



Oral, Opponent Testimony before the

**House Committee on Insurance**

on

**HB 2789 – Creating the Kansas staff as first emergency responders (SAFER) act**

by

**Mark Tallman, Associate Executive Director  
Also Representing United School Administrators of Kansas**

**March 27, 2018**

Mr. Chairman, Members of the Committee,

Thank you for the opportunity to testify on **HB 2789** on behalf of KASB and the United School Administrators of Kansas. We appear as opponents of this bill primarily because of Section 15, which amends the concealed carry law to provide that **“In any action against a unified school district arising out of acts or omissions regarding the possession or use of firearms on the premises of school district, there shall be a rebuttable presumption of negligence on the part of the school district when it is shown by evidence that such school district did not authorize any employee of such school district, other than school security officers, to carry concealed handguns in buildings operated by such district pursuant to subsection (d).”**

KASB supports the current policy of the state, which allows local school boards to make the decision on whether to authorize employees to carry concealed handguns based on their determination of the best interests of the district, local circumstances, and the opinions of patrons, parents and staff.

This section appears to create pressure to override that local decision-making authority by creating additional liability if boards do NOT allow concealed carry by employees. We oppose this for the following reasons.

- First, we do not believe the state knows individual district needs and values better than the local board members elected by the community and the educators working in those communities.
- Second, this provision would force districts to weigh the liability against the increased costs of insurance that may be created by this mandate. Although another section of this bill says insurance companies may not discriminate in rates or coverage against districts allowing concealed carry by employees, it provides an exemption for **“rate differential, or refusal to provide, (that) is based on sound actuarial principals or is related to actual or reasonably anticipated experience.”** This means it's highly probable districts will continue to face higher rates or exceptions to coverage for such policies.
- Third, we believe that allowing armed staff could create additional liability for districts. For example, would armed teachers be considered part of their normal duties that allows coverage under the state tort claims act?
- Fourth, it appears this provision would apply to districts who choose not to allowed other staff to carry concealed handguns, even if they employee armed school security staff.

Regrading other provisions of the bill:

Sections 1-3 and 7 are similar to provisions of **HB 2773**, which was recommended as amended by the House Appropriations Committee and is on general orders. The committee adopted several amendments suggested by KASB, and we support the version of these provisions in **HB 2773**.

These include the involvement of local school districts and local law enforcement in developing school safety standards; and allowing local control over curriculum in firearms instruction programs (as state law provisions in all other curriculum decisions). We could recommend these provisions either be removed from this bill or amended with the same language as **HB 2773**.

KASB does not have a position on section 4, which provides that any law enforcement agency or officer shall not be liable for any personal injury or property damage resulting in any act or omission committed pursuant to sections 1, 2, or 3 dealing with school security plans and procedures.

KASB is neutral on new Section 5, which allows the board of education to authorize any employee who has a license to carry a concealed handgun and who desires to obtain a license with a SAFER schools endorsement to carry a concealed handgun in any building. This list is to be considered confidential; however, it does state that the board has to authorize the person to carry and it would appear this would have to be done in open session even though the language states the board can adopt policies and procedures to maintain confidentiality of the names of employees who conceal carry. Note that schools already have authority to allow concealed carry; the primary difference in this section is the SAFER schools endorsement.

New Section 6 provides that no insurance company shall “charge unfair discriminatory premiums, policy fees or rates for, or refuse to provide liability insurance or policy containing liability coverage for any unified school district solely because such school district authorizes employees of the district to carry concealed handguns on the premises of schools and attendance centers operated by such school district, **unless the rate differential, or refusal to provide, is based on sound actuarial principals or is related to actual or reasonably anticipated experience.**” We do not believe this language is likely to provide much relief as insurance carriers set rates based on risk and the risk of someone who has limited training and experience with concealed carry is generally greater than those trained law enforcement officers.

The remainder of the bill amends the Kansas Open Records act to exempt the school safety plans and standards adopted by the SBOE plus the records regarding school district employees designated as SAFER schools team members who are authorized to carry concealed handguns from the Kansas Open Records law; and amends Kansas Open Meetings law is amended to allow boards to go into executive session to authorize employees to carry concealed handguns. Finally, it allows the Attorney general to create an endorsement and training program for a “Safer Schools” endorsement.

Thank you for your consideration of these concerns.