

March 6, 1970

MINUTES

Committee on State and Local Affairs
Room 526 State Capitol Building
All members present except: Senator Herd

Guests:

Mill Mitchell	John Killeain	Tom Poster
Harry Schribner	Prof. Keith Weltmer	
Mike Taylor	Mary Gearhart	
Bob Cory	Wright Crummett	

House Bill No. 1933 Mr. Mitchell explained to the committee that H.B. 1933 in its present form was acceptable to the CPA association and they proposed no amendments. No action was taken on the bill.

House Bill No. 1795. Senator Robinson made a motion to recommend the bill for passage. Senator Ball seconded the motion. Senator Shultz proposed a substitute motion to table the bill which died for lack of a second. Senator Thomas made a substitute motion that the committee strike the section of the bill that pertains to research allowance. Senator Shultz seconded the motion. The motion did not carry. The original motion made by Sen. Robinson was then voted upon and carried. Senators Thomas and Shultz voting "no".

House Bill No. 1737 On a motion by Senator Thomas, seconded by Senator Shultz, it was voted to recommend the bill favorable for passage to the full Senate.

House Bill 1674 On a motion by Senator Hinchey, seconded by Sen. Robinson, it was voted to recommend the bill favorable for passage to the full Senate. Senator Shultz voting "no".

House Bill No. 1673 On a motion by Senator Pomeroy, seconded by Senator West, it was voted to recommend the bill favorable for passage to the full Senate.

House Bill No. 1653 On a motion by Senator Foster, seconded by Senator Robinson, it was voted to recommend the bill favorable for passage to the full Senate.

House Bill No. 1651 On a motion by Senator Thomas, seconded by Senator Shultz, it was voted to recommend the bill favorable for passage to the full Senate.

House Bill No. 1633 On a motion by Senator Thomas, seconded by Senator Shultz, it was voted to recommend the bill favorable for passage to the full Senate.

House Bill No. 1629 Rep. Robert Brown, explained the bill to the committee and proposed two small amendments. No action was taken on the amendments or the bill.

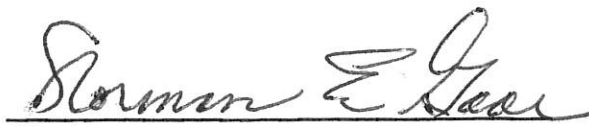
House Bill No. 1647

House Bill No. 1573 (Substitute). Senator West explained the attached amendments to the committee. Senator Gaar asked the committee to vote on whether they wanted the teachers included in the bill or wanted them treated separately. Vote: 5 to keep the separate; 4 to make one bill. Senator West then proceeded to explain the amendments as they would apply to H.B. 1647. Sen. West made a motion to amend page 1, by striking subsection (d), lines 13 through 16. Sen. Ball seconded. Motion failed. On a motion by Sen. Pomeroy, seconded by Sen. Saar, it was voted to amend the bill on page 1, by striking all on line 15 after "capacity" and all of line 16. On a motion by Sen. Pomeroy, seconded by Sen. West, it was voted to amend the bill on page 6, line 26 by striking ", which negotiations shall be open to the public," and further on page 6 by reinstating the original language on line 29 & 30 and striking all of line 30 after the period and all of line 31, and on page 7 by striking all of lines 1 and 2. Senator West made a motion to adopt the amendment (h) of the attached, seconded by Senator Saar, 3 Senators in favor, 4 opposed. Motion failed. Senator Thomas made a motion, seconded by Senator Robinson, that in section (i) of the amendments we change the \$15.00 to \$25.00. Motion carried. On a motion by Senator Ball, seconded by Senator Shultz, it was voted to allow Senators West and Gaar to revamp the language in sections (i), (j), and section 10 of the attached amendments.

Adjournment.

