

Approved March 17, 1987

Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

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

1:30 ~~xxx~~ a.m./p.m. on Monday, March 16, 1987 in room 254-E of the Capitol.

All members were present except:

Committee staff present:

Mr. Ben Barrett, Legislative Research Department
Ms. Carolyn Rampey, Legislative Research Department
Mrs. Millie Randell, Secretary

Conferees appearing before the committee:

SB 358 - Higher education faculty relations act
(Ways and Means)

Dr. Sidney Shapiro, Professor of Law, University of Kansas; Presiding Officer of the Faculty Council, University of Kansas
Dr. Robert Hohn, President of the University of Kansas Chapter of the American Association of University Professors
Mr. Craig Grant, Director of Political Action, Kansas-National Education Association
Mr. Roy Gunter, a high school teacher at Shawnee Mission Northwest; President, Shawnee Mission-National Education Association
Professor Peter Hamlet, President, Pittsburg State University Chapter, Kansas-National Education Association
Dr. Clifford Griffin, Professor of History, University of Kansas; past president of the University of Kansas-National Education Association
Mr. Ted Ayres, General Counsel, State Board of Regents

Following a call to order by Chairman Joseph C. Harder, Senator Allen moved that minutes of the meeting of March 9 be approved. The motion was seconded by Senator Arasmith, and the motion carried.

SB 358 - The Chairman then introduced the first conferee on SB 358, Dr. Sidney A. Shapiro, Presiding Officer of the Faculty Council at the University of Kansas. Dr. Shapiro informed the Committee that his organization's concern with SB 358 is that it would treat higher education faculty members in a different manner from other state employees. Dr. Shapiro, in his testimony found in Attachment 1, urged that the Committee recommend SB 358 to an interim committee to study possible changes in the Public Employer-Employee Relations Act for all state employees.

The President of the University of Kansas Chapter of the American Association of University Professors, Dr. Robert Hohn, offered the Committee five reasons why he feels SB 358 should not be passed in his testimony found in Attachment 2.

Mr. Craig Grant, representing Kansas-National Education Association, stated that SB 358 would remove faculty members under the Board of Regents from the Public Employer-Employee Relations Act and place them under a separate, more restrictive statute. He said that SB 358 would undo all the good which has been accomplished through the length of time the PEER Act has been in place in his testimony found in Attachment 3.

Mr. Roy Gunter, President of National Education Association-Shawnee Mission, stated that SB 358 would deny higher education faculty members a process used not only by other teachers across the state but also by higher education faculties throughout the nation. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION,
room 254-E, Statehouse, at 1:30 ~~am~~/p.m. on Monday, March 16, 19 87

Professor Peter Hamlet, President of Pittsburg State University Chapter of the Kansas-National Education Association, informed the Committee that Pittsburg State University is the only Regents institution which has an organized faculty and, in reply to a question, said that this has been in existence for twelve years. Professor Hamlet said that SB 358 is identical to SB 833 which had been introduced in 1984 in anticipation of possible problems the Regents felt may occur because of the organized faculty at Pittsburg State University (Attachment 5). In further response to questions, Professor Hamlet replied that occasionally a grievance is filed.

Dr. Clifford Griffin, past president of the University of Kansas-National Education Association, maintained that SB 358 would repeal all the significant provisions of the Public Employer-Employee Relations Act as they affect faculty members and the interpretation of that law by the State Supreme Court in 1983. (Attachment 6)

Mr. Ted Ayres, General Counsel, State Board of Regents, after asking for recognition by the Chair, responded to a previous inquiry by stating that the Board of Regents was not the initiator of SB 358. Mr. Ayres said, however, that the Regents had requested introduction of SB 833 several years ago in order to help clarify the Kansas meet and confer law and to make the process more conducive to higher education. Mr. Ayres declined to take a position on the present bill, SB 358, because, he explained, the Board of Regents had not yet had the opportunity to meet and to consider it since its introduction.

Following testimony by the conferees on SB 358, the Chairman said that the bill would be taken under advisement. He then adjourned the meeting.

