

Approved March 18, 1991
Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

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

3:00 ~~xxx~~ a.m./p.m. on Monday, March 4, 1991 in room 254-E of the Capitol.

All members were present except:

Committee staff present:

Mr. Ben Barrett, Legislative Research Department
Ms. Avis Swartzman, Revisor of Statutes
Mr. Dale Dennis, Assistant Commissioner of Education
Mrs. Millie Randell, Committee Secretary

Conferees appearing before the committee:

Following a call to order by Chairman Joseph C. Harder, Senator Anderson moved that minutes of the Committee meeting of February 12 be approved. Senator Frahm seconded the motion, and the minutes were approved.

SB 48 - Concerning special education for exceptional children, affecting the Kansas state school for the deaf and the Kansas state school for the visually handicapped.

The Chairman announced that the Committee would review, have discussion and take possible action on SB 48 and requested Mr. Ben Barrett, staff, to review the purpose of the bill which, he said, had been requested by the State Board of Education.

Mr. Barrett explained that SB 48 applies to special education and deals with the State schools for the deaf and visually handicapped. He said the State Board of Education would like the law amended so that school districts would remain responsible for special education services and, in particular, for due process procedures for those youngsters who receive their schooling at the State schools for the deaf and visually handicapped.

When the Chair asked the Committee's pleasure, Senator Frahm moved and Senator Anderson seconded the motion to recommend SB 48 favorably for passage. The motion carried.

SB 122 - School districts, bid requirements, exemptions.

The Chair reminded the Committee that although the concept of SB 122 had been passed last year, the bill needs some technical changes in order to clarify its intent. Ms. Avis Swartzman, revisor, explained that the Kansas Association of School Boards felt that some of the language in the law might make it seem that districts would have to bid for professional services, and SB 122 clarifies that this is not true. When the Chair called for the question, Senator Anderson moved that SB 122 be recommended favorably for passage. Senator Kerr seconded the motion, and the motion carried.

SB - 121 - School districts, composition of boards of education.

The Chair asked the Committee to turn its attention to SB 121 which, he explained, would prevent employees of a school district from serving on the school board which employs them. When he asked the Committee's pleasure, Senator Montgomery moved that the Committee recommend the concept of SB 121 be studied by an interim committee. Senator Walker seconded the motion, and the motion carried.

SB 62 - Student Publications Act

After calling the Committee's attention to SB 62, the student publications

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act, the Chair explained that the primary author of the bill, Senator Lana Oleen, had submitted an amendment (Attachment 1) to the bill using language that had been agreed upon by both Senator Oleen and Ms. Pat Baker, general counsel, Kansas Association of School Boards. He then asked the Committee's pleasure regarding the proposed amendment. Senator Walker moved that the Committee adopt the amendment (Attachment 1) which had been requested by Senator Oleen. Senator Anderson seconded the motion, and the amendment was adopted.

In the temporary absence of Senator Langworthy, the revisor informed members she had drafted an amendment to SB 62 for Senator Langworthy and explained that the proposed amendment would clarify responsibility in the event of a liability suit. Senator Langworthy then moved that the Committee adopt the amendment (Attachment 2) clarifying responsibility in a liability suit. Senator Anderson seconded the motion, and the amendment was adopted.

Senator Walker moved that SB 62, as amended, be recommended favorably for passage. Senator Karr seconded the motion. Following a call for a division, (five yeas and four nays) the Chair ruled that the motion had passed.

SB 208 - Teacher certification, alternate program.

When the Chair called for Committee action on SB 208, relating to alternative certification, Senator Kerr moved that SB 208 be recommended favorably for passage. Senator Frahm seconded the motion.

Senator Walker made a substitute motion to delete on page 3, subsection (g), starting with "The school", lines 19, 20, 21, 22, and 23, relating to conditions of employment. Senator Karr seconded the motion. Following a call for a division (four yeas and five nays) the Chair ruled that the substitute motion was rejected.

The Chair called for a vote on the primary motion made by Senator Kerr and seconded by Senator Frahm to recommend SB 208 favorably for passage. The Chair ruled that the primary motion carried.

