

Approved 4-1-86  
Date

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Sen. Bill Morris at  
Chairperson

9:00 a.m./~~noon~~ March 26, 1986 in room 254-E of the Capitol.

All members were present ~~except~~.

Committee staff present:

Mary Torrence, Revisor of Statutes  
Hank Avila, Legislative Research Department  
Ben Barrett, Legislative Research Department  
Louise Cunningham, Secretary

Conferees appearing before the committee:

Rep. M. Moomaw  
Ed Lindsey, Vice-President, State Pupil Transfer Co., Meriden  
Dick Wadleigh, Crescent Bus Service, Topeka  
Violet Aubert, Topeka  
John Koepke, Executive Director, Kansas Association of School Boards  
Bill Green, Kansas Corporation Commission  
Sen. D. Montgomery  
Rep. D. Rezak  
John Sheirman, Attorney, Department of Transportation  
Pat Hubbell, Kansas Railroad Association  
Mike Beam, Kansas Livestock Association

On a motion from Sen. Doyen and a second from Sen. Hayden the Minutes of March 18, 19, 20 and 21 were approved. Motion carried.

HEARING ON H.B. 2787 - Liability of owner of vehicle for passing a school bus.

Rep. Moomaw spoke of the problems with vehicles passing a stopped school bus. The drivers cannot positively identify the driver of the car and this bill would make the owner of the vehicle liable for a civil penalty of \$10.00. He said the purpose of the bill was awareness. Current law is difficult to enforce. He said there was a particular problem with Finney County where many Asians reside and possibly are not aware of the law. (Att. 1)

Ed Lindsey, State Pupil Transfer Co., said Missouri had passed this law last year and other neighboring states now have it under consideration. This is an "awareness" bill. It is to make people aware of the law and stop them from passing a stopped bus. Kansas has never had a child killed this way and we should help make sure it never happens. Also, the children on the buses see this happen everyday and they can lose their respect for the law when nothing is ever done about it because the driver cannot make a positive identification. A copy of his statement is attached. (Att. 2).

Dick Wadleigh, bus driver in Topeka, said it usually happens about three times a day in Topeka. His company has 78 buses operating. The driver sits high in the bus and oftentimes all they can see is the back of a head and they cannot make a positive identification. The situation keeps getting worse all the time. People should be made aware.

Violet Auberg is a bus driver in Topeka and has been driving for 23 years. Earlier this month she got the license of a driver and had the police out to her home but she said she could not positively identify the driver even though she was familiar with the car. She also said the tint on the window made it difficult to identify the driver.

John Koepke, Kansas Association of School Boards, said they were opposed to this legislation and felt it should be handled by cooperation between the

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,  
room 254-E, Statehouse, at 9:00 a.m./~~p.m.~~ on March 26, 1986.

school districts and law enforcement. They felt too much time and effort would be required by school officials and this was not the best way to approach the problem. A copy of his statement is attached. (Att. 3).

A motion was made by Sen. Hayden and was seconded by Sen. Hoferer to recommend H.B. 2787 favorable for passage. Motion carried.

HEARING ON H.B. 2807 - Providing certain penalties for motor carriers.

Bill Green, KCC, said this bill was requested after a Nebraska carrier received 11 tickets for being overweight and 3 tickets for failure to clear open scales in a period of 8 months. He was operating under his private motor carrier authority. The law currently does not apply to private motor carriers and KCC asked for this legislation to cover all motor carriers. A copy of his statement is attached. (Att. 4).

Mr. Green was asked where these violations occurred and Mr. Green did not know but said he would obtain the information.

HEARING ON H.B. 2998 - Release of abandoned railroad right-of-way.

Sen. Montgomery said there was much concern when the Rock Island Railroad went bankrupt. It is no longer in evidence and the right-of-way was purchased by a sand and gravel company in Manhattan. They are trying to sell the property back to the rightful owners. Once the railroad is abandoned the land should revert back to the owners of the land. The Attorney General and Department felt the law was not clear enough on this matter so DOT agree to write the language and give the Legislature guidelines to assure that people that are entitled to the land will receive it. The intent is clearly spelled out in this bill. The railroad people agree with it. We are trying to keep the landowner from having to go to court to get what is rightfully his.

Rep. Rezak said this situation was causing many problems in Riley and Waubaunsee Counties. This bill will help clarify and get land back to rightful owners. Some people have paid \$150 for a quit-claim deed. This situation has been going on for five years now and this bill is needed for clarification.

