

Approved: March 21, 1996
Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION.

The meeting was called to order by Chairperson Barbara Lawrence at 1:30 p.m. on January 23, 1996 in Room 123-S of the Capitol.

All members were present except: Senator Anthony Hensley

Committee staff present: Ben Barrett, Legislative Research Department
Avis Swartzman, Revisor of Statutes
Jennifer Bishop, Committee Secretary

Conferees appearing before the committee: Mark Tallman, KASB
Jim Yonally, Shawnee Mission
Diane Gjerstad, Wichita Public Schools
Sue Chase, KNEA
Jane Adams, Keys for Networking
Lisa Wright, parent

Others attending: See attached list

SB 482: Schools relating to policies requiring expulsion of pupils for possession of weapons

Mark Tallman addressed the committee on the two changes being made to **SB 482**. Both changes are requested to address problems which developed during the implementation of the 1995 legislation. That legislation was a response to a federal law which requires a one year expulsion for any student bringing a gun to school. However, the federal law allows this punishment to be modified on a case by case basis by the chief administrative officer of each school. The bill the committee passed last year only allowed case by case modification for special education students. The first change contained in **SB 482** would allow that modification be made for all students. The change would bring Kansas law into compliance with the federal law and the U.S. Department of Education's interpretation that "Each state must allow the chief administrative officer of an LEA to modify the one year expulsion requirement on a case by case basis. The second change proposed in **SB 482** is purely practical. In its current form, only the school superintendent may conduct the hearing required in the cases. In larger districts, another school official or attorney is often selected to conduct these hearings, with the right of appeal to the school board. KASB believes that the discretion should be extended to weapons cases as well. KASB believes this bill is appropriate because the current law provides absolutely no discretion to local school officers (Attachment 1).

Jim Yonally expressed his opinion in favor of **SB 482**.

Diane Gjerstad addressed the committee as a proponent of **SB 482**. The bill would permit the expulsion hearing as required under law to be conducted by the superintendent or any certified employee of the school or a hearing officer appointed by the Board of Education. Wichita Public Schools would support the modification in the administration of the gun-free schools act. The Wichita Public Schools are currently working under a zero tolerance policy, which is working very for them. The key to its success is communication. Parents are required to sign a letter during enrollment stating that they are aware and understand the zero tolerance policy and ramifications if violated (Attachment 2).

Sue Chase stated that KNEA has mixed reactions to the proposed changes that are contained in **SB 482**. The first change addresses who can conduct the hearings required under the provision. They agree with the changes proposed in the current bill. The changes allow school districts to continue with whatever procedures they have in place for handling hearings. The second change allows districts to modify the expulsion of any student who comes under the policies of the provisions. KNEA sees the change as drastically reducing the impact of the law. Part of the reason for the statute was to provide a strict response to weapons in the schools. In essence it provided a "no tolerance" stand on weapons. If the committee were to adopt the proposed changes, the message that would be sent is "some tolerance." KNEA asked that the committee look further into the proposed changes of the bill before passing it out (Attachment 3).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION, Room 123-S Statehouse, at 1:30 p.m. on January 23, 1996.

Jane Adams addressed the committee as an opponent of **SB 482**. She suggested that the committee study the bill a little bit more. She questioned terms in the bill such as possession and hearing officer. What does possession mean. Who is considered the hearing officer, what are their qualifications, etc. She also stated that "shall" should be put back in line 35. Consider laws which require community agencies to commit resources to rehabilitate, reclaim these "fallen-away" students. The law is barely a year old, no research, no data is available of its effects (Attachment 4).

Lisa Wright addressed the committee as an opponent of **SB 482**. Her son, who is 15 years old, was to be expelled for being in possession of a look a like gun, which was a water gun, at Topeka West High. It was only through the hearing that the parents were able to keep him in school and help the school better understand what his needs were. The parents presented an evaluation by a private psychologist at the hearing that stated the boy had Attention Deficit Hyperactive Disorder in addition to a learning disability and that he did not understand or perceive social situations. She also stated that children with ADHD and learning disabilities are not at the same level of understanding. Kids in this situation need to be given a second chance (Attachment 5).

The meeting adjourned at 2:30 p.m.

The next meeting is scheduled for January 24, 1996.

