

Approved February 17, 1986
Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

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

1:30 ~~am~~/p.m. on THURSDAY, FEBRUARY 13, 1986 in room 313-S of the Capitol.

All members were present except:

Senator Salisbury, excused

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 563 - Concerning school districts; providing for exemptions from competitive bidding requirements for certain purchases. (Senator Kerr et al.)

Proponents:

Mr. John Koepke, Executive Director, Kansas Association of School Boards

Mr. Howard Shuler, member of the United School Administrators Legislative Committee

Mr. Craig Grant, Director of Political Action, Kansas-National Education Association

SB 583 - An act concerning school districts; relating to contracts of employment between boards of education and certain employees thereof (Education)

Proponents:

Ms. Pat Baker, Senior Legal Counsel, Kansas Association of School Boards

Dr. David Neuenswander, Chairman of the Legislative Committee of the United School Administrators

Opponents:

Mr. Harvey Swager, Ulysses classroom teacher

Mr. Craig Grant, Director of Political Action, Kansas-National Education Association

After calling the meeting to order, the Chairman advised the Committee that the two bills requested yesterday by Senator Mike Johnston, minority leader of the Senate, have been introduced on behalf of the Governor and that this would be reflected in the minutes.

The Chairman then informed the Committee that he had received a request by the Governor for the Committee to introduce two additional bills. The first one (Attachment 1), he said, relates to school finance at the 0% and 2% level, with transportation funding at 90%. This bill, he continued, reflects no new dollars in the budget. When the Chair entertained motions, Senator Anderson moved and Senator Karr seconded the motion that a bill relating to school finance, as requested by the Governor, be introduced by the Committee and be rereferred to the Committee. The motion carried.

The Chairman explained that the second bill (Attachment 2) requested by the Governor relates to pre-school handicapped children. When the Chairman entertained motions on this bill, Senator Karr moved that the Committee introduce the bill relating to pre-school handicapped children as requested by the Governor and that the bill be rereferred to the Committee. Senator Anderson seconded the motion, and the motion carried.

SB 563 - Before calling upon the conferees of SB 563, the Chairman gave the floor to Senator Kerr, who briefly reviewed the background of the bill he was co-sponsoring. Senator Kerr related how strict adherence to the current competitive bidding regulations had been causing a hardship on schools in some cases. He emphasized that the bill would exempt the following two items from

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION,

room 313-S, Statehouse, at 1:30 a.m./p.m. on THURSDAY, February 13, 1986

the school district bid law: educational materials directly related to curriculum and secured by copyright and motor fuels for transportation purposes.

When the Chairman called upon Mr. John Koepke, Executive Director of Kansas Association of School Boards, to testify as a proponent of SB 563, Attachment 3, Mr. Koepke also asked the Committee to give serious consideration to amending the current bid law further by raising the dollar limit above which school districts must seek sealed competitive bids. He cited specific instances to which this would aptly apply.

Mr. Howard Shuler, representing United School Administrators, testified in support of SB 563 (Attachment 4). Mr. Shuler also called the Committee's attention to two additional areas of concern: purchase of consumables and emergencies.

Mr. Craig Grant testified that he, too, supports SB 563 on behalf of Kansas-National Education Association and said he would also support raising the bid limit from \$5,000 to \$10,000.

Ms. Pat Baker, representating Kansas Association of School Boards, testified in support of SB 583, and her testimony is found in Attachment 5. Ms. Baker also called the Committee's attention to an interim study report which indicated that 113 USD's were having difficulty in providing staff for extra duties that needed to be performed.

Dr. David Neuenswander, speaking in support of SB 583 on behalf of United School Administrators, has written testimony found in Attachment 6.

Mr. Harvey Swager, a Ulysses teacher, presented testimony against SB 583. (See Attachment 7)

Mr. Craig Grant, speaking on behalf of Kansas-National Education Association, urged the Committee not to pass SB 583 in his testimony found in Attachment 8.

Following testimony by Mr. Grant, the Chair announced that the hearing on SB 583 was concluded and that the bill would be taken under advisement.

The Chairman adjourned the meeting.

SENATE EDUCATION COMMITTEE

TIME: 1:30 p.m. PLACE: 313-S DATE: Thursday, February 13, 1986

GUEST LIST

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
Harry McPhee	El Dorado	USD 490
John (Kun)	Hutchinson	USD 313
Marion Weiss	Topeka	USD 437
Clare A. Sully	Parsons	USD 506
L. D. Curran	Altamont	USD 506
B. L. McDaniel	Hope	USD 481
Randy Freeman	Hope	USD 481
Don King	Hope	USD #481
Eldon Ruffel	Hope	U.S.D. #481
Ray Belfield	Hope	U.S.D. #481
Larry Bousen	Topeka	USD 345
KENT HUAN	TOPEKA	USD 345
Bruce Henoch	Topeka	USD 345
Henry Shwartz	Lawrence	Sen Nowells office
Ken Root	Chapman	U.S.D. 473
Bert Hylton	ENSWORTH	U.S.D. 327
Robert J. Shanks	Quincy	USD 347
Jim Miller	Plains	USD 483
Jay Floyd	Herington	USD 487
Jean Ross	Hope	USD 489
Don Williams	Jewell	USD 279
Mike Gillian	LaCrosse	USD 395
Lorraine Ryan	McCracken	USD 395
Willie Brack	McCracken	USD 395
Alex A. Herrman	LaCrosse Ks	USD 395