SENATE EDUCATION COMMITTEE

Monday,

TIME: 1:30 p.m. PLACE: 254-E DATE: March 16, 1987

GUEST LIST

NAME

ADDRESS

ORGANIZATION

Josh Hamlet	2016 S Taylor	Pittsburg, Mo
Lucy Hamlet	2216 S Taylor	Pittsburg, Mo PSU-KNEA
Eliza Hamlet	2216 S Taylor	Pittsburg
Jane Taylor	Route 1, Independence, Ks.	KNEA
Val DeFever	3014 Crown Dr. Indep., Ks.	KNEA
Sandra Wick	945 Centennial Dr. Lawrence, KS	KU
Shirley Shapiro	1647 Indiana, Lawrence, KS	KU
Robert L. Hohn	3016 Yellowstone Drive Lawrence, KS	KU-AAUP
Ruth Wilkin	Topeka	AAUP
Jerry Powell	Topeka	DAR
Mark C. Sallie	Topeka	ASK
Peter Hamlet	2216 S Taylor, Pittsburg	PSU/KNEA

SENATE EDUCATION COMMITTEE

Monday,
March 16, 1987

TIME: 1:30 p.m.

PLACE: 254-E

DATE: _____

GUEST LIST

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
John Conard	Governor's Office	
Phil Muth	State Senate	504-N
Widnie Thomas	Univ. of Ks	Lawrence
Ted Ayres	Bd. of Regents	Topeka
Jean Sagan	Bd of Regents	Lawrence
Craig Grant	Topeka	K-NEA
ROY GUNTER	Shawnee Mission	K-NEA / NEA-SM
CLIFFORD S. GRIFFIN	Dept. of History - KU KU NEA Lawrence	KU-NEA
Ray Cline	Topeka	K-NEA
Faith Corbett	Dzpt. of Adm. Serv.	
Merle Hice	Topeka	KACC
Kathryn Dysart	Wichita	WSD 259
Sam Babb	Topeka	KU
Marlin Rein	Law	KU
Mike Anderson	Law	KU

Statement of Sidney A. Shapiro
Presiding Officer of the Faculty Council
University of Kansas

Senate Committee on Education
March 16, 1987

I. Introduction

- A. My name is Sid Shapiro and I am the Presiding Officer of the Faculty Council at the University of Kansas.
- B. The Faculty Council is composed of thirty-nine elected members of the faculty responsible for the governance of academic matters at KU.

II. Equitable Treatment

- A. We take no position on the merits of the legislation before this committee except for one aspect of the bill
- B. The bill under consideration would treat faculty members in a different manner than other state employees
- C. We believe that whatever changes this committee might wish to make, it should make them for all state employees, or for none at all.
- D. We do not believe it is equitable to set up different classes of state employees and attempt to assign to them different rights and liabilities.

III. Interim Study

- A. The matter of labor relationships appears to be a complicated one.
- B. We urge this committee to assign this bill to an interim committee to study possible changes in the Public Employees Relations Act for all state employees.
- C. We believe such an action would provide the Legislature with the opportunity to study this matter thoroughly and possibly to forge a compromise with which all interested parties might agree.

Senate Education
3/16/87
Attachment 1

THE UNIVERSITY OF KANSAS CHAPTER
American Association of University Professors
LAWRENCE, KANSAS 66044

To: Members of the Kansas Senate Education Committee
From: Robert Hohn, President of the KU chapter of the American
Association of University Professors (AAUP)
Re: Senate Bill #358

Reasons to defeat this bill

1) While the issue of higher education faculty-state relations is an important one, and the Senate is correct in considering it, this bill does not improve the current situation. Faculty at state institutions work for the state of Kansas and the state Board of Regents. The proposed bill restricts contact between faculty members and the Board, limiting meet and confer activities to faculty and the administration of the state educational institution, which of course already exists. At a time when bills have been introduced to expand the scope of the Board of Regents, it would appear important to permit channels of input between the Board and as many different sources of information and advice as possible, rather than limit interaction. Faculty have special expertise which can be of use to the state in conducting the business of higher education.

2) The bill separates faculty from other state employees in denying the right to meet with their employers, while other state employees can do so. Such a procedure is discriminatory, unjust and of questionable legality.

3) The bill in its intent sends a message to not only current faculty, but to prospective faculty members in other states, who will be needed in the future to maintain and improve the state's educational mission. That message is: we do not value your counsel, we do not want to listen to your needs and interests; you have no place in making requests effecting your future. Such a message does not reflect well on the State of Kansas.