SENATE EDUCATION COMMITTEE GUEST LIST

DATE: January 23, 1996

NAME	REPRESENTING
Mark Tallman	KASB
Nemue Ayt	USA / KACC
Josie Torres	Families Together
Sherry C Diet	KAPS
Ann Burnett	USD 501 #
Ken Balow	4th Enrollment USD's
Jane Adam	Keyp for Networking
Josie Cozer	"
Jura Wright	"
Margie Pressgrove	Interlab, Intern
Lee Chae	KNEA
Kristen Day	Cap-Journal
Jim McDavitt	KS Ed Watch
Robin Lehman	Olathe USD 233
Helen Stephens	USD 229
Diane Christad	USD 259
Jan Rhy	KS Council on Dev Disabilities
Doug Bowman	CCECOS
Jim Zoually	USD # 512



TO: Senate Committee on Education
FROM: Mark Tallman, Director of Governmental Relations
DATE: January 22, 1996

RE: Testimony on S.B. 482 (Amendments to Gun Free Schools Act)

Madam Chair, Members of the Committee:

Thank you for the opportunity to comment on S.B. 482, which you introduced at our request. The concept of this bill was also recommended by the Joint Committee on Children and Families during the 1995 interim. The bill makes two changes in the Gun Free Schools bill you passed last year. Both changes are requested to address problems which have developed during the implementation of the 1995 legislation

That legislation was a response to a federal law which requires a one year expulsion for any student bringing a gun to school. However, the federal law allows this punishment to be modified on a case by case basis by the chief administrative officer of each school. The bill you passed last year only allows this case by case modification for special education students. The first change contained in S.B. 482 would allow that modification to be made for all students. This change would bring Kansas law into compliance with the federal law and the U.S. Department of Education's interpretation that "Each state must allow the chief administrative officer of an LEA to modify the one year expulsion requirement on a case-by-case basis."

We believe this is appropriate because the current law provides absolutely no discretion to local school officers. A first grade student who brings his or her parents' gun in bookbag without even understanding what a year-long expulsion means; a student who forgets that a hunting rifle is in his trunk; and a high school student who threatens other students at gunpoint in the school cafeteria must all be treated the same way.

Even if the Legislature believes this is appropriate, our member school districts are finding out that the courts do not, and they have the final word. In several cases, districts have expelled students for a year, only to have the courts reinstate the students because courts feel that the punishment is too harsh for the particular students. In those cases, of course, the district faces considerable legal expenses.

The fact is, there will be discretion in dealing with students who violate weapons policies. The only question is whether you will allow local school boards and their administrative staff to exercise that discretion, or require them to defend themselves against legal action by students and parents. The current version of the law is increasing litigation for school

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districts. Parents who face having their son or daughter expelled for 186 days are hiring attorneys and appealing the expulsion to the Board of Education and then the District Court.

The second change proposed in S.B. 482 is purely practical. In its current form, only the school superintendent may conduct the hearing required in these cases. In larger districts, another school official or attorney is often selected to conduct these hearings, with the right of appeal to the school board. We believe these discretion should be extended to weapons cases as well.

This change would raise one additional question of policy the committee may want to consider. Kansas has very specific statues specifying the procedures, form and nature of the school district's and student's rights and responsibilities in an formal expulsion due process hearing (K.S.A. 72-8901 et seq.). If the school district uses a hearing officer or panel to hear all the evidence, should the hearing officer or panel (rather than the "chief administrative officer) be able to make the case-by-case decision on the length of the expulsion, having heard all the facts and evidence? The committee may wish to amend this bill so that whoever conducts the hearing makes the decision on case-by-case exemptions. The term "chief administrative officer" is not defined by the federal Gun Free Schools Act, so we believe the local board of education could assign this responsibility to a hearing officer or panel other than the superintendent.

Thank you for your consideration.

**Testimony regarding
Senate Bill 482
Senate Education Committee**

Senator Barbara Lawrence, chair

Submitted by Diane Gjerstad, Wichita Public Schools

January 23, 1996

Madam Chair and members of the Senate Education Committee:
Wichita Public Schools appreciates your attention to the gun-free schools implementing legislation passed in 1995. This bill addresses would permit the expulsion hearing as required under law to be conducted by the superintendent or any certificated employee of the school or a hearing officer appointed by the Board of Education.