Joyce Lyden	Udall, Ks.	USD 463 KNEA
Tom Scates	Winfield, Ks.	Winfield NEA/K-NEA
Diane Wahto	Udall, Ks.	Udall Teachers Association
Baruch Kaelten	El Dorado, KS	Kansas - NEA
Winnie K Yushell	Estudge, KS	USD #330 - Board
Jean Bowman	Shawnee Mission, KS	USD #512
Quanita Barnett	Goodland, Ks	USD #352
Kim Tadebush	Shawnee Mission	USD #512
Hal Rowe	Manhattan	USD 383
Billie Highfill Scott	Lawrence	USA
Peggy M Boggs	Topeka Ks	USD 501 KASB
Goselyn Palmer	Salina	USD 305
Judy Skell	Colby, K.	USD 315

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<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
Leta Ann Hackler	Alathea, Ks.	USD 233-ORATHE
Shirley J. Drown	Andover, Ks	USD 231 Andover
Pat Baker	Tapeba	KASB
Dean Allison	239	School - Broad Member
John Clifton	239	Supt.
David Sagner	Conway Springs, Ks.	USD 356, Supt.
Frank Meyer	PO Box 286 Herington Ks	KASB
Harry Austin	#385 Andover	KASB
KEN SANDERS	Tapeba	USD 450
Richard Heaton	Wathena	USD 406
John E. Kern	Wathena, Ks	USD 406
Jim Gardner	1675 Montana, Eldorado	Eldorado-NEA
Jean Fry	315 Random Rd. Eldorado	Eldorado-NEA
Jim Reeves	1144 S. Summit, Eldorado	Eldorado-NEA
Karen Fisk	617 Park Rd, Rose Hill	Rose Hill - NEA
Bob Mesmer	Arkansas City	Ark City Teachers Assoc.
Richard R. Connell	Cliffing, Ks	USD 354
Frank Randel	RR #1 Albert, Ks	U.S.D. 403
Elmer Schriener	Albert, Ks	U.S.D. 403
Maurin Johnson	Chanute, Ks.	U.S.D. 412
Chuck Stuart	Clay Center Ks	USD 379
Maurice Srauf	Wichita Ks	"
Leitz V. Bergmeier	Longford Ks	USD 379
Bill Lurks	Wichita	U.S.D. 259

Jake Roenbagl	Lewis Co	—
Gilbert RUNDell	STAFFORD, KS	
Bob Mosier	Greensburg, Ks	
Joe Shaneyfelt	St George Kans	—
Lew Hitch	Westmoreland, Ks.	
Lew Russell	Malena, Kansas	
Hasiba Ali	Lawrence, Ks	
Barbara Reese	Rozel, Ks	KASB
George Hartzel	Estabridge, Ks.	
Bill Hicks	LARUE	
Jim Yonally	Shawnee Mission	USD #512
Charles F. Hoggell	Madison	USD 386
Howard Gray	Prest	USD 382
Kara Buchler	Delata	USD 232
Bob Unruh	Dubois, Ks.	USD 410
Sinda Peterson	Burdick, Ks.	USD 397
Jerry D. Will, Supt	Lost Springs KS	USD 397
Marta Kollasch	Hays, Ks.	USD 489
Wm Hampard	K-1789	
Gene G. Steel	Pittsburg, Ks.	USD 250
Hale Louis Caray	Ottawa, Ks.	KANSAS STATE BOARD OF EDUCATION
Fred Campbell, Jr.	Ft. Scott, Ks.	USD 234
Don Bain	Jala, Ks.	USD 257
Carol Doepke	Humboldt, Ks.	USD 258
Nancy Michling	Jolay, Ks.	USD 257

SENATE EDUCATION COMMITTEE

TIME: 1:30 p.m. PLACE: 313-S DATE: Thursday, February 13, 1986

GUEST LIST

USD 465

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
Bill Malley	Winfield	
Karleen O'Brien	2067 Canterbury Rd. Emporia	KASB - USD 253
Rivay Wertenberger	Sabetha	KASB - USD 441
Selm Stotter	Sabetha	USD 441
Sue Ice	Newton	USD 373
Glenn Sawerweine	Newton, Ks.	USD 373
Von C. Fauer	Sabetha, Ks.	USD # 441
Diane C. Chrysler	RR 5, Winfield, Ks.	USD # 465
Eugene F. Burke	USD Oswego, Ks.	USD 504
Virian Baxter	323 N. Elm, Russell, Ks.	USD # 407
Lee Lavant	Star Rt Box 71 Russell	USD # 407
Kin Huang	Goodland, Ks.	USD # 352
Janis Lee	Kennsington	USD # 238
Nancy Wilson	Royal, Ks.	USD # 496
Terry J. Terrell	Salina	Citizen
Hugh Rogers	Ark City	USD # 407
Ken Rogg	Paola	
Karen M. Stahl	Alexander	USD # 496
Richard Funk	Tipton	KASB
Albert H. Mayne	Ozark, Ks.	USD 340
L. S. Keller	Berriington, Ks.	USD 487
Ron Burgess	Meriden, Ks.	USD 340
Bill Tom	Dunfield	USD # 214
Joseph D. Foster	Royal, Ks.	USD 496
David G. Miles	Winfield, Ks.	USD 465
Martha Butler	Winfield, Ks.	USD 465