Senate Education
3/16/87
Attachment 2

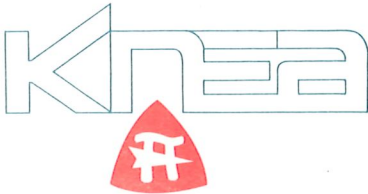
4) By narrowing the scope of the "conditions of employment" that can be discussed according to Section 3(r), the very areas where individual faculty members have particular concerns and competence are eliminated. Faculty have ideas as to the procedures to be followed to manage a vigorous institution, they have ideas as to the establishment of priorities for that institution. To limit faculty input to only these items relating to salary, benefits and other such pecuniary matters is to waste a source of information and serves to further turn faculty concerns narrowly inward.

5) There is a growing crisis in higher education in our state. For a variety of reasons, some beyond the control of those of us here, support for higher education has recently diminished. The quality of education offered to our students is currently suffering. We feel that the valuable time and effort of the Senate Education committee would be more profitably used to consider how to address this problem. This bill rather than aid in meeting this crisis will succeed only in reducing the necessary discussion, interaction and shared problem-solving of all those devoted to higher education.

For the reasons above, we ask you to defeat Senate Bill #358.

Craig Grant Testimony Before The
Senate Education Committee

March 16, 1987



Thank you, Mr. Chairman. Members of the Committee, my name is Craig Grant and I represent Kansas-NEA. I appreciate this opportunity to visit with the committee in opposition to SB 358.

The basic thrust of SB 358 would be to remove faculty members under the Board of Regents from the Public Employer-Employee Relations Act and place them under a separate law. This law would be significantly different than the PEER Act and would diminish the rights of faculty to organize collectively to negotiate the terms and conditions of employment. It would basically create a separate set of conditions for faculty and other state employees.

The faculties in Kansas have been under the PEER law since its creation. One faculty organization chose to organize under its provisions—the faculty at Pittsburg State University. A member of that faculty organization will be here to talk in more detail about their situation. It is clear that a stormy relationship existed for a period of time between the Regents and the faculty. The parties went to impasse quite a number of times and a major court case was fought between the two groups.

This type of conflict is not uncommon when a procedural statute is new and both sides wish to test each other as well as the law itself. What usually happens is that parties who are really interested in negotiating in good faith begin to work out their differences and a period of good relationship begins to exist. The era of good feelings does not always mean that an agreement will be reached without the help of an outside professional--a mediator or a fact-finder; rather, it does mean that there is mutual trust and respect between the parties and continued good faith attempts are made by both sides.

Senate Education
3/16/87, Attachment 3

That era of good feeling now exists at Pittsburg State. For many years now the sides have been extremely successful in reaching mutually satisfactory agreements. The negotiations relationship has been the cornerstone for improved morale and significant input by the professional faculty into the operations of the University. I attribute the new attitude to two significant events--a change in administration and both sides deciding that they should make good faith attempts to work with the law rather than trying to change it through the legislature or courts.

One thing the experience at Pittsburg State has demonstrated is that the Public Employee-Employer Relations Act can work. It may not be perfect in the opinion of both sides, but it certainly has been shown to be an effective statute. SB 358 would undo all the good which has been accomplished throughout the length of the PEER Act by removing faculty and placing them under a much more restrictive statute. Kansas-NEA asks that you not allow us to step backwards by reporting SB 358 unfavorably for passage.

Thank you for listening to our concerns.

Mr. Chairman and members of the committee, I am Roy Gunter, a high school teacher in Shawnee Mission and President of NEA of Shawnee Mission. I am here today representing the 20,000 members of Kansas-NEA in opposition to Senate Bill 358.

It is a matter of grave concern to us that anyone would consider such a bill that would make our colleagues at the state's four-year colleges second-class citizens. This bill would take from them the right to have their concerns addressed in a meaningful way at the negotiating table. It would deny them a process used not only by other teachers across Kansas but by higher education faculties across the nation.

We who teach in the public schools in Kansas strongly feel the need for all our colleagues, including the faculty in the four year institutions, to be accorded the same trust and dignity. A meaningful negotiations process assumes that trust and provides that dignity.

We are indeed outraged that our higher education colleagues should be singled out and treated with disdain.

The states and localities throughout the nation that are making progress are those that recognize the need for excellence in education. That excellence cannot be achieved by denying a voice to school faculties.

The 20,000 members of Kansas-NEA urge you to reject S.B. 358.

Senate Education
3/16/87
Attachment 4



Testimony of Peter Hamlet Before the Education Committee, 3-16-87

Mr. Chairman, Members of the Committee, my name is Peter Hamlet. I am President of KNEA at Pittsburg State University, the only Regents institution to have an organized faculty. I appreciate this time to talk about SB 358.