Wichita Public Schools had a zero tolerance policy for two years, prior to the federal law mandating the same. The district had a hearing policy in which the superintendent designated hearing officers. The bill before you would permit USD 259 to return to it's practice prior to the state law passed in 1995.

The mandate that only the superintendent could conduct the hearings is simply not functional in a large school district. Certainly the superintendent is always aware of dangerous situations within our buildings, but having the superintendent conduct the hearing does not accomplish the goal. The hearings must be conducted in an expeditious manner, not subject to a CEO's business, meeting, or travel schedule. The outcome of the hearing process must be kept within standards best maintained by those who have these difficult hearings as part of their job duties.

Wichita Public Schools would support this modification in the administration of the gun-free schools act.

The zero tolerance policy is working. A key to the success is communication. Parents are required to sign a letter during enrollment stating that they are aware and understand the zero tolerance policy and ramifications if violated.

The 1995-96 school year-to-date weapons violations are:

- 3 real guns
- 6 replica guns
- 6 air guns

Year-to-date 150 hearings have been held, of which 130 were expelled or suspended. The Gateway alternative program has been offered to 36 students; 24 excepted and have returned to a regular school building. Sixty-five students have received suspensions, currently 41 are out of school. Climate surveys of our students indicate that students feel safe in their school, even though the neighborhood is not always viewed as safe.

Thank you.

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ATTACHMENT 2*



KANSAS NATIONAL EDUCATION ASSOCIATION / 715 W. 10TH STREET / TOPEKA, KANSAS 66612-1686

Sue Chase Testimony Before
Senate Education Committee
Monday, January 22, 1996

Thank you, Madam Chair, for allowing the Kansas National Education Association the opportunity to speak to this committee concerning SB 482. We have mixed reactions to the proposed changes that are contained in this bill.

We believe there are two substantial changes contained in this bill. The first change addresses who can conduct the hearings required under the provision. We agree with the changes proposed in the current bill. These changes allow school districts to continue with whatever procedures they have in place for handling these hearings.

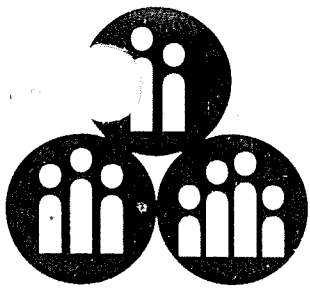
The second change in this bill allows districts to modify the expulsion of any student who comes under the policies of this provision. We see this change as drastically reducing the impact of this law. Part of the reason for this statute was to provide for a strict response to weapons in the schools. In essence it provided a 'no tolerance' stand on weapons. If you adopt the proposed changes, the message you will be sending is 'some tolerance'.

This causes several concerns for teachers; the first being unequal treatment. Prior to the adoption of this law, teachers noticed unequal treatment for students who brought weapons to school. Some students were told never to do it again and others were expelled. Unfortunately, some of these discrepancies had little to do with the act and more to do with who committed the act. We believe we need to send a strong message to all students; 'a school is no place for a weapon'.

Our second concern revolves around what message this sends to the public at large. At a time when violence in the schools is one of the major problems identified by the public, by changing the law to lessen the possible punishment, we send the message that it might be OK for some students to bring weapons into our schools.

We do realize that we need to address the educational needs of those students who are expelled. Allowing exceptions to the rule is not the way of handling those needs. We also realize that there are federal laws that require modification of the rules for exceptional students. We believe that we need to stand strong on this issue and let everyone know that weapons are not a part of the educational process and that we will not tolerate their presence in the schools.

We hope this committee will address the legitimate concerns that are raised by these changes, without weakening the intent of this legislation. Thank you for listening to our concerns.



Keys for Networking, Inc.

The State Organization of the Federation of Families for Children's Mental Health

Senate Committee on Education

January 23, 1996

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Senator Lawrence, Members of the Education Committee:

My name is Jane Adams. I am Executive Director of Keys for Networking, Inc. I am appearing today on behalf of Keys and the parents Keys represents. Keys is a statewide organization, operating since 1988 to **support and mobilize** families with children with emotional and behavioral disabilities through training, education, advocacy, and systems change. Keys is managed by a Board of Directors, the majority of whom are parents of children who have serious emotional and behavioral problems. The work of Keys is to assist families help their children. We advocate for family, child and youth services within the community so families can get the help they need to raise their children in their homes.

