

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Tim Huelskamp at 1:30 P.M. on February 9, 2006 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Kansas Legislative Research Department
Mike Heim, Kansas Legislative Research Department
Ken Wilke, Revisor of Statutes
Zoie Kern, Committee Secretary

Conferees appearing before the committee:

Harriet Lang - President of Kansas Association of Broadcasters
Rich Gannon
Nikki Flynn - KWCH TV
Diane Gjerstad - Wichita Public Schools
B.J. Garcia - Durham Bus Co.
Ron Butts
Barbara Pringle - Executive Secretary Kansas State Pupil Transportation Assoc.

Others attending:

See attached list.

Ken Wilke of the Revisor of Statutes Office summarized **SB 456** - Open records; disclosure of certain records pertaining to drivers of motor vehicles transporting members of the public.

Harriet Lange, President of K.A.B. of Topeka, testified in favor of **SB 456** (Attachment 1).

Nikki Flynn, Assist News Director at KWCH12 TV in Wichita, testified in support of **SB 456** (Attachment 2).

Rich Gannen, Lobbyist, testified in behalf of Doug Anstaett, Executive director of KPA, who's written testimony is in favor of **SB 456** (Attachment 3).

Written testimony was submitted for Randy Brown, Executive Director, Kansas Sunshine Coalition for Open Government, in favor of **SB 456** (Attachment 4).

Diane Gjerstad, Wichita Public Schools, testified regarding concerns she has with **SB 456** (Attachment 5).

Ron Butts, Executive Director, Kansas Public Transit Association, requested **SB 456** be amended to define the term driving records (Attachment 6).

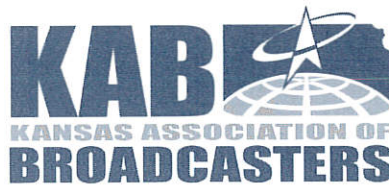
Barbara Pringle, Executive Secretary Kansas State Pupil Transportation Association, requested **SB 456** be evaluated more in all aspects of its content (Attachment 7).

Hearing closed on **SB 456**.

Meeting adjourned.

Respectfully submitted,

Zoie C. Kern, Committee Secretary



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Testimony
SB 456
Senate Committee on Elections and Local Government
February 9, 2006
By
Harriet Lange, President
Kansas Association of Broadcasters

Mr. Chairman, Members of the Committee, I am Harriet Lange, president of the Kansas Association of Broadcasters (KAB). KAB serves a membership of free-over-the-air local broadcast stations in Kansas. We appreciate the opportunity to appear before you in support of SB 456.

School districts in Kansas spend millions of dollars annually to contract with private bus companies to transport students. SB 456 would require school districts and other public agencies which employ or contract for transporting students or members of the public, to make available names of their drivers, driving records for these drivers, and conviction records.

This information should be disclosed for a number of reasons:

- these private companies are providing a service of high public trust ;
- disclosure would help ensure the safety of students by holding the private companies accountable for the drivers they hire; and
- because of the size of the contracts and the amount of tax dollars that are being spent for these services.

As the structure of government changes and more and more government services are “privatized”, our open government laws must change to reflect this changing structure. Private companies which provide government services of high public trust, should be held to the same standard of openness as a public agency. SB 456 is a step in this direction.

We urge passage of SB 456. Thank you for your consideration.

Feb. 9, 2006

Written Testimony on SB 456

Submitted to the Senate Committee on Federal and State Affairs

Nickie Flynn, Assistant News Director, KWCH 12 Eyewitness News, Wichita

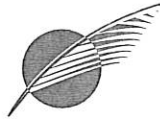
Thank you for allowing me to address you today in support of SB 456. This bill comes before you with the support of parents interested in open government, and not just people working in journalism.

Millions of tax dollars are spent to bus Kansas children to and from school every year. In smaller districts the drivers are often school district employees whose records are open. But in large districts like USD 259, the service is contracted out to private companies. Under Kansas Open Records law as currently written, parents, journalists and others have no right to know who is driving their kids, what their personal backgrounds are like, indeed whether they should worry about who's driving their children at all.