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<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
Good House	R5 #616	USD 473
Robert King	Box 347, Chapman	USD # 473
Don Newsom	2017 Louisiana, Law KS	UNITED SCH. ADMINS
Opus Burnett	Topeka	U 820581 #
Gerald Anderson	Topeka	USA
Frank L. Smith	Topeka	USD 437
Jack F. Felt	McPherson	USD 418
Mike Decker	Ellsworth	KASB
Martha A. Miller	Manhattan	USD 383 - KASB
Cecil Dech	Sterling	USD 376 - KASA
Allen E. Petri	Topeka, KS	USD 501
Rudolf Clarenburg	Manhattan KS	USD 383
Craig Grant	Lawrence	K-NEA
Kay Cole	Topeka	K-NEA
Harvey Swager	Ulysses	teachers.
Don Henry	Goff, KS	USD 441
Opus J. Grossman	El Dorado, KS	USD 490
Ken Hubster	Merrill, KS	USD 441
Pete Laster	Augusta, KS	K-NEA
Kay Lyster	'' ''	K-NEA August
Dennis B. Carter	Augusta, KS	K-NEA - USD 402
Robert T. Kent	Augusta, KS	K-NEA - USD # 402
Helene Case	El Dorado, KS	U.S.D. 490
Merrill Atwell	Ulysses, KS	USD 301
Mike Bailey	Burden, KS	USD 462

RECEIVED

ATTACHMENT 1

1986

DIVISION OF BUDGET
STATE OF KANSAS

HOUSE BILL NO. _____

By

AN ACT concerning school district finance; imposing limitations on budgets of operating expenses per pupil for the 1986-87 school year; amending K.S.A. 72-7055 and repealing the existing section.

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

Section 1. K.S.A. 72-7055 is hereby amended to read as follows: 72-7055. (a) Subject to the other provisions of this section, in any school year commencing after June 30, ~~1985~~ 1987, no district shall budget or expend for operating expenses per pupil more than (1) the determinable percentage of the amount of its budget per pupil in the preceding school year or (2) one hundred five percent of the median budget per pupil, as determined by the state board in the preceding school year of districts within the same enrollment category as such district during such year, whichever of (1) or (2) is the lower amount per pupil. Notwithstanding the foregoing provisions of this subsection, any district may budget and expend for operating expenses per pupil not more than 105% of its budget per pupil in the preceding school year.

For the purposes of this subsection, the determinable percentage shall be the percentage equal to the percentage specified in provision (2) plus 10 percentage points.

(b) Subject to the other provisions of this section, in the school year commencing after June 30, ~~1984~~ 1986, no district shall budget or expend for operating expenses per pupil more than (1) the determinable percentage of the amount of its budget per pupil in the preceding school year or (2) one hundred ~~six~~ percent of the median budget per pupil, as determined by the state board, in the preceding school year of districts within the same

enrollment category as such district during such year, whichever of (1) or (2) is the lower amount per pupil. Notwithstanding the foregoing provisions of this subsection, any district may budget and expend for operating expenses per pupil not more than ~~±06%~~ 100% of its budget per pupil in the preceding school year.

For the purposes of this subsection, the determinable percentage shall be the percentage equal to the percentage specified in provision (2) plus ~~four~~ two percentage points.

(c) In addition to the amounts authorized to be budgeted and expended under the provisions of this section, any district may budget and expend for operating expenses per pupil in any school year an amount which shall be determined by the state board by computing the amount of increase in expenditures paid from the general fund of the district in the preceding school year for the employer contribution required under K.S.A. 40-2305, and amendments thereto. Such amount of increase, less an amount equivalent to the percentage increase in the budget per pupil authorized in the preceding school year times the expenditure for the contribution in the second preceding school year, is the additional amount which may be included within the legally adopted budget of operating expenses in the current school year.

(d) In addition to the amounts authorized to be budgeted and expended under the provisions of this section, any district may budget and expend for operating expenses per pupil in any school year an amount which shall be determined by the state board by computing the amount of increase in expenditures paid from the general fund of the district in the preceding school year for the costs incurred for the supplying of water, heat and electricity to the district. Such amount of increase, less an amount equivalent to the percentage increase in the budget per pupil authorized in the preceding school year times the expenditure for the costs in the second preceding school year, is the additional amount which may be included within the legally adopted budget of operating expenses in the current school year.

(e) In the school year commencing after June 30, 1985, any

district may increase its budget of operating expenses per pupil authorized under this section by any amount which is not in excess of an amount which is equivalent to the amount of revenues, if any, which it deposited in or credited to its general fund in the 1984-85 school year under authority of subsection (c) of K.S.A. 72-7062, and amendments thereto, and may expend for operating expenses per pupil any amount obtained as a result of such increase.

(f) Whenever a district's legally adopted budget of operating expenses in any school year was less than authorized under the provisions of article 70 of chapter 72 of Kansas Statutes Annotated, the district may add the amount that the budget was less than so authorized to its legally adopted budget of operating expenses of a later school year. Notwithstanding the other provisions of this subsection, no district shall, without an election as provided for in this section, budget or expend for operating expenses per pupil in any school year more than the determinable percentage of the amount of its budget per pupil in the preceding school year.