SB 191 - School districts, preschool programs for at-risk pupils.

The Chair called the Committee's attention to SB 191, relating to preschool programs for at-risk children. When Committee concern was expressed relating to the fiscal note associated with SB 191, the Chair requested Mr. Dale Dennis, staff, to review the fiscal note for the Committee. Mr. Dennis pointed out that the fiscal note would depend upon the number of districts which would choose to utilize this program. Estimating that approximately 770 students out of an eligible 7700 would utilize the program, counting those students as one quarter, which would equate to 192 FTE students at a cost of \$4,144 each (the statewide estimated cost per average student), Mr. Dennis reported that this would grant budget authority of about \$790,000, plus transportation costs to and from school of about \$360,000, based on the assumption the students could be transported at one half the cost of a student now being transported.

When the Chair asked the Committee's pleasure, Senator Frahm moved that SB 191 be recommended favorably for passage. Senator Langworthy seconded the motion.

Senator Montgomery made a substitute motion that SB 191 be rereferred to the Committee from Ways and Means for review, discussion, and possible action at a later date when the Committee should know the amount of funding for education that might be expected. Senator Allen seconded the motion, but the Chair ruled that the substitute motion did not pass.

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When the Chair called for action on the primary motion made by Senator Frahm and seconded by Senator Langworthy to recommend SB 191 favorably for passage, he ruled that the motion had carried.

SB 96 - School districts, educator excellence recognition award program.

When the Chair called for discussion and/or action on SB 96, Senator Walker moved that the Committee table SB 96, relating to the educator excellence recognition award program. Senator Parrish seconded the motion.

Senator Allen made a substitute motion that SB 96 be recommended favorably for passage. Senator Frahm seconded the motion. Following a call for a division (five yeas and four nays) the Chair ruled that the substitute motion had carried.

The Chair adjourned the meeting.

SENATE EDUCATION COMMITTEE

(Upon
TIME: 3 p.m. Adj.) PLACE: 254-E DATE: MONDAY, MARCH 4, 1991

GUEST LIST

NAME

ADDRESS

ORGANIZATION

Dan Hermes	Topoka	NOB
Pat Baker	Topoka	KASB
Wesley Ayle	Topoka	U.S.D. # 500
Billie Highfield Scott	Topoka	USA
Connie Howell	Topoka	SL Bd of Ed
Tim Emery	Independence	SL Bd of Ed

Attendees numbered between 20 and 25, but guest list did not get circulated to the full extent possible.

SENATE BILL No. 62

By Senators Oleen, Anderson, Burke, Ehrlich, Karr, Martin,
Moran, Parrish, Walker, Winter and Yost

1-25

9 AN ACT enacting the student publications act.

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

11 Section 1. This act shall be known and may be cited as the
12 student publications act.

13 Sec. 2. As used in this act:

14 (a) ~~“Student” means any person who is enrolled in and attending~~
15 ~~any of the grades six through 12 maintained by a school district.~~

16 (b) ~~“School district” means any public school district organized~~
17 ~~and operating under the laws of this state.~~

18 (c) ~~“Student publication” means any material which is prepared,~~
19 ~~substantially written, or published by students under the direction~~
20 ~~or supervision of a student publications advisor or other certified~~
21 ~~employee of a school district and which is distributed or generally~~
22 ~~made available, either free of charge or for a fee, to members of~~
23 ~~the student body. Student publications include, but not by way of~~
24 ~~limitation, materials prepared in conjunction with English, journalism~~
25 ~~or writing classes for publication in student newspapers or yearbooks.~~

26 Sec. 3. (a) ~~Subject to the provisions of subsection (b), students~~
27 ~~have the right to freedom of expression in student publications,~~
28 ~~whether or not such publications are school sponsored, and no ma-~~
29 ~~terial shall be subjected to restraint from publication by the board~~
30 ~~of education or any officer or employee of a school district. Review~~
31 ~~of material prepared for student publications and encouragement of~~
32 ~~the expression of such materials in a manner that is consistent with~~
33 ~~high standards of English and journalism shall not be deemed to be~~
34 ~~or construed as a restraint on publication of the material or an~~
35 ~~abridgment of the right to freedom of expression in student~~
36 ~~publications.~~

37 (b) ~~The right to freedom of expression in student publications~~
38 ~~conferred by this act does not include the right to prepare, publish,~~
39 ~~distribute or make available any material that is libelous or obscene,~~
40 ~~that so incites students as to create a clear and present danger of~~
41 ~~the commission of unlawful acts, or that encourages conduct which~~
42

(a)

(b)

matter

and which is prepared under the direction of a certified employee.

