

Approved: 3-1-2000
Date

MINUTES OF THE SENATE EDUCATION COMMITTEE.

The meeting was called to order by Chairperson Senator Barbara Lawrence at 9:00 a.m. on February 22, 2000 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Avis Swartzman, Revisor
 Ben Barrett, Legislative Research Department
 Jackie Breymeyer, Committee Secretary

Conferees appearing before the committee: Senator Vratil

Others attending: See Attached List

The meeting was called to order by Chairperson Lawrence who stated that final action on **SB 432** would be the first item on the agenda.

Senator Vratil came forward with an amendment which he had staff copy and distribute. He explained the amendment.

Senator Vratil clarified that with respect to noncertified employees, those employees can be terminated at any time with or without cause. With respect to certificated employees who are not at will employees, the employment would be probationary and contingent upon passing the background check. Senator Vratil also stated he would have no problem with the KBI suggestion of a nationwide criminal history check that the FBI be named specifically.

The Chairperson stated that she had checked with the KBI on the language on line 14 of the bill to see if the wording could be changed to "may" from "shall" and she was informed that they will not do the background check unless the word "shall" is in the bill which makes it mandatory.

On being asked who would pay the cost of the background check, Senator Vratil responded that the bill would authorize the local board of education to pay for it by policy or at the discretion of the local board, the employee applicant would be required to pay for it.

One of the committee stated that the bill had changed from a criminal history records check to a background investigation which is much more detailed. If it is a records check and linked nationwide, the name is fed in and the information is produced. The records checks are what is done for people who work at child care centers and so forth. These kinds of things are mandated. This is a quick check that can be done. A background investigation is very detailed and takes a lot of time and effort and costs a lot more. In the racing and gaming commissions there are some employees who have background investigations, some who have criminal records checks and some who have nothing. Agencies can pick and choose. What is being referenced here with the KBI is that whatever group that one takes a look at, it has to say 'shall'. They are already far behind on their investigations and she would hesitate in moving this from a records check to a background investigation.

Senator Vratil was asked if the federal government has told us we have to do this.

The Senator responded that it had not. He stated that he was not aware there was a difference between a background check and a criminal history records check. His intention was a criminal history records check to access the FBI data base.

The Revisor stated that when the KBI conferee was here, he spoke about background investigations; that is what the KBI calls it. Background investigations are done on all the appointees made by the Governor subject to confirmation by the Senate. The KBI would feel more comfortable with the language that is already in existence.

CONTINUATION SHEET

MINUTES OF THE SENATE EDUCATION COMMITTEE, Room 123-S Statehouse, at 9:00 a.m. on February 22, 2000.

The Chairperson stated that the KBI conferee said it usually took five weeks for a background check.

A committee member commented that the committee was talking about two completely different things. For \$41 a computer will spin out a criminal history check. Background checks are used for certain gubernatorial appointees, but not all of those.

It was commented that the bill seemed to be missing an entire group of employees that deal with children such as bus and food service. Bus drivers are not employees of the school.

Senator Vratil stated the bill dealt only with school employees. All that he is interested in getting at through the bill is to access the FBI data base, that is, a criminal history records check to see if an applicant has been convicted of one of the offenses in 72.1397. That is a criminal history records check, not a background check.

It was asked of Senator Vratil if a local police department could do some of the screening in the smaller communities.

He responded that he did not think the local police would be likely to have criminal history information. The KBI has criminal history record information for the State of Kansas.

Senator Vratil was asked how many states have enacted a law similar to this.

The Senator replied there are 19 states that currently have access to the FBI data base. It is his understanding that there is only one way to gain access to FBI records and that is to make it mandatory.

After more discussion, the Chairperson commented that the bill did not seem to be progressing along the path it was intended and suggested that she have the bill blessed. The Senator can find out whether this can be limited to those teachers who are coming from out of state; if this would work within the parameters of federal law. She asked him to work with Senator Lee to fashion something that would not be punitive to the smaller schools. She also asked him to have the bill rewritten with the suggested amendments in it for possible work after turnaround.

Senator Vratil replied that he would do this.

It was also suggested that he contact some states to see how they have addressed this issue. There may be some models or something of help to the bill.

The Chairman stated that because of the late hour, the meeting would not continue. **SB 238** will be taken up tomorrow.

The meeting was adjourned.