For the purposes of this subsection, the determinable percentage shall be the determinable percentage authorized for the current school year under the provisions of this section.

(g) If the enrollment in a district in the current school year has decreased less than the percentage applicable to the district under this subsection from the enrollment in the preceding school year, the amount which the district may budget and expend under this section may be computed on the basis of the enrollment in the preceding school year. If the enrollment in a district in the current school year has decreased more than the percentage applicable to the district under this subsection from the enrollment in the preceding school year, the amount which the district may budget and expend under this section may be computed on the basis of the enrollment in the preceding school year less the number of pupils by which the enrollment decrease in the current school year exceeds the number of pupils equal to the

percentage of enrollment applicable to the district under this subsection. The percentage applicable to a district for the purpose of this subsection is 10% for districts in the first and second enrollment categories and 4% for districts in the two largest enrollment categories. The percentage applicable to districts in the third enrollment category shall be determined in accord with a schedule prepared annually by the state board. Such schedule shall be based upon an accepted mathematical formula and shall provide a linear transition between the percentage applicable to districts in the first and second enrollment categories and the percentage applicable to districts in the two largest enrollment categories.

(h) Notwithstanding any of the foregoing provisions of this section, any district may budget and expend for operating expenses per pupil any amount which is not in excess of an amount which has been submitted to and approved by the electors of the district at a general or primary election of the district or at a special election called for the purpose. The election shall be held in the manner provided by article 20 of chapter 25 of Kansas Statutes Annotated for elections on questions submitted in the district.

(i) The provisions of this section apply to the school district created by K.S.A. 72-5333a, and amendments thereto.

Sec. 2. K.S.A. 72-7055 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

DIVISION OF BUDGET
STATE OF KANSAS

HOUSE BILL NO. _____

By

AN ACT concerning school district finance; affecting the definition of pupil for the purposes thereof; amending K.S.A. 72-7033 and repealing the existing section.

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

Section 1. K.S.A. 72-7033 is hereby amended to read as follows: 72-7033. (a) "Pupil" means any person who is regularly enrolled in a district and attending any of the grades kindergarten through 12 maintained by a the district, or who is regularly enrolled in the a district and attending any of the grades kindergarten through 12 in another district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, or who is regularly enrolled in a district and attending special education services provided for preschool-aged exceptional children by the district. A pupil who is not regularly enrolled full time shall be counted as that proportion of one pupil (to the nearest 1/10) that the pupil's regular enrollment bears to full-time regular enrollment. A pupil enrolled in kindergarten shall be counted as 1/2 pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if such pupil's postsecondary education enrollment and attendance and regular enrollment and attendance in grade 12 is at least 5/6 time, otherwise any such pupil shall be counted as that proportion of one pupil (to the nearest 1/10) that the total time of the pupil's non-postsecondary education enrollment and postsecondary education enrollment bears to full-time enrollment. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education

program shall be counted as one pupil if such pupil's vocational education enrollment and attendance and regular enrollment and attendance in any of grades nine through 12 is at least 5/6 time, otherwise any such pupil shall be counted as that proportion of one pupil (to the nearest 1/10) that the total time of the pupil's non-vocational education enrollment and vocational education enrollment bears to full-time enrollment. Any A pupil enrolled in a district and attending special education services, except special education services for preschool-aged exceptional children, provided for by the district shall be counted as one pupil. ~~The--word--"pupil"--shall--not--include--any~~ A pupil enrolled in a district and attending special education services for preschool-aged exceptional children provided for by the district shall be counted as 1/2 pupil. A pupil enrolled in ~~the~~ a district but housed, maintained, and receiving special education services at a state institution shall not be counted.

(b) "Preschool-aged exceptional children" means exceptional children, except gifted children, who have attained the age of four years but are under the age of eligibility for attendance at kindergarten.

~~(b)~~ (c) "Enrollment" or "E" means the number of pupils regularly enrolled in a district on September 15.

~~(e)~~ (d) "Enrollment category" means a category established under the school district equalization act for grouping districts based on enrollments thereof.

~~(d)~~ (e) "Graph" means a bivariate frequency distribution.

Sec. 2. K.S.A. 72-7033 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.



TESTIMONY ON S.B. 563
before the
SENATE EDUCATION COMMITTEE
by

John W. Koepke, Executive Director
Kansas Association of School Boards

February 13, 1986

Mr. Chairman and members of the Committee, we appreciate the opportunity to appear before you on behalf of the 303 member boards of education of the Kansas Association of School Boards. We are here today to express our support for S.B. 563 which provides for certain exemptions to K.S.A. 72-6760, the school district competitive bid law.

Earlier this session, the Legislative Division of Post Audit conducted a compliance audit of eight school districts regarding their compliance with the bid law. As a result of that audit, this legislation is being introduced to provide for two specific exemptions to the school district bid law.

The first exemption is designed to apply primarily to textbook purchase, although it would also exempt other curriculum-related materials such as workbooks and computer software for classroom use. School districts generally have committees which make selections in this area based on their best judgment of those materials which meet the curriculum needs of the district. Once the selection has been made, only one publisher is available as the supplier for the selected materials. Seeking bids in this instance is obviously not a competitive situation and, in our view, should be exempt from the bid law.