Yes, the school district contract does require the private contractor to do a background check of the potential drivers it hires. In Wichita, the company uses the KBI in-state background check. That means a driving history is checked in Kansas and a criminal check is done in Kansas. But unless there's an incident that brings an individual driver to public light, such as an accident or a parental complaint, which makes a driver's name public, there is no outside oversight of who is driving all these kids to and from school. Parents and the public are just supposed to trust that the drivers are the kind of people they want spending an hour or two a day, 180 days a year with their kids. And, what about drivers who've lived elsewhere? What do we know about them? Nothing.

With the passage of SB 456, parents journalists and others could get the names of school bus drivers who work for private contractors and check out their backgrounds to reassure themselves that tax dollars are being spent on people they want driving their kids. In Wichita, more than \$18 million dollars a year are spent to bus kids to school. Providing the list of names is a couple of keystrokes in a computer program for the bus company. After all, school districts already make this information public for janitors, teachers, counselors and anyone else who has contact with kids. Why would we let kids get on a bus alone with a driver for a private company and not require the same thing?

Thank you for your time and consideration in the interest of taxpayers, parents and journalists.



Kansas Press Association, Inc.

Dedicated to serving and advancing the interests of Kansas newspapers

5423 SW Seventh Street • Topeka, Kansas 66606 • Phone (785) 271-5304 • Fax (785) 271-7341 • www.kspress.com

Feb. 9, 2006

To: Sen. Tim Huelskamp, chairman of Senate Elections and Local Government Committee, and committee members

From: Doug Anstaett, executive director, Kansas Press Association

Re: SB 456

One of the growing trends in government is outsourcing of services to private companies. In most cases, this makes sense. It increases efficiency and it gets government out of the business of being all things to all people.

Sometimes, however, complications arise. Such is the case with the outsourcing by school districts, cities and counties of transportation services, particularly for the children who attend our public schools and the elderly. We are placing our most cherished and most vulnerable citizens in the hands of private companies, whose records are not available for public inspection as they would be if the school district, city or county were providing the services.

The Kansas Press Association, the Kansas Association of Broadcasters, the Society of Professional Journalists and the Kansas Sunshine Coalition for Open Government believe in this case, public safety demands that parents, senior citizens and taxpayers know more about the person sitting at the front of the bus with his or her hand on the steering wheel. It's as simple as that.

Under SB 456, the driving and other records of those operating commercial vehicles that transport our most vulnerable would be subject to public scrutiny.

And why not? We are spending considerable time in this legislative session on harsher punishment options for those who would prey on our children; wouldn't it make sense to institute some precautionary measures on the front end that might help identify these potential offenders before they have a chance to prey on someone?

We entrust total strangers with the safety of our children. At one time, that might have made sense. In this day and age, that is too much trust.

Please support SB 456 and give the public and the press more opportunity to check out who is driving the bus. We owe our most vulnerable that much.

Thank you.

Elections and Local Government
February 9, 2006
Attachment 3



Written Testimony

SB 456

Submitted to the Senate Committee on Federal and State Affairs

Feb. 9, 2006

Randy Brown

Executive Director, Kansas Sunshine Coalition for Open Government

Thanks very much for allowing the Kansas Sunshine Coalition to offer written testimony today in support of SB 456. The Coalition is an organization of educators, journalists and other citizens that includes the Kansas Professional Chapter of the Society of Professional Journalists, the Kansas Press Association, the Kansas Association of Broadcasters and the Elliott School of Communication at Wichita State University. The Coalition's core belief is that open government is essential to the functioning of our democracy.

There are two strong and related reasons for our support of SB 456, which would make public the driving and other records of drivers of commercial vehicles who transport students or other members of the public:

1.) School districts are paying private companies millions of tax dollars a year for the transportation of our children. In the case of USD 259, it's more than \$18 million a year to drive tens of thousands of students every school day.

2.) School districts are refusing to disclose the driving records of and other pertinent information about the drivers for those private companies who transport our children.