John Sheirman, KDOT, said the problem has developed because reversion does not automatically get recorded when a railroad goes bankrupt. This bill is to provide a simple and uniform procedure for landowners to obtain a clear title. Most railroads have handled this in a responsible manner but there have been numerous complaints of abuse by a couple of railroads in Kansas. A copy of his statement is attached. (Att. 5).

Pat Hubbell, Kansas Railroad Association, said he had proposed amendments to the bill when the railroad is used for other than operating trains, such as the North Pacific is now operating to service elevators on each end of a line. Technically, the whole line is abandoned but it is still being used. This amendment will offer protection in such a case. Line 43 is for clarification. It would allow the railroad to go through a general release and not to have to go through title service. They could make one release to the county. (Att. 6).

Mike Beam, Kansas Livestock Association, said they support the bill because it does clarify that the land does revert back to the landowner.

A motion was made by Sen. Doyen and was seconded by Sen. Hoferer to adopt the amendments offered by Pat Hubbell (Att. 6). Motion carried.

A motion was made by Sen. Martin and was seconded by Sen. Doyen to recommend H.B. 2998 as amended, favorable for passage. Motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,  
room 254-E, Statehouse, at 9:00 a.m./~~p.m.~~ on March 26, 19 86

ACTION ON H.B. 2755 - Film or glaze on windshields.

The Chairman said Lupus patients can be helped with existing statutes. He said law enforcement people were not adverse to leaving the bill as it is. This is not a permit for those glazing companies to go to a much darker film. They must keep it within existing law. There is no such film or glaze (light transmission of not less than 80%) which the House put into the bill. This is a highly technical measure. Sen. Norvell concurred and said many people were afraid they would be put out of business.

A motion was made by Sen. Norvell and was seconded by Sen. Frey to recommend that H.B. 2755 be tabled. Motion carried.

ACTION ON H.B. 2814 - Suspension of driver's license for more than one year.

The committee discussed this and said people would have to be notified before their license could be suspended and if they were sent a registered letter they would not accept it.

A motion was made by Sen. Francisco and was seconded by Sen. Doyen to recommend H.B. 2814 not be passed. Motion carried.

Meeting was adjourned at 10:05 a.m.

SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Date 3-26 Place 254-E Time 9<sup>00</sup>

GUEST LIST

NAME	ADDRESS	ORGANIZATION
Ed Lindsay	Box 267, Meriden 66512	USD # 340
John Kreyer	Topeka	KA SB
Violeta Lambert	Topeka	School Bus Driver
Richard Dunning	200 E. 21 <sup>st</sup> Topeka	Current Bus Service
Pat Hubble	Topeka	Kansas RR Assn. H132998
ED DE SOIGNIE	TOPEKA	Ks. Dept of Transportation
Rep. May Mooman		Leg.
Del Miller	Topeka	KDOT
John R. Schuman	Topeka	KDOT
RON CALBERT	NEWTON	U. J. U
MIKE BEAM	TOPEKA	Ks. LUSTE Assn.
BRUCE GRAHAM	TOPEKA	Ks. MOTOR CARRIERS Assn.
Lt. BILL JACOBS	TOPEKA	KANSAS HIGHWAY PATROL
BILL GREEN	TOPEKA	KCC

MAX MOOMAW  
 REPRESENTATIVE, 117TH DISTRICT  
 HODGEMAN, LANE AND  
 PARTS OF FINNEY AND  
 NESS COUNTIES  
 HC 2, Box 195  
 DIGHTON, KANSAS 67839



TOPEKA

HOUSE OF  
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
 MEMBER: ASSESSMENT AND TAXATION  
 EDUCATION  
 TRANSPORTATION

TO: Senator Bill Morris, Chairman  
 Senate Transportation and Utilities Committee

FROM: Representative Max Moomaw

RE: House Bill 2787

DATE: March 26, 1986

Thank you Mr. Chairman and Members of the Committee:

House Bill 2787 deals with vehicles that pass school buses that are stopped to pick up or discharge school children. Under current law, the driver of a vehicle passing a bus must be positively identified before they can be charged. It is difficult for the driver of a school bus to identify the driver of a car that passes the bus.

House Bill 2787 allows the driver of a school bus to fill out a form reporting license plate information, description of the vehicle, and the time of the incident. The report is delivered to the County Attorney or the District Attorney of the county where the occurrence happened. Under this bill the owner of the vehicle is then liable for a civil penalty of \$10.00.

The intent of this bill is to bring to the attention of the owner that their vehicle did illegally pass a stopped school bus. If the driver of the vehicle is identified and being prosecuted for the violation, that will be a defense against this penalty. For this section only, the person to whom the vehicle is registered is presumed to be operating the