Respectfully submitted,


Charlotte Olander
Recording Secretary


Chairman

16. (a) Amend page 1 by striking subsection (d), lines 13 through

(Rationale--Other unsuccessful attempts have been made to effect a separation of classroom teachers and administrators. This section represents still another attempt, using the Kansas legislature as an instrument, to bring about this division. Organizations representing principals have expressed a desire to remain with teachers in the negotiating process; teachers have shown their desire to have principals and other administrators below the level of the superintendency remain with their bargaining unit. Twenty-five to thirty percent of all instructional personnel would be thwarted in their wishes if this subsection remains. A Florida Federal District Court has found such separation unconstitutional in that it violates the freedom of association clause (1st and 14th amendments, U. S. Constitution.)

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(b) Amend line 24 and 26, p. 2 by striking the words "except administrative employees;"
- (c) Amend p. 5, line 24, by striking the words "except administrative employees;"
- (d) Amend p. 5, lines 30 and 31 by adding the words "including administrators and supervisors" after the word "nature" on line 30 and striking the words "except administrative employees" in line 31.
- (e) Amend page 6, lines 3 through 5 by striking all words in line 3 following the word "education" and by striking lines 4 and 5.

(Rationale: These amendments provide that administrators and supervisors shall have the choice of which unit they wish to be included in.)

- (f) Amend page 6, line 26 by striking the bracketed words
"which negotiations shall be open to the public"

(Rationale: No profitable negotiation, whether in public education, politics, or international affairs can be conducted in public. One aspect of negotiation is the possibility of a shift in position by members of either team. If newspaper reporters, teachers, or other people are present, the necessary adjustment in position by each side will not take place. Both sides will have to "play to the press." Imagine a Senate caucus conducted in public.)

- (g) Amend page 7, line 2 by adding the following sentence after the word "boycott"; "It shall also be unlawful for any board of education to engage in any arbitrary or capricious act which would provoke a strike, walkout, or boycott by its employees."

(Rationale: This addition would make each group equally accountable, an established American tradition. The strike clause as it now appears in the bill is based on the false assumption that only teachers can be at fault if a strike occurs.)

- (h) Amend p. 2, line 4 by re-inserting the phrase "and other matters of mutual concern." (Same amendment p.2, line 11; p.2, line 17, p.6, line 9; p. 6, line 18)

(Rationale: Boards have an obligation to use the best advice possible before they make decisions. In matters of curriculum, textbooks, building needs, discipline and other matters, the professional educator is the best source of advice.)

- (i) Amend p. 2 by adding new section 2 after line 11 to read as follows:

New Sec. 2. Professional employee relations commission.

(a) There is hereby created within the state board of education the "professional employee relations commission" (hereinafter sometimes referred to as the "commission"),

which shall consist of three (3) members who shall be appointed by the governor, with the approval of the state board of education. One (1) of the original members shall be appointed for a term of one (1) year, one (1) for a term of two (2) years and one (1) for a term of three (3) years. Their successors shall be appointed for terms of three (3) years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Commission members shall be eligible for reappointment. The governor shall designate one (1) member to serve as chairman of the commission. Any member of the commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission, and two (2) members of the commission shall at all times constitute a quorum.

(c) Members of the commission shall, when performing commission business, receive compensation at the rate of fifteen dollars (\$15) per day, together with an allowance for actual and necessary travel and subsistence expenses when performing commission business away from their places of residence. The commission shall appoint an executive director and shall employ such other persons as it may from time to time find necessary for the proper performance of its functions and as shall be provided for by appropriations of the legislature.

(d) The commission shall have authority from time to time to make, amend and rescind such rules and regulations as may be necessary to carry out the provisions and effectuate the purposes and policies of this act and is expressly empowered and directed to prevent any person from engaging in conduct violative of sections 5 and 6 of this

25.00

act. The commission shall also have the authority and power to hold hearings, subpoena witnesses, administer oaths, take the testimony or deposition of any person under oath and in connection therewith, to issue subpoena duces tecum, to require the production and examination of any governmental or other books or papers relating to any matter pending before it and to take other action as may be necessary to discharge its responsibilities.