The second exemption sought is for gasoline purchases for school buses used for pupil transportation. Due to the volatile nature of gasoline prices, school districts find most vendors unwilling to make bids which lock them in to a particular price for a long term. While school districts generally seek oral bids for gas purchases when the need arises, this does not meet the technical requirements of the law and justifies the exemption sought in S.B. 563.

We would also ask the Committee to give serious consideration to amending the bid law further by raising the dollar limit above which school districts must seek sealed competitive bids. That limit, which currently stands at \$5,000 has been in the statute at the same level since at least 1963. Considering the rate of inflation since that time, we would ask the Committee to raise the bid limit to at least \$10,000.

We believe that these changes in the law will eliminate many unintentional and technical violations of the bid law by Kansas school districts. The State Department of Education is also conducting a series of workshops for school district personnel to insure further compliance. We think it is important to note that the Post-Audit report suggests that the Department of Administration take steps to insure that school district audits monitor this law more closely. According to Municipal Accounting Section, they could not recall a single instance in which a Kansas school district had been written up for a violation of the bid law, even though the minimum standard audit program prescribed by the Director requires such a check.

We believe that the passage of S.B. 563, with the additional change we have suggested will do much to insure total compliance with this statute.



SENATE BILL NO. 563

HEARING: February 13, 1986 Room 313-S

TESTIMONY: Howard L. Shuler, Superintendent
Auburn-Washburn USD #437
Topeka, Kansas

RESPRESENTING: THE UNITED SCHOOL ADMINISTRATORS OF KANSAS

Members of the committee, I appreciate the opportunity to appear and give testimony in favor of some much needed changes in the statutes governing competitive bidding requirements for certain purchases by the school districts in Kansas.

We fully support Section 1,(a)2, exempting educational materials related to curriculum that are secured by copyright. It would be virtually impossible to bid textbooks, standardized tests as well as many, many other educational materials where there is only one publisher of a particular series or set of materials that are desired.

We would recommend some minor changes in Section 1,(a)2, or at least some clarification. We would hope this section covers all motor fuels, including regular and unleaded gasoline, propane and diesel used in the operation of the school districts total transportation systems. We would recommend price quotations that are fully documented be legalized in this area.

We would bring to your attention to two other areas of concern. Those being the purchase of consumables and perishables. (EXAMPLES: A district may have from 1 to 25 food service kitchens in its school system that have fresh fruit and vegetables delivered daily.) In a normal 20 day serving period, one vendor could certainly deliver a combined total of perishables exceeding the \$5,000 statutory limit. Most districts would pay the vendor with one check at the first of each month at its regular meeting, this is currently a violation. However, by strict interpretation of current law, even if the district issued separate purchase orders on a daily basis it would still be a violation, if the orders totaled more than \$5,000. The other area, consumables, would be in the realm of maintenance supplies and repair parts in districts that provide and maintain their own transportation system and daily maintenance needs. Open accounts with back-up Purchase Order numbers, a method currently used by many districts, could certainly exceed the statute limits in many districts during certain months of the year. This type of consumables should be exempt from the bid procedure.



Hearing on Senate Bill 563

Page 2

Another area of concern that would be in violation of the current statute, could and probably does happen in cases of emergencies. Emergencies, that if bidding procedures were followed to the letter, could cause an individual school building to be closed for several days or weeks. (EXAMPLE: A major boiler breakdown.) This type of an emergency probably would warrant a Special Board of Education meeting. But, sealed bid proposals could take from three days to two weeks to award the project to the low bidder. We recommend that in emergencies, that could have a direct effect on the health, safety or welfare of students or to prevent excessive loss of school time, that by a majority vote of the board of education price quotations by telephone, followed up in writing could be much more appropriate.

We would also ask that you review the \$5,000 bid limit itself. We know the limit has not been changed since 1963 and we feel an inflationary rate should be applied, resulting in a higher bid limit. If any board of education should feel that the current limit is appropriate they could, by resolution, set what ever restraints they desired on the business operation of their district. We would recommend a new limit for sealed bids be set at \$10,000.



TESTIMONY ON SENATE BILL NO. 583
BEFORE THE SENATE EDUCATION COMMITTEE

By

Patricia E. Baker, Senior Legal Counsel
Kansas Association of School Boards
February 13, 1986

Mr. Chairman, members of the Committee, thank you for the opportunity to appear before you on behalf of our member school districts.

Senate Bill 583 is designed to insure that teachers and boards of education have the ability to enter into employment contracts which cover any duties to which the parties agree. Since the decision of the Kansas Court of Appeals in 1984 in the case of Swager vs. USD 412, there has been confusion as to what duties are part of a primary contract of employment and what duties must, by law, be included in a supplemental contract.

Section (1) of Senate Bill 583 clarifies that any duties occurring during the duty day and year are part of the primary contract of employment. These would include supervision of students before and after school, during the lunch hour and between classes. This section also would allow the employer and employee to mutually agree to make duties such as coaching, activity sponsorship, music, drama, FFA, FHA, and others, part of the primary contract. For example: If a teacher is initially hired to teach music and conduct the school band, these duties could all be included in the primary contract of employment.

On the other hand, if a teacher has not previously agreed to be the cheerleader sponsor, he or she could not be required to take this assignment as a condition of employment. The parties could continue to enter into a supplemental contract.