It's a fundamental of democracy that there should be public accountability for the spending of public money, whether by a public or private entity. SB 456 will help assure that fundamental accountability. It also might encourage school districts to take a harder look at their standards of employment for those who are daily entrusted with the safety of our children.

Thanks again for your time and consideration.

Board of Directors

Ron Keefover, President
Education-Information Officer
Kansas Judicial Center

Doug Anstaett
Executive Director
Kansas Press Association

Nickie Flynn
Assistant News Director
KWCH-TV

Randy Brown
Executive director
Senior Fellow
Elliott School of Communication

Liz Montano
President-elect
News Director
WIBW

Nicholas Jungman
Business reporter
The Wichita Eagle

Buzz Merritt
Editor, retired
The Wichita Eagle

Mike Kautsch
Professor of Law
University of Kansas

Les Anderson
Associate Professor
Elliott School of Communication

Harriet Lange
President
Kansas Association of Broadcasters

John G. Lewis
President
Lewis Legal News, Inc.

Michael W. Merriam
Lawyer



Senate Elections and Local Government Senator Huelskamp, chair

S.B. 456 employee records of private businesses

Diane Gjerstad
Wichita Public Schools
February 9, 2006

Mr. Chairman and members of the Committee:

The Wichita Public Schools has a long history of contracting transportation services with Durham School Services. Today B.J. Garcia has joined me to offer the viewpoint of a private corporation doing business with the district. The bill before the committee addresses one narrow group of (of many) of privately held companies doing business with school districts to disclose private employee information.

Our first question is what is public policy issue being addressed and why this particular group of employees? And if there is a concern and proof there are people of ill repute driving buses across the state, and these people are licensed by the state, then perhaps the **state** licensure and renewal process should be adjusted. Certainly if there is a wide spread problem of "problem" bus drivers, then there should be a systematic solution, not one which hinges solely on ratings driven media outlets who **randomly** make requests.

Our second question is why single out this class of workers? If the issue is truly student safety then shouldn't this provision apply to **all** private businesses doing business with a school district? Shouldn't the contracted food service workers or janitorial services or the 'mom & pop' painting company all be subject to a media outlets probing of employee records?

Another concern is the sheer breadth of information which would be requested on line 23 "...convictions of any crime...". The Kansas Sentencing Guidelines lists 20 pages of felonies and 17 pages of misdemeanor crimes ranging from the mundane to very serious. Is a fishing license conviction germane to driving a bus? Two years ago I received a speeding ticket on Huntoon which I took diversion and after a year will not show up on my driving record. One might argue what I plead down is more germane than not having a proper fishing license.

I work for a public entity. With that comes the knowledge that certain information is public information. Employees of private companies have the opposite expectation; in fact in this world of identify theft the obligation to hold private information private is heightened.

If the purpose is truly to protect kids then any change would need to address this class of workers with **all** districts, not simply the ones in the major media markets or the five or six who might be subject to a survey. If we are truly solving a problem then change the system of licensing to address everyone.

Finally, the KORA requires a response within three days. I would suggest if you decide this bill is worthwhile that you take the school districts out of the middle and permit the request for employee records directly to the private contractor. The bill as written makes the school district financially liable for extensive background checks for "any crime" for all bus drivers, along with driving records, and to report the reams of information within three days. The vast amount of information this bill requires would be extremely costly; and could be repeated a week later by the next media outlet who is looking for a new angle. This bill would take a lot of time, cost a lot of money and be unevenly applied as written. If there really is a problem then lets look at policy solutions which evenly deal with the issue. Licensing seems a reasonable starting point.

Thank you, Mr. Chairman, for listening to our concerns. With the Chairman's permission I would like to introduce the representative of a privately held company who would be directly impacted by this legislation.



