.

Sincerely,

*Laurie Hull*

The State Migrant Coordinating  
Council

ATTACHMENT 4

March 19, 1986

HOUSE EDUCATION COMMITTEE

LH:sh

State Migrant Coordinating Council  
512 West 6th Street  
Topeka, Kansas 66603

Judy Chase, SRS-SEOO

Sarah Harding, KDHE

Juan Rocha, KSDE

Philip P. Gutierrez, SRS

Nikki McCabe, SER Corp. (Topeka)

Rhonda Cantrell, SER Corp. (Wichita)

John Ferretti, DHR-Monitor Advocate

Laurie Rosenwasser, Harvest America Corp.

Stan Ward, KDA-FACTS

Filemon Villanueva, Harvest America Corp.

Marc Marcano, KACMAA

Nelson Escalante, SER Corp. (Wichita)

Richard Lopez, SER Corp.

Laurie Hull, KACMAA

Testimony for House Education  
Senate Bill 593  
March 19, 1986  
Michael E. Boyer, Supervisor  
Missing Persons System  
Kansas Bureau of Investigation

Member - Attorney General's Task Force on Missing and  
Exploited Children

Mr. Chairman and Members of the Committee:

While not specifically part of the 10-bill package from the Task Force report currently in House Judiciary the essence of, SB 593 is included in the Report under the heading "The School's Role in Locating Missing Children." These recommendations are attached. Please note Recommendations 2, 3 and 4 specifically.

Under New Section 1, paragraph (b), indicates children coming into a Kansas school shall provide to the school certain "proof of identity." Within 30 days, if proper identification is not received, local law enforcement will be contacted.

Paragraph (c) indicates cooperation shall exist between schools and law enforcement. There is concern about the school personnel being present ("shall" in line 75) which I believe Ms. Brenda Braden from the Attorney General's office will address.

Paragraph (d) indicates the tagging of school records by the schools upon notification by law enforcement (either local or KBI) that a child has been reported missing. If access is made on that record, law enforcement shall be notified.

Section 2 of this bill includes language that, while of great importance to the educational community, is not germane to the issues addressed in Section 1. While there is no opposition to Section 2, this language should not be allowed to divert attention or support from the concerns expressed in Section 1.

I regret being unable to attend the hearing in person. Should there be any questions Ms. Brenda Braden from the Attorney General's Office should be able to answer them.

## THE SCHOOL'S ROLE IN LOCATING MISSING CHILDREN

CONCLUSION: When a child is abducted either on the way to school or from the school setting, the highly important early discovery of the abduction can only be facilitated by the school communicating the absence of the child to the parent. The school can perform a vital service in locating a missing child by informing other appropriate agencies when a child is presented for enrollment without the required or expected information regarding identity or prior school attendance.

RECOMMENDATION #1: The state should require that all schools attempt to contact a custodial parent or legal guardian when a child under 16 years of age does not attend school if the custodial parent or legal guardian has not contacted the school.

RECOMMENDATION #2: Kansas statutes should more clearly state what proof of identity is to be required upon the initial enrollment of a child in either kindergarten or first grade and should provide that, if the purported parent or guardian is unable to provide such identification, the school give written notice of such fact to the appropriate law enforcement agency. That law enforcement agency should then conduct an investigation to determine the true identity of the child.

RECOMMENDATION #3: When a child is enrolled as a transfer from another school or school district, Kansas statutes should specify the minimum information required to establish the true identity of the child. If the purported parent or guardian fails to provide such information, the school should notify the appropriate law enforcement agency. The notice to the law enforcement agency should be within a reasonable period of time after the child's enrollment, taking into consideration that records from the school last attended do not usually accompany the child upon enrollment in a new school. The law enforcement agency should investigate to determine the true identity of the child and the school should provide access to the child in a setting on the premises determined by school personnel for the purpose of an interview of the child in question. The school should not give prior notification of such action or interview to the child's purported parent or custodian.

RECOMMENDATION #4: When a child is reported as missing to a law enforcement agency and remains missing for a reasonable period of time, the law enforcement agency should be required to give notice of such fact to the school last attended by the child. The school, upon receiving such notice, should be required to note that the child is missing on the school's records of that child. If the school last attended receives a request from another school for a transcript or other information regarding said child, the school last attended should be required to immediately notify the appropriate law enforcement agency of the receipt of such a request.