(First of all, I support, my agency supports safe, weapons free schools. I also support the deletion of exceptional children in line 40. This is a good addition to the bill; it broadens the protections of the law to a larger number of children, all children. I support protections for all children.

I ask as you study SB 482, that you

1. Define two additional terms in context of the bill:

(a. possession--what does possession mean. I am working with a family from Sedan, Kansas who have a 17 year old son for whom the district defined possession as "knowledge of."

(b. hearing officer--who is this person, what are their qualifications, are they fair, impartial, are they employees of the district, or outside mediators and reviewers of fact as in the requirements for special education due process.

(2. Put back in the word "shall," line 35. Changing "shall" to "may" allows arbitrary decision making and may even deny the family the opportunity to present their case. Surely removing a student from school requires a hearing, requires fair, fact-finding as the very essence of the process, requires hearing the child's story. Shall not may.

(3. Consider laws which require community agencies to commit resources to rehabilitate, reclaim these "fallen-away" students. Something is wrong, at school, at home, real or imagined when a child carries a weapon, anywhere. Removing children from school does not/should not remove them from their community. It can. In 1996, Keys staff worked with a family from Great Bend where the child's suspension from school resulted in his removal from his home (school was a condition of probation). Since he could not go to school, he could not live at home. Since he could not go to school, no foster care home in the community would accept 24 hr supervision for the rates paid. This 14 year old young man was projected for group home placement, half way across the state. Group home cost rates are second only to state hospital rates (\$100,000 per year)--need rate. Keys was called into the community by SRS to mediate with the school.

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Finally, I ask you to request an impact study of what are the benefits and the costs of this practice to these children and to the Kansas taxpayer. This is a punishment law. It addresses no reintegration, no supported family supervision of the child. We have studied the impact of retention on children. Research now shows that for every year retained, a child is 25% less likely to graduate. What is the effect of removing a child all together from school? Do they graduate, will they ever, if they don't will we support them in prison. These are obviously kids in trouble--where does this law require community agencies to come together to solve this problem. As was done in Great Bend, the law now turns the child over to SRS. In 1995, there are new strategies, wraparound is one, SB 43 may be one, to promote, shape the interaction between community agencies to address what will this child learn from this, and how can his parents be helped to get the services he needs.

This law is barely a year old, no research, no data is available on its effects. Please ask for this. We all need to watch what is happening with these children.

Thank you for allowing me the opportunity to present "the other side of this bill." Betty Weathers, who is now deceased, trained most of us in special education. I quote her today, "Kansas education is for all children--all still means all." I have one mother with me today, her child has been expelled, both through the hearing process have had their children returned to school. Please hear their stories.

Lisa Wright
217 Tyler
Topeka, KS.

Senator Lawrence, members of the education committee thank you for giving me the opportunity to testify before you today. My name is Lisa Wright, last year my 15 year old son was to be expelled for being in possession of a look a like gun which was a water gun at Topeka West High School. It was only through the hearing that we were able to keep him in school and help the school better understand what his needs are. The hearing was attended by my worker from SRS and Keys for Networking. The school stated my son attended a counseling session with 200 kids where they were taught what the definition of a weapon is. My son said yes he attended, but that he just brought the water gun so he could play with other kids. He did not understand how a play gun could cause him or anyone else harm. We presented an evaluation by a private psychologist at the hearing that stated my son has Attention Deficit Hyperactive Disorder in addition to a Learning Disability and that he does not understand or percieve social situations. We presented the fact that an attendant care person picked him up from school and spent an hour with him each night to make sure he came home and to work on social skills. Fortunately we had a fair hearing and his schooling continued.

Children with ADHD and Learning Disabilities are not at the same level of understanding. Learning is so hard, that getting kicked out just makes life easier for them by their thinking. If my son had been expelled he would have been even further behind... with no incentive to go back. It would

have been very hard to get him to go back to school and even harder to get him to sit down and learn.

This year he attends Topeka High in the LD/BD classes, one of his IEP goals is to learn and understand the rules and regulations of the school. This year he gets home without an attendant care, and if he is going to be late he calls home. I think he likes going to school, he has made good friends. Only because we had the option of a hearing we discovered his actions were not due to violence and the desire to hurt... his actions were due to his disability or innocence if you will.

If you make the decision not to give these children a second chance we will have generations of lost children... who refuse to be a part of society in a good positive way.