

Approved: B. Lawrence
Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION.

The meeting was called to order by Chairperson Barbara Lawrence at 9:00 a.m. on January 27, 1997 in Room 123-S of the Capitol.

All members were present except: Senator Jones - Excused

Legislative Research Department: Avis Swartzman, Revisor of Statutes
Ben Barret, Legislative Research Department
Carolyn Rampey, Legislative Research Department
Jackie Breymeyer, Committee Secretary

Conferees appearing before the committee: Mark Tallman, KS Assn of School Boards
Gerry Henderson, United School Administrators
Jacque Oakes, Schools for Quality Education
Jim Edwards, KS Assn of Commerce and Industry
Craig Grant, K-NEA

Others attending: See attached list

Chairperson Lawrence called the meeting to order and informed those present that there are two publications from the KASB available in the office for anyone who would care to reference them.

SB 37--boards of education; conferring the power of local control

Mark Tallman, KASB appeared as a proponent on the bill. Mr. Tallman read from his testimony, stating that school boards only have authority which is granted by state law. Boards must have specific authorization to take any action. This differs from Kansas cities and counties, which have home rule powers. The general principle of home rule is that local units may take actions which they believe are appropriate unless prohibited by law, rather than only those actions permitted by law. Because school boards do not have anything like home rule powers they must ask the Legislature whenever they need authority not statutorily granted. The bill clarifies that school districts are subject to all rules and regulations of the State Board of Education and retains a list of specific prohibitions on board authority even with home rule. Mr. Tallman read through the rest of the testimony and answered questions from the Committee. (Attachment 1)

Mr. Tallman was asked if he knew of any 'hidden agenda' associated with the bill. He responded that as far as he knew, there was no hidden agenda. This is a relatively new position for the organization. For many years they did not have a position on this issue. Boards cannot not circumvent any law that has been passed by a higher governmental authority. Mr. Tallman directed attention to page 2, beginning on line 22 of the bill which states, "School districts shall be subject to all acts of the Legislature and all regulations of the state board of education which apply to all unified school districts."

Mr. Tallman was asked if he could give an example of something the bill would allow school boards to do. He responded that if there was a 'gray area' a school board could go ahead with something as long as it was not specifically prohibited by law. An example would be school boards contracting with other entities beyond those provided in statute now for transportation services. Also requiring a mandatory extended day or school year for those students not meeting learning objectives in the regular school day or year. Another example would be to expand the use of student employees at a lower wage than adult employees and use the difference to set up a scholarship fund for those students who graduate. There is no authority now in effect to set up a scholarship fund. A community health center could be operated out of a school building. In looking at these examples and others, Mr. Tallman said that legal staff is not sure there is legal authority to do these things.

In response to a question, Mr. Tallman stated there are concerns that this bill would allow school boards to circumvent state law. The bill is worded to try to show that this is not the case and to ease their concerns.

The litigation aspect of the legislation was discussed. One member stated that with innovation also comes disagreement about what fairness is.

Mr. Tallman was asked to give some specifics of flexibility or innovation that has been brought forward to the Legislature to which the Legislature has not responded. Mr. Tallman responded that generally the Legislature has responded when they have come forward.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION, Room 123-S Statehouse, at 9:00 a.m. on January 27, 1997.

In responding to a question of working on a language compromise with K-NEA, Mr. Tallman said that K-NEA had offered some language, he had taken it back to the attorneys and they had developed a counter proposal. K-NEA is now reviewing this proposal.

Gerald Henderson, United School Administrators, appeared next on the bill. He has had an opportunity to know the content of KSAB's testimony. What seems rather odd to Mr. Henderson is that the entity of local government most often asked to be creative, innovative and responsive is allowed the least flexibility to do so. (Attachment 2).

There being no questions for Mr. Henderson, Chairperson Lawrence thanked him for his testimony and called on Jacque Oakes, Schools for Quality Education to speak next to the bill.

Ms. Oakes began her testimony by stating that the organization believes this bill would allow districts to cut red tape and free them to do their job in a more expeditious manner. Ms. Oakes checked back as far as 1991, where it seems like each year several bills are needed in every session to take care of the districts needing statutory permission to take care of a particular item in their districts. Ms. Oakes believes that school boards will be careful in their use of this new authority and that sufficient safeguards have been put into the bill to prevent any major abuse. (Attachment 3).

Ms. Oakes read from a list of bills that had been introduced since 1991 that had given school boards authorization and permission to do things in the areas of personnel, text books, meal service, etc. Ms. Oakes was asked if she would provide the Committee with copies of the list and she replied in the affirmative.