RECOMMENDATION #5: Require that the Kansas department of education distribute a list of all reported missing children as provided by the KBI to every Kansas public school and that children identified from the list be reported to the appropriate law enforcement agency.

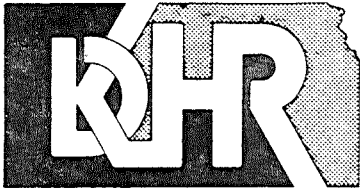


SB 593  
Testimony presented before the House  
Committee on Education  
by Gerald W. Henderson, Executive Director  
United School Administrators of Kansas  
March 19, 1986

Mr. Chairman and members of the Committee.

SB 593 is a vehicle to involve schools in the process of identifying missing children. USA is supportive of this effort. My one concern as a former building principal is that the 30 day limit for providing proof of identity not be widely publicized. People who kidnap children do not need to know that they have to move in 30 days before the school calls law enforcement agencies.

USA will be happy to communicate to our membership the information required to insure success of this initiative.



OFFICE OF ASSISTANT SECRETARY  
LABOR MANAGEMENT RELATIONS AND  
EMPLOYMENT STANDARDS  
512 West Sixth Street, Topeka, Kansas 66603-3150

John Carlin, Governor

Larry E. Wolgast, Secretary

STATEMENT TO THE LEGISLATURE/HOUSE EDUCATION COMMITTEE

Thank you, Mr. Chairman, members of the Committee, I appreciate the opportunity to appear before you this afternoon. My name is Jerry Powell and I serve as the designee for the Secretary of the Department of Human Resources in carrying out certain mandated procedures under the Professional Negotiations Act, K.S.A. 72-5413 et seq.

Senate Bill 647 was introduced by the Senate Education Committee on my request. I appeared before that committee and explained the need for and the purpose of my request for the Bill. If I could, I'd like to briefly take you back a number of years to the time when the Professional Negotiations Act was first passed by this Legislature. At that time and subsequent to that time, it was the belief of the Department of Human Resources, and I believe both parties to the negotiations process that the Secretary of the Department had subpoena authority similar to that subpoena authority granted to the Public Employees Relations Board under the Public Employer/Employee Relations Act. For the following eight years or so we have, on numerous occasions, issued subpoenas for teachers, administrators, and other individuals to appear at hearings during which the Secretary made a record in order to resolve disputes between school boards and teachers. These disputes relate to the determination of appropriate bargaining units and the resolution of prohibited practice charges.

Until quite recently, our subpoena authority was unquestioned by the parties. However, in a recent case in U.S.D. 445, Coffeyville, Kansas, a question arose with regard to the Secretary's authority to subpoena confidential evaluation files. As a result of a discussion between counsel for both parties and myself, it was decided that it was necessary to seek a district court judge's decision as to whether or not these evaluations were subject to subpoena. The question was based on the language found in the teacher evaluation act relating to the confidentiality of the evaluation document. That statute states that evaluations are subject to subpoena only by a court of competent jurisdiction. Therefore, we decided to seek the judge's determination as to whether or not our administrative procedure constituted a "court of competent jurisdiction". Somehow during the course of that hearing, the question changed to that of, "Does the Secretary have subpoena authority?" Just recently, in fact, during the legislative session, the district court ruled that there was no expressed subpoena authority in the Professional Negotiations Act giving the Secretary this power. As a result, I appeared before the Senate Committee and requested that subpoena authority be granted.

Prior to the time that I appeared before that committee, I visited with representatives of the Kansas Association of School Boards (KASB) and Kansas National Education Association (KNEA) to determine whether or not they agreed that the Secretary needed the subpoena authority. I was told by representatives of both parties that they agreed that such authority was needed. However, both parties reserved their right to review the written bill prior to

stating their support.