- (j) Amend p. 6 by adding new section 9 after line 12 to read as follows:

New Sec. 9. Impasse in negotiation over the terms and conditions of professional service and other matters of mutual concern. (a) Either a board of education or the representative selected or designated pursuant to the provisions of section 7 of this act may declare that an impasse has been reached between the parties in negotiation over the terms and conditions of professional service and other matters of mutual concern, and may request the professional employee relations commission to appoint a mediator for the purpose of assisting them in reconciling their differences and resolving the controversy on terms which are mutually acceptable. If the commission determines that an impasse exists, it shall, within five days after the receipt of such request, appoint a mediator in accordance with the rules and procedures for such appointment prescribed by the commission. The mediator shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, and shall take such other steps as he may deem appropriate in order to persuade the parties to resolve their differences and effect a mutually acceptable agreement: Provided, That the mediator shall not, without the consent of both parties make findings of fact or recommend terms of settlement.

The services of the mediator, including, if any, per diem expenses, and actual necessary travel and subsistence expenses, shall be provided without cost to the parties.

(b) If the mediator is unable to obtain agreement in any controversy within fifteen (15) days after his appointment, either party may, by written notification to the other, request that their differences be submitted to advisory arbitration. Within five (5) days after receipt of the aforesaid written request, the parties shall select a person to serve as arbitrator and obtain a commitment from said person to serve. If they are unable to agree upon an arbitrator and/or to obtain such commitment within said time, either party may request the professional employee relations commission to designate an arbitrator. The commission shall, within five (5) days after receipt of such request, designate an arbitrator in accordance with rules and procedures for such designation prescribed by the commission. The arbitrator so designated shall not, without the consent of both parties, be the same person who was appointed mediator pursuant to subsection (a) of this section.

(c) The arbitrator shall, within ten (10) days after his appointment, meet with the parties or their representatives or both, forthwith, either jointly or separately, make inquiries and investigations, hold hearings, and shall take such other steps as he deem appropriate. For the purpose of such hearings, investigations and inquiries, the arbitrator shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and/or the production of evidence. The several departments, commissions, divisions, authorities, boards, bureaus, agencies and officers of the state or any political subdivisions or agency thereof, including any board of education, shall furnish the arbitrator, upon his request,

all records, papers and information in their possession relating to any matter under investigation by or in issue before the arbitrator. If the dispute is not settled prior thereto, the arbitrator shall make findings of fact and recommend terms of settlement, which recommendations shall be advisory only, and shall be made within thirty (30) days after his appointment. Any findings of fact and/or recommended terms of settlement shall be submitted in writing to the parties. The arbitrator may, in his discretion, make such findings and recommendations public, and either the board of education or the professional employees' representative may make such findings and recommendations public if no agreement is reached within ten (10) days after their receipt from the arbitrator. The costs of the services of the arbitrator, including per diem expenses, if any, and actual and necessary travel and subsistence expenses, shall be borne equally by the board of education and the professional employees' representative.

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Sec. ~~10~~ Disputes over the interpretation, application or violation of agreements. (a) A board of education and a representative selected or designated pursuant to the provisions of section 7 of this act who enter into an agreement covering terms and conditions of professional service and/or other matters of mutual concern may include in such agreement procedures for final and binding arbitration of such disputes as may arise involving the interpretation, application or violation of such agreement or of established policy or practice of such board of education affecting terms and conditions of professional service and/or other matters of mutual concern.

(b) In the event that such agreement does not include procedures of the type provided for in subsection (a) of this section, either party to the agreement may submit such disputes to final and binding arbitration pursuant to rules and procedures prescribed for such purpose by the professional employee relations commission.

(c) Where a party to such agreement is aggrieved by the failure, neglect or refusal of the other party to proceed to arbitration in the manner provided for in such agreement or pursuant to subsection (b) of this section, such aggrieved party may file a complaint in court for a summary action without jury seeking an order directing that the arbitration proceed in the manner provided for in such agreement or pursuant to subsection (b) of this section.

(Rationale: A negotiation bill without provision for resolving impasse lacks one fundamental element which history has shown to be necessary. The whole purpose of such a bill is to provide a systematic way for overcoming disagreement. Of the 22 negotiation bills in the country, 20 have impasse procedures. The public employee's bill has a means for resolving impasse; why not for teachers too?)

All carried