Jim Edwards, KCCI, addressed the bill as a proponent and thanked the Committee for allowing him the opportunity to lend his organization's support to the concept of providing local boards of education with broader local control and self governance, thereby letting them address issues in a timely manner. Total abdication is not asked for. As long as the state funds education, the Legislature must stay involved. (Attachment 4)

Mr. Edwards was asked if the KCCI had a position on the proposal to abolish the State Board of Education. Mr. Edwards responded that KCCI does not.

The final person to appear on the bill was Craig Grant, KNEA, an opponent of **SB 37**. Mr. Grant said that in the past, he has been encouraged by chairpersons, vice-chairpersons, majority leaders and ranking minority members to find a way to compromise between organizations when an issue such as this comes before the Legislature. He stated there was a way to do away with his organization's involvement by suggesting the addition on page 2, line 38 of a section (H) which states, "School districts may not adopt policies which affect school employees (except administrative employees) unless authorized to do so by the legislature." (Attachment 5). This would ease the organization's concerns. KASB has been informed of this proposal and has suggested a language change. If a change like this can be included in the bill this would eliminate KNEA from the discussion.

Mr. Grant was asked about what school boards are allowed to do in terms of employees and negotiations. His response was that there is a list in the negotiations law of things that are mandatorily negotiable between parties. That is found in KSA 72-5413(1). There is a negotiable list and there is the list where those things may be negotiated if both sides agree. There is also a list of things which are not negotiable. Support personnel are under a different statute. This is contained in the resource book that Chairperson Lawrence has in her office.

One of the members commented that there should be some type of language that reassures personnel that nothing will change with this bill. Teachers and school boards should both be supportive.

Chairperson Lawrence said she would like to take action on **SB 37** at the next meeting and would like to see the proper language for the bill ready, as well. The Committee will also hear **SB 35** and if time permits, take final action on **SB 36**. The Committee will be on call for Wednesday; there will be no meeting Thursday. Any changes will be shown in the Calendar.

The meeting was adjourned.

The next meeting is scheduled for January 28, 1997.



TO: Senate Committee on Education
FROM: Mark Tallman, Director of Governmental Relations
DATE: January 23, 1997

RE: Testimony on S.B. 37 - School Board Local Control

Mr. Chairman, Members of the Committee:

We appreciate the opportunity to appear in support of S.B. 37, which was introduced at our request.

Although the Kansas Constitution is designed to encourage local control by requiring that public schools must be maintained, developed and operated by locally elected boards, school boards only have authority which is granted by state law. In other words, to take any action, school boards must find specific authorization. This differs from Kansas cities and counties, which have home rule powers. The general principle of home rule is that local units may take actions which they believe are appropriate unless those actions are prohibited by law, rather than only those actions permitted by law.

For decades, Kansas and many other states have tried to achieve a better system of public education through mandates, regulations and restrictions. This assumes that all schools and communities are pretty much alike and that the state (or federal government) knows better than local school boards and educators what is in the best interest of students, families and taxpayers. Inevitably the vitality of local control is reduced.

Because school boards do not have something like "home rule" powers, they must go before the Legislature whenever they need authority that has not been statutorily granted. This hinders the ability of school boards to adopt innovative programs and policies to reflect local circumstances.

This bill contains language drafted last session by a subcommittee of the Senate Education Committee to address concerns that this measure would be too expansive or open-ended. It allows local boards to "adopt policies that the board deems appropriate to perform its constitutional duty to maintain, develop and operate local public schools." This new language is taken directly from the Kansas constitution. It also clarifies that school districts are subject to all rules and regulations of the State Board of Education.

The bill retains a list of specific prohibitions on board authority even with "home rule."

- Districts remain subject to all state and federal laws, including regulations of state and federal agencies. We do not believe this bill would allow districts to circumvent student or

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Attachment 1*

teacher due process rights or negotiations procedures. However, we are willing to consider language which would make this point more explicit.

- Districts cannot alter boundaries except as provided by law.
- Districts cannot affect the courts.
- Districts remain subject to debt limitations.
- Districts remain subject to election laws.
- Districts do not receive any new tax or spending authority.
- Districts cannot assume the responsibilities of other units of government.

It is also important to stress that districts would not be allowed to "charter out" of any current laws or regulations. But it would mean that when local school boards, elected by and accountable to the voters every other year, develop new ideas for services and operations in their own communities that are not prohibited by law, they will not have to wait for the entire legislature to consider whether to authorize such action. If "local control" is to have any real meaning, this seems to us the minimum level of local authority school boards should enjoy.