When the bill was drafted, concern was expressed with the language found on lines 0047 through 0057. The bill was then amended by the Committee of the Whole in an attempt to resolve this concern. The amendment that was offered, however goes beyond the concerns expressed and in fact, gives the Secretary authority similar to that which exists today. That is, we now must apply to district court for the issuance of subpoenas. One can imagine the hardship worked on all parties with the delay caused by this procedure. For example, if in the course of a hearing it is necessary to issue a subpoena, the Secretary must adjourn the hearing to a later date in order to seek the issuance of a subpoena.

I have attached a draft amendment to this testimony which we believe will resolve the problem while complying with all parties concerns. This amendment is not in proper draft form. I apologize to the Committee for any inconvenience, however, I have not had an opportunity to contact the Revisors office.

I will also quickly note that I ask you to change the effective dated of this bill from publication in the statute book to publication in the Kansas register. The bill is needed immediately in light of our pending cases.

The requested amendment has been submitted to representatives of the KASB and KNEA. I believe both parties are present today and that they will state their support for the amendment.

Mr. Chairman and members, again I thank you for your attention and I will attempt to respond to any questions.



SENATE BILL No. 647

By Committee on Education

2-13

0018 AN ACT concerning professional negotiation between boards of  
0019 education and professional employees thereof; ~~vesting sub-~~  
0020 ~~poena power in~~ [authorizing] the secretary of human re-  
0021 sources [to request issuance of subpoenas considered neces-  
0022 sary] for performance of duties and responsibilities relating  
0023 thereto; amending K.S.A. 72-5432 and repealing the existing  
0024 section.

0025 *Be it enacted by the Legislature of the State of Kansas:*

0026 Section 1. K.S.A. 72-5432 is hereby amended to read as fol-  
0027 lows: 72-5432. (a) The secretary of human resources may adopt  
0028 such rules and regulations as are necessary to implement and  
0029 administer the provisions of K.S.A. 72-5413 ~~to through~~ 72-5431,  
0030 ~~inclusive, and acts amendatory thereof and supplemental thereto~~  
0031 ~~amendments to such sections~~, which place specific duties and  
0032 responsibilities upon the secretary of human resources.

0033 (b) Any rules and regulations adopted by the secretary of  
0034 human resources prior to the effective date of this act to imple-  
0035 ment and administer the provisions of K.S.A. 72-5413 ~~to through~~  
0036 72-5431, ~~inclusive, and amendments thereto to such sections~~,  
0037 shall remain in full force and effect until amended, modified,  
0038 suspended, revoked or nullified pursuant to law.

0039 (c) ~~The secretary of human resources has the power to issue~~  
0040 ~~[may request the issuance of] subpoenas requiring [in the man-~~  
0041 ~~ner provided in K.S.A. 60-245, and amendments thereto, for] the~~  
0042 ~~attendance of any witnesses and the production of any records,~~  
0043 ~~books, papers and documents that the secretary considers nec-~~  
0044 ~~essary to implement and administer the provisions of K.S.A.~~  
0045 ~~72-5413 through 72-5431, and amendments to such sections,~~  
0046 ~~which place specific duties and responsibilities upon the secre-~~

0039 (c) The secretary of human resources has the power to issue  
0040 [may request the issuance of] subpoenas requiring [in the man-  
0041 ner provided in K.S.A. 60-245, and amendments thereto, for] the

0047 tary. Subpoenas so issued may be served by any law enforcement  
0048 officer in the same manner as similar process in the district court.  
0049 Any person who testifies falsely, fails to appear when subpoenaed  
0050 or fails or refuses to produce material pursuant to the  
0051 subpoena shall be subject to the same orders and penalties to  
0052 which a person before a court is subject. Any district court of this  
0053 state, upon application of the secretary, may in its discretion  
0054 compel the attendance of witnesses, the production of material  
0055 and the giving of testimony before the secretary, by an attachment  
0056 for contempt or otherwise in the same manner as production of  
0057 evidence may be compelled before the district court.  
0058 Sec. 2. K.S.A. 72-5432 is hereby repealed.  
0059 Sec. 3. This act shall take effect and be in force from and  
0060 after its publication in the ~~statute book.~~

In the event of refusal to obey a subpoena on the part of any person or persons, the secretary shall have the authority to bring an action to enforce the subpoena in a court of competent jurisdiction.

Kansas register.