Enactment of Senate Bill 583 would not change the court's decision that a board cannot condition an existing teaching contract on acceptance of supplemental duties. It will provide that a teacher may agree to accept duties outside the primary contract. Protection for teachers is included in the bill, in that once such duties are made a part of the primary contract, the teacher would be entitled to the protections of the Teacher Due Process Act and the Continuing Contract Law. Section (2) (d) insures that the questions of duty day, duty year, duty free lunch, planning time, etc., are still subject to the Professional Negotiations Act.

It is our belief that Senate Bill 583 addresses the concerns of school boards and administrators in being able to assure supervision of students during the school day and during school activities. It also protects teacher employees from arbitrary action and from being forced to coach or supervise unless they have agreed to do so.

We request that you recommend Senate Bill 583 for passage.



TO: Members, Senate Education Committee
 FROM: Dan Neuenswander, Representing USA Kansas
 RE: Senate Bill No. 583
 DATE: February 13, 1986

Mr. Chairman, and members of the Senate Education Committee, I appreciate the opportunity to speak to you on behalf of the United School Administrators of Kansas to express our views concerning Senate Bill No. 583 dealing with the issue of supplemental and primary contracts.

Last summer the USA was encouraged by the Special Committee on Education to try to get KNEA and KASB to join with USA to find a solution to the problems surrounding the issue of supplemental and primary contracts, problems associated with the Swager decision. While representatives from the three groups did work diligently to find a compromise position that could be supported by each organization, only two of the three organizations were able to gain support of their membership to change the current status. Therefore Senate Bill No. 583 is a proposal that is supported by both United School Administrators and the Kansas Association of School Boards. I should point out that while Senate Bill No. 583 does not carry the endorsement of KNEA, it does soften the language of the old House Bill No. 2116 from last year and it provides a middle-of-the-road option as compared to either the court ruling on the Swager decision or the previous position submitted by KASB.

It is the conviction of the United School Administrators that the question is not a matter of academic vs. extracurricular for we believe that the mission of the public school must encompass both and must insure that they work together to provide a comprehensive balanced educational opportunity for our kids. The real problem is to insure on one hand the right of the Board to determine what is good and acceptable for the students and community they serve and to have the authority to meet those needs, while on the other hand to insure the personal rights of the individual employee. If the rights and responsibilities of either Boards of Education or teachers are considered in isolation from the other the solution will create problems which, in the long run, could be detrimental to all involved, especially students.

The language of Senate Bill No. 583 is designed to speak to two specific concerns.

1. Definition of primary and supplemental contracts -
 Besides the regular teaching responsibilities, primary contracts will include extra-duty assignments which are directly related to the curriculum, (i.e., marching band, debate, FFA activities). This insures that students will have the benefit of skilled, well-trained professionals for activities which are an extension of their academic program.

The primary contract also includes all assignments which are part of the duty day such as hall supervision between class periods or just prior and immediately following the school day.

Supplemental contracts will include the nonacademic, but important, extracurricular activities such as coaching athletics and class sponsorships.



2. Mutual agreement -

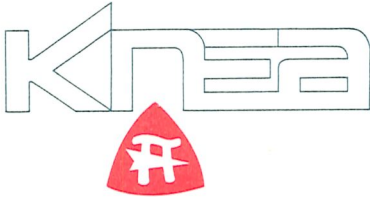
Teachers will no longer be asked to sign a supplemental contract which provides no due process rights but is binding on them if they wish to protect their primary contract as was the case in some situations prior to the Swager decision.

Boards of Education and teachers can determine, by mutual agreement, whether:

- a) the supplemental duty will be part of the primary contract and thus provide the teacher due process rights for agreed upon extracurricular assignments and give the Board assurance of continuity of service; or
- b) the supplemental contract will be separate from the primary contract which will provide the individual teacher with the option of accepting or rejecting the supplemental contract without effecting his/her primary contract and give the Board the latitude to make supplemental contract decisions without the commitment of the extensive administrative time required for evaluation and clinical supervision necessary to properly provide due process.

We truly believe that this is a position of balance and compromise and we strongly encourage your support for Senate Bill No. 583.

Testimony before the
Senate Education Committee
February 13, 1986



Thank you Mr. Chairman. My name is Harvey Swager. I currently am a high school math teacher and basketball coach in Ulysses. I am here today because the bill you are considering, SB 583, is a direct result of a situation that happened to me in Hoxie, Kansas. I hope that my experience over the last three years will help shed some light and some wisdom on how the teachers and coaches throughout the state feel about this issue.

For those of you who are not acquainted with my case — During my fourth year at Hoxie, about three years ago, I was approached and told that if I did not resign from my position as head basketball coach, I would be fired. During this meeting I asked, "If I resign as coach can I stay and teach?" The answer was yes - but they wanted my answer in 24 hours.

I was advised not to resign but after talking the options over with my wife and not wanting to cause any trouble, I resigned as head basketball coach.

In the next issue of the local newspaper, I was surprised to read that because I resigned from basketball coach, I had forfeited my teaching position as well. I was shocked that a group of people would take something they asked for and use it to state that I had broken my contract with them because of my resignation of my coaching duty. Furthermore, I was hurt that four years of unmarked teaching was not even being considered. What I had done in my classroom did not mean a thing.