Under this bill, school boards would be able to operate on the same basis as individuals, most organizations and other local units of government: they would have the freedom to determine the best course of action for their districts as long as it is not prohibited by, or contrary to, state or federal law. This change would not require boards to do anything different from what they are doing now, but it would open up new possibilities.

I would be happy to answer questions either now or after they speak. Thank you for your consideration.



SB 37

Testimony presented before the Senate Committee on Education
by Gerald W. Henderson, Executive Director
United School Administrators of Kansas
January 23, 1997

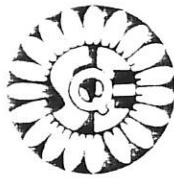
Madam Chairman and Members of the Committee:

Having had the opportunity to know the content of Mr. Tallman's testimony, I will not repeat our shared rationale for supporting **SB 37**. Neither will I attempt to match Mark's eloquence. As in past sessions when we have spoken in behalf of local control or home rule powers for boards of education, we would continue to observe that the entity of local government most often asked to be creative, innovative, and responsive is allowed the least flexibility to do so.

We urge favorable consideration of **SB 37**.

LEG/SB37

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Attachment 2*



Schools for Quality Education

Bluemont Hall Manhattan, KS 66506 (913) 532-5886

January 23, 1997

TO: SENATE EDUCATION COMMITTEE

SUBJECT: CONCERNING BOARDS OF EDUCATION OF SCHOOL DISTRICTS; CONFERRING THE POWER OF LOCAL CONTROL THEREON; IMPOSING LIMITATIONS-SB 37

FROM: SCHOOLS FOR QUALITY EDUCATION

Madam Chair and Members of the Committee:

I am Jacque Oakes representing Schools For Quality Education, an organization of 111 small school districts.

We appear before you in favor of SB 37 which would give home rule to school districts.

We believe that this bill would allow districts to cut red tape and free them to do their job in a more expeditious manner. It would also allow legislators to better spend their time and talents on the major issues of the state, rather than the minor issues of the districts. As I checked back to 1991, it seems each year there are several bills needed during a Session which take care of all districts in a general way or particular districts needing statutory permission to take care of an item belonging distinctively to their district.

If school boards had home rule power, they could meet their own responsibilities with less time and expense to themselves, their constituents, and to Legislators. We have heard many, many times local control. This would return a measure of self-government and local control to elected people in the school districts who manage school business. Home rule seems to work well within our local government entities.

We believe that school boards would be extremely careful in their utilization of this new authority and that sufficient safeguards have been built into SB 37 to prevent major abuses. Please trust your elected, local school boards.

Thank you for your time and positive consideration of SB 37.

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"Rural is Quality"

Attachment 3



MEMBERSHIP ROSTER * *



NORTHEAST REGION

- 221 North Central-Haddam
- 227. Washington
- 223 Barnes
- 224 Clifton-Clyde
- 321 Kaw Valley
- *323 Rock Creek
- 329 Mill Creek Valley-Aima
- 330 Eskridge
- 339 Jefferson County
- 378 Riley County
- 384 Blue Valley
- 415 Hlawatha
- *425 Highland
- 430 South Brown County
- 498 Valley Heights

NORTH CENTRAL REGION

- 104 White Rock-Esbon
- *237 Smith Center
- 240 Twin Valley
- 269 Falco
- 270 Plainville
- 272 Waconda
- 273 Beloit
- 278 Mankato
- 306 Southeast of Saline
- 307 Ell-Saline
- 311 Pretty Prairie
- 324 Eastern Heights
- 325 Phillipsburg
- 326 Logan
- 395 LaCrosse
- 403 Otis-Bison

NORTHWEST REGION

- *208 WaKeeney
- 212 Northern Valley
- *213 West Solomon Valley
- 241 Wallace County
- 242 Weskan
- 274 Oakley
- 275 Triplains-Winona
- 280 West Graham-Morland
- *281 Hill City
- 291 Grinnell
- 292 Wheatland
- 293 Quinter
- 302 Smoky Hill-Ransom
- 304 Bazine
- 314 Brewster
- 316 Golden Plains
- 318 Atwood
- 467 Leoti
- 468 Healy