(a) The liberty of the press in student publications shall be protected. School employees may regulate the number, length, frequency, distribution and ^{format} style of student publications. Materials shall not be suppressed solely because it involves political or controversial subject matter.

(b) Review of material prepared for student publications and encouragement of the expression of such materials in a manner that is consistent with high standards of English and journalism shall not be deemed to be or construed as a restraint on publication of the material or an abridgment of the right to freedom of expression in student publications.

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1 students as enumerated in K.S.A. 72-8901, and amendments thereto.
2 Material specified in this subsection is not protected by this act and
3 is subject to restraint from publication.

4 ~~(c) Subject to the limitations imposed by this section, student~~
5 ~~editors of student publications are responsible for determining the~~
6 ~~news, opinion, and advertising content of such publications. Student~~
7 ~~publications advisers and other certificated employees who supervise~~
8 ~~or direct the preparation of material for expression in student pub-~~
9 ~~lications are responsible for teaching and encouraging free and re-~~
10 ~~sponsible expression of material and professional standards of English~~
11 ~~and journalism. No such adviser or employee shall be terminated~~
12 ~~from employment, transferred, or relieved of duties imposed under~~
13 ~~this subsection for refusal to abridge or infringe upon the right to~~
14 ~~freedom of expression in student publications conferred by this act.~~

15 (d) ~~No expression of material in student publications shall be~~
16 ~~deemed to be or construed as an expression of school district policy.~~
17 ~~Members of the board of education of a school district and other~~
18 ~~officers or employees thereof shall be held liable in any civil or~~
19 ~~criminal action for material expressed in student publications to the~~
20 ~~extent of any such member's, officer's, or employee's responsibility~~
21 ~~for and involvement in the preparation and publication of such~~
22 ~~material.~~

23 Sec. 4. This act shall take effect and be in force from and after
24 its publication in the statute book.

- (c) Publication or other expression that is libelous, slanderous or obscene or matter that commands, requests, induces, encourages, commends or promotes conduct that is defined by law as a crime or conduct that constitutes a ground or grounds for the suspension or expulsion of students as enumerated in K.S.A. 72-8901, and amendments thereto, or which creates a material or substantial disruption of the normal school activity is not protected by this act.
- (d) Subject to the limitations imposed by this action, student editors of student publications are responsible for determining the news, opinion, and advertising content of such publications. Student publication advisers and other certificated employees who supervise or direct the preparation of material for expression in student publications are responsible for teaching and encouraging free and responsible expression of material and professional standards of English and journalism. No such advisor or employee shall be terminated from employment, transferred, or relieved of duties imposed under this subsection for refusal to abridge or infringe upon the right to freedom of expression conferred by this act.
- (e) No publication or other expression of matter by students in the exercise under this act shall be deemed to be an expression of school district policy. No school district, member of the board of education or employee thereof shall be held responsible in any civil or criminal action for any publication or other expression of matter by students in the exercise of rights under this act.

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Proposed Amendment to Senate Bill No. 62, As Amended

Insert as an addendum to subsection (e):

"Student editors and other students of a school district, if such student editors and other students have attained the age of majority, shall be held liable in any civil or criminal action for matter expressed in student publications to the extent of any such student editor's or other student's responsibility for and involvement in the preparation and publication of such matter. In the case of student editors and other students who have not attained the age of majority, the parents or guardian of any such student editor or other student shall be held liable in any civil or criminal action for matter expressed in student publications by such student editor or other student to the extent of the student editor's or other student's responsibility for and involvement in the preparation and publication of such matter."

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