(more)

I know some of you may think that this is an isolated case, but I'm telling you that it has happened time and time again. A lot of good teachers have lost their job because of the number of points scored on a scoreboard as opposed to the number of points scored on a test.

If you look closely at SB 583, you will find that it is no different than the bills you've seen in the last two years. This is a bill to change the ruling in my case.

SB 583 would allow school boards to include extra duties as part of the primary contract, if the teacher agrees. I ask you, what teacher looking for a job, or one who does not have tenure is going to feel he can refuse to take those duties? If he does, he's not going to get the job or he will lose the one he has. And what happens to those who do agree and after a few years when their age tells them it's time to stop, are they going to lose their teaching jobs, too? If this bill is passed they can.

And what about the person who does not win on the football field, is he going to lose his teaching job because he didn't get to the state play-offs? If this bill passes, he will.

I want you to take a few minutes and think about what would be the education value of unifying the teaching and supplemental contracts? You take a teacher who really does not want the extra duty, pay him about \$1.00 an hour to do it -- in fact, you force him to take it -- he may or he may not be qualified to do it. Somewhere down the line this extra duty will cost him his job. What kind of attitude do you really think he will bring into this program? He's going to hate it and mistrust the people who put him in it. The students who are in the program will not care because the person in charge doesn't care. What kind of value is that to learn? Plus the fact you have taken away time that he could be spending preparing for his work in the classroom.

This bill is not good for education - it's just convenient for the board.

(more)

I think that if you look closely at the results of the survey that was conducted last summer you will find that a very small percentage of the school districts have actually been affected by my court case. Teachers have not resigned their extra duties all at once. No programs have been cancelled.

In closing I would like to leave you with three things to really think about:

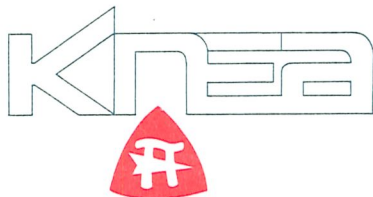
#1 is the moral part of this issue. Are we hired to teach or coach? What's the most important part of our jobs? I think we all know that. If this bill passes you will see good teachers being fired for their win-loss record, not their teaching record.

#2 I know of a person right now who has taught and coached for six years. He wants to give up part of his coaching duties. He was told to "wait until we see what happens to this bill." His job is in your hands. If this bill goes through, he will lose his teaching job of six years before he is allowed to give up that part of his coaching duty.

Lastly, it's been just two years since we have finally made the law clear to everyone. So instead of jumping in and changing the law, let the trust return.

Let's give the present system time to show it can work. I think it will.

Thank you. I'd be glad to answer any questions.



Craig Grant Testimony Before The
Senate Education Committee
February 13, 1986

Thank you, Mr. Chairman. Members of the Committee, my name is Craig Grant and I represent Kansas-NEA. I appreciate this chance to talk to the committee about SB 583.

Shakespeare's often used quote of "A rose by any other name still smells as sweet" could be revised to help describe our opinion of SB 583. No matter that the wording of this proposal is changed drastically from last year and the testimony takes a different slant, SB 583 has the exact same effect as HB 2118 and HB 2116 which were considered and not passed last year. When one looks very closely at the wording of SB 583, it does not take much imagination to see how this would occur.

Let's first look at lines 26 and 27. This wording would tie all duties which occur during the duty day to the primary contract if they were deemed necessary to the educational program. As I assume that the board of education would determine what was necessary to the educational program, this would bring all coaching, lunchroom supervision, class sponsorships, club sponsorships, and the myriad of other extra duties which start right after the student day, but before the end of the teacher duty day, under the primary contract. Just in case any supplemental duty would "slip through the net," lines 28 through 30 would allow a board to pressure an individual to include his or her extra duties as part of the primary contract. I cannot imagine any person looking for a job, or a probationary teacher for

that matter, refusing to tie supplemental duties to the primary contract. If a person did not, he or she would not get the job or would probably be nonrenewed as a probationary teacher. Once that supplemental duty was tied to the primary contract, it would be subject to the continuing contract law and a teacher could not resign that part without resigning his or her teaching contract.

Kansas-NEA has not altered its position since last year on supplemental contracts. We believe that teachers are (and should be) hired for those teaching duties outlined in the primary contract of employment. Those instructional activities, ones too often overshadowed by the extra-curricular activities, have been stressed over and over again by the reports like the Nation at Risk. A change in the supplemental contract law would be a step backward in the signals we have been sending to our teachers, parents, and students.

Kansas-NEA further believes that there has been no demonstrated need for a change in the statutes. Although you have received information to the contrary, I submit to you that there is little or no problem in Kansas districts that would warrant such action. The survey authorized by the interim committee on education and sent by Dale Dennis this summer would substantiate my statement.

Since this survey was sent to superintendents, I am surprised at the results. With the Kansas Association of School Boards having this issue as its number one priority in 1985, 1986, and beyond, and with the KASB staff touring the state last summer and fall to "stir up the troops" on this issue, I am surprised that most districts did not indicate that the entire

education system would collapse if this change did not occur. It is obvious that this did not happen. School started this fall. We are educating the students. The football and basketball games on Monday, Tuesday, Thursday, Friday, and Saturday (and in some places even on Wednesday) are still being played. Since the three years since the Harvey Swager case, districts have not suffered because of this great loss in power. It seems like the teachers are not abusing this new found strength like certain boards did prior to the court case.