SOUTHEAST REGION

- *243 Lebo-Waverly
- 245 LeRoy-Gridley
- 252 Southern Lyon County
- 256 Marmaton Valley
- 258 Humboldt
- 284 Chase County
- *285 Cedar Vale
- 286 Chautauqua Co.-Sedan
- 287 West Franklin
- 289 Wellsville
- 344 Pleasanton
- 346 Jayhawk
- 366 Yates Center
- 387 Altoona-Midway
- 390 Hamilton
- *396 Douglass
- 397 Centre
- 398 Peabody-Burns
- 411 Goessel
- *420 Osage City
- 421 Lyndon
- 447 Cherryvale
- *456 Marlas des Cygnes Valley
- 461 Neodesha
- 462 Central
- 471 Dexter
- 479 Crest
- *492 Flint Hills

SOUTH CENTRAL REGION

- 254 Barber County
- 255 South Barber
- 300 Comanche
- *310 Fairfield
- 332 Cunningham
- 347 Kinsley-Offerle
- 354 Claflin
- 355 Ellinwood
- 358 Oxford
- 359 Argonia
- 376 Sterling
- 423 Moundridge
- 424 Mulleinville
- 438 Skyline
- 496 Pawnee Heights
- 509 South Haven
- 511 Attica

SOUTHWEST REGION

- 209 Moscow
- 210 Hugoton
- 214 Ulysses
- 217 Rolla
- 218 Elkhart
- 219 Minneola
- 220 Ashland
- 225 Fowler
- 228 Hanston
- 374 Sublette
- 381 Spearville
- 452 Stanton
- 459 Bucklin
- 476 Copeland
- 477 Ingalls
- 494 Syracuse
- 507 Satanta

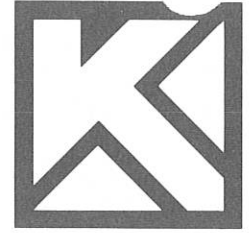
*Denotes new members

**Current as of January 22, 1997

For more information contact:
 Schools for Quality Education Inc.
 124 Bluemont Hall
 Kansas State University
 Manhattan, KS 66506
 (913)532-5886.

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



835 SW Topeka Blvd. Topeka, Kansas 66612-1671 (913) 357-6321 FAX (913) 357-4732

SB 37

January 27, 1997

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate Education Committee

by

Jim Edwards

Director, Chamber & Association Relations

Sen. Lawrence and members of the committee:

Thank you for allowing me the opportunity to lend KCCI's support to the concept of providing local boards of education with the broader local control and self-governance. This is the primary goal of SB 37.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

In these times of rapid change, local boards of education, since they are those closest to the opportunities present, are most often the best equipped to deal with issues as they arise. With this in mind, it makes sense that these local boards be granted the authority necessary to address these issues in a timely manner.

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Attachment 4*

We are not asking for a wholesale abdication of power to local boards of education. As
as the state funds education, the legislature must stay involved. We are however asking that the
legislature delegate the authority necessary which will permit local boards of education to address
new and innovative programs without having to ask the legislature for specific authorization on each
individual issue. Allowing them this operational freedom gives them the opportunity to function
efficiently and expediently.

Thank you for allowing me to present this testimony. I would be pleased to answer any
questions you might have.



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

Craig Grant Testimony Before
Senate Education Committee
Thursday, January 23, 1997

Thank you Madame Chair. I am Craig Grant and I represent Kansas NEA. I appreciate this opportunity to visit with the committee about SB 37.

Kansas NEA has opposed this "home-rule" bill for school boards. We have been successful in stopping the bill in the House probably because we have reminded House members not of what might be--because only our imaginations can tell us how far some school boards might go--but of past performances. We have reminded and remind you today that school boards--either through their association or individually:

1. Chose to adjust the final salaries of top administrators so the administrators could draw a higher retirement;
2. Fought hard to make sure that site councils had no real authority, but were strictly advisory to boards;
3. Chose to interpret the lease-purchase bill their own way rather than to accept what the legislature had passed; and
4. Went to the State Board of Education to try to have the assessment testing program eliminated for those schools which had passed the assessment test the year before.

These and other examples are reasons that a few school boards are somewhat suspect as far as granting them these new powers.

Having stated the above, and noting the zeal in which school boards have pursued this authority, I have suggested an amendment which would remove our involvement in the bill. We would suggest the addition on page 2, line 38, of a letter (H) as follows:

(H). School districts may not adopt policies which affect school employees (except administrative employees) unless authorized to do so by the legislature.

The school board association has continually indicated that boards of education would not use this new authority to change working conditions for employees. This change would ease our concerns.

We told KASB of our proposal and hope that this will eliminate our organization from the discussions on this bill.

Thank you for listening to our concerns.

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Attachment 5*