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Member:
American Public Transportation Association
Community Transportation Association of America
South West Transit Association

State of Kansas
Senate Committee on Elections and Local Government
Tim Huelskamp, Chairman
SB 456 – February 9, 2006

Testimony by:
Ronald D. Butts
Executive Director
Kansas Public Transit Association

Mr. Chairman:

Members of the Senate Committee on Elections and Local Government:

My name is Ron Butts and I serve as executive director of the Kansas Public Transit Association. I thank you for this opportunity to appear before you today to discuss Senate Bill 456.

I am pleased to have this opportunity to represent over 140 members of the Kansas Public Transit Association and the 195 public transportation providers in the State of Kansas.

We take great pride in the service we provide in the 117 Kansas communities we serve. Many individuals in each of these communities use public transportation for their access to their community – to go to work, to go to school, to go to the doctor, to go shopping or simply for social and recreational activities. We are also proud of our professional bus operators and the exceptional safety records that they have established.

I especially want to discuss one item in the proposed legislation – Section 1.4, driving records. Our concern is the term driving records is not defined. Nor, have I found a specific definition in K.S.A. Chapter 45 – Public Records, Document and Information, Article 2 – Records Open to the Public. K.S.A. 45-217 does exclude from the “criminal investigation records,” which are not required to be open, “...records pertaining to violation of any traffic law other than vehicular homicide as defined by K.S.A. 21-3405 and amendments thereto.”

As an individual agency may have standards and driving requirements that relate to an individual bus operator’s driving record and job performance, they may not relate to any violation of state law. These records are rightfully considered a part of the employee’s personnel record and not open to the public. However, with no definition of driving records included in the proposed legislation, the request for driving records may lead to ambiguity in interpretation of this term.

We, in public transportation in Kansas, request that Senate Bill 456 be amended to define the term driving records as records pertaining to violations of any traffic law as specified in K.S.A. 45-217. We request your support for such an amendment.

Thank You.

Elections and Local Government
February 9, 2006
Attachment 6

Senator Tim Huelskamp
**Chairman Senate Elections and Local
Government Committee**

Senate Bill # 456

**Barbara Pringle
Executive Secretary
Kansas State Pupil
Transportation Association**

February 9, 2006

The Honorable Tim Huelskamp, Chairperson
Senate Committee on Elections and Local Government
Topeka, Kansas 66612

Senator Huelskamp,

On behalf of the Kansas State Pupil Transportation Association I am here to speak to you concerning Senate Bill # 456, request for records of certain holders of commercial drivers license.

We are very concerned about some of the items included in this bill. I have some questions for you about the provisions.

What is the purpose or intent of this change in law? Why would it include only holders of a commercial drivers license that transport students or members of the public? Why not all holders of a commercial drivers license if you are concerned about public safety?

We would like you to make sure we are not violating any rights to privacy laws if we provide this information.

Name, position, salary and length of service are open records information now.

1. Position;
2. Salary or other compensation;
3. Length of service;

I would question the rest of the provisions

4. Driving records

What constitutes "Driving Records" Department of Motor Vehicles records only? Will it include records of employee driving evaluations? We need this clarified. We currently pay for this service to obtain records from the Department of Motor Vehicles.

5. Convictions of any crime; and
6. Convictions of driving while under the influence of drugs or alcohol

An arrest and conviction is an open record in and of itself, if someone wants to know that they can obtain the records reviews.

This would not include the Commercial Drivers License Drug and Alcohol testing results as these are not convictions and release of those records is limited by Federal Regulations.

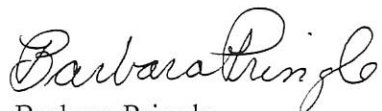
There will be a cost to prepare and copy the requested information, who pays for this?

We are concerned that student discipline problems could be shifted into a focus on the driver's background, and that old non-disqualifying crimes or driving records would be used to cast a dim light on the driver.

It is also worrisome that knowing the old non-disqualifying crimes or driving violations could be revealed would make it more difficult to recruit drivers.

On behalf of the Kansas State Pupil Transportation Association I am hear to ask you to evaluate all the aspects of this legislation of Senate Bill # 456 before you make a decision.

Respectfully,



Barbara Pringle
Executive Secretary
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