I have attached a five page analysis of the survey results from this summer, broken down by size categories. The final page is the summary of all responses. When asked if the Swager case had an impact on the district, 113 out of the 281 respondents, or 40.2%, indicated that it had. That might seem that there are problems. However, when asked if the district was unable to meet its needs for co-curricular personnel, only 24 out of 281, or 8.5%, answered yes. Taking those 24 and closely analyzing the specific responses, we find that six were not doing anything about it (as of July), three thought it would be a future problem, six were working on the problem possibly using Rule 10 as a solution, and six were not willing to use the avenue of Rule 10 sponsors. That left three districts with actual problems as of July. Jewell, USD 279, had two assignments unfilled; Leoti, USD 467, had one pep club position unfilled; and Waterville, USD 498, had no plans, would not use Rule 10 and believed that sports should be a part of the curriculum. What we are left with is three districts out of 281 respondents, or 1.1%, which demonstrated a problem. I am not aware that those districts dropped their sports program or pep club. This dramatic lack of need does not demonstrate

that any action is necessary. The same arguments, used by the KASB when we bring six or seven unilateral contracts or 10 or 15 nonrenewals which were dealt with unfairly and they tell us the system is working, should be sufficient to show no need for a change in the law.

Kansas-NEA hopes that this committee will not pass SB 583. Teachers have not left their supplemental positions in mass numbers. There are legitimate reasons for teachers who have been coaching for a number of years to resign their supplemental contract and still provide a valuable service to the district as a classroom teacher. With the loosening of Rule 10, districts have the flexibility to hire outside the teaching staff to assist in the peripheral activities of the school. We urge this committee to report SB 583, the wilted rose which still smells decayed, unfavorably for passage.

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

ANALYSIS OF SURVEY RESULTS
Districts with 0-399.9 Enrollment

Districts answering "yes" to impact of Swager case on district.

33 out of 93 responding = 35.5%

Districts not able to meet needs for co-curricular personnel.

9 out of 93 responding = 9.7%

Analysis of districts "unable" to meet needs.

4 - taken no steps
2 - refuse to use Rule 10
1 - making adjustments
7 Total

Districts who attempted but have thus far been unsuccessful.

#279 - Jewell - One person, two assignments unfilled yet.
#359 - Argonia - Two coaches want to be relieved of
some of their duties.

Actual Problem

One district out of 93 responding (1.1%) has two positions to fill as of the survey.

ANALYSIS OF SURVEY RESULTS
Districts with 400-1,999.9 Enrollment

Districts answering "yes" to impact of Swager case on district.

73 out of 154 responding = 47.4%

Districts not able to meet needs for co-curricular personnel.

14 out of 154 responding = 9.1%

Analysis of districts "unable" to meet needs.

4 - refuse to use Rule 10
1 - doing nothing
2 - will be a future problem
2 - looking toward aides
9 - Total

Districts who attempted but thus far have been unsuccessful.

#271 - Stockton - Increased pay. Will use Rule 10 if necessary.
#365 - Garnett - Six vacancies. Will use Rule 10 if necessary.
#417 - Council Grove - Working on problem.
#467 - Leoti - One pep club position not filled.
#498 - Waterville - No Rule 10. No plans. Believe that sports
should be part of the curriculum.

Actual Problem

One district has one vacancy and one district (Waterville) has no plans to do anything. (2 out of 154 responding = 1.3%)

ANALYSIS OF SURVEY RESULTS
Districts with 2,000-9,999.9 Enrollment

Districts answering "yes" to impact of Swager case on district.

6 out of 29 responding = 20.7%

Districts not able to meet needs for co-curricular personnel.

1 out of 29 responding = 3.4%

Analysis of districts "unable" to meet needs.

#418 - McPherson - Had 13 resignations. Believe 9 or 10 were because of Swager. Have not dealt with question because of re-organization.

Actual Problem

One district out of 29 responding (3.4%) had some vacancies, but doesn't seem to have a plan to deal with it.

ANALYSIS OF SURVEY RESULTS
Districts with over 10,000 Enrollment

Districts answering "yes" to impact of Swager case on district.

1 out of 5 responding = 20.0%

Districts not able to meet needs for co-curricular personnel.

0 out of 5 responding = 0%

Actual Problem

There seems to be no problem in this enrollment category.

ANALYSIS OF SURVEY RESULTS
Summary Page

Districts answering "yes" to impact of Swager case on district.

113 out of 281 responding = 40.2%

Districts not able to meet needs for co-curricular personnel.

24 out of 281 responding = 8.5%

Analysis of districts "unable" to meet needs.

- 5 - taken no steps
- 6 - refuse to use Rule 10
- 2 - look for future problems
- 2 - looking toward Rule 10
- 1 - making adjustments
- 1 - may be a future problem
- 3 - working on problem. Rule 10 if necessary
- 1 - Has not dealt with problem
- 21 - Total

Actual Problem

One district has two assignments unfilled (Jewell), one district has one assignment unfilled (Leoti), and one district has no plan and believes that sports should be part of the curriculum (Waterville). (3 out of 281 = 1.1%)