SB 358 is identical to SB 833 from 1984. The Regents' testimony on that bill predicted that they would have trouble managing Pittsburg State unless the bill was passed. It was not passed, and yet the new president at PSU has established harmonious relations with the faculty and is managing very well.

The introduction of SB 358 indicates that the settlement at Pittsburg has not convinced everyone that the University of Kansas faculty can organize without a decrease in effectiveness. Differences of opinion are what make horse races. However, passing a law to solve a possible future problem is like shooting a horse before a race because it might break a leg. I urge the committee to shoot this bill instead and let the present law continue to bring Regents and professors together.

Senate Education
3/16/87
Attachment 5

Testimony of Clifford S. Griffin on Senate Bill No. 358 before the Senate Committee on Education, Session of 1987.

Mr. Chairman and Members of the Committee:

I am Clifford S. Griffin. I am professor of history at the University of Kansas. I represent the members and supporters of the KU-National Education Association. We urge you to defeat this bill. If it becomes law, it will work directly against the welfare of the faculty and therefore against the welfare of KU as a whole.

This bill takes away from faculty members certain powers that we have under present law. It repeals all the significant provisions of the Public Employer-Employee Relations Act as they affect faculty members, and also the interpretation of that law by the State Supreme Court in 1983.

I want to stress five main differences between present law and this bill, and explain why each of them harms the faculty's welfare.

First, present law obliges public employers and employees to enter into discussions on matters related to conditions of employment with affirmative willingness to resolve grievances and disputes. It makes employees the equals of their employer in discussions. This bill ends that obligation. It provides only for meeting and conferring, simply to exchange information, opinions, and proposals. Present law contains a good faith requirement for both parties. There is no good faith requirement in this bill. Further, the employer under S.B. 358 may choose not to meet and confer at all. (K.S.A. 75-4321(5)(b); 75-4322(m); 75-4327(b). Kansas Board of Regents v. Pittsburg State University Chapter of KNEA, 233 Kan. 802 (1983). S.B. 358, Secs. 2(d), 7(d).)

This is discrimination against the faculty. This bill leaves present law intact for other public employees, but not for us. Other public employees can apparently be trusted to negotiate as equals with their employers. The faculty apparently cannot. We wonder why, and we object to that idea.

Second, present law holds that all matters substantially related to conditions of employment can be negotiated. This bill says that there is no requirement to consider matters that merely impact or relate to conditions of employment. (233 Kan. at 819. S.B. 358, Sec. 3(l).)

This is also discriminatory as compared with other public employees. And it prohibits us from offering to our employer many of our ideas for improving the quality of the University.

Third, present law provides for reaching a memorandum of agreement, which is in effect a legally binding contract for both groups. This bill provides only for a memorandum of understanding about matters met and conferred on. (K.S.A. 75-4322(n); 75-4330. Raymond Goetz, "The Kansas Public Employer-Employee Relations Law," 28 Kan. L. Rev. 243 (1980). S.B. 358, Secs. 3(m), 13, 14.)

But a memorandum of understanding has no contractual status. Actually, it may say only that the parties disagree on various points. We urge this committee to agree that where both public employers and employees exist according to law, the agreements they reach should have standing in law.

Fourth, present law holds that the Board of Regents is our employer. This bill says that each of the Regents' institutions is the faculty's employer. (233 Kan. at 812. S.B. 358, Sec. 3(e).)

But the Board of Regents must be our employer. Both the Kansas constitution and this bill give the Board power to control and supervise their institutions. But surely this power includes the power to establish employment policies, which surely makes the Board the employer. This bill contradicts itself. Further, this bill requires the submission of any memorandum to the Board for its approval or disapproval, which is one of the usual powers of an employer. (Kan. Const., Art. 6, Sec. 2(b). S.B. 358, Secs. 2(a)(2), 14.)

Fifth, present law gives the employer power to suspend or discharge

employees "for proper cause." This bill gives the employer power to suspend or discharge, and the words "for proper cause" are omitted. (K.S.A. 75-4326(c). S.B. 358, Sec. 6(c).)

If S.B. 358 is passed, this omission can be used to destroy our present tenure system. This omission can be read as an attack on that system. But the tenure system is absolutely the most important protection we faculty members have of our freedom to pursue truth. And the free pursuit of truth is what we mean by quality in higher education.

Quality in public higher education in Kansas requires that this bill be defeated.

Thank you for the opportunity to explain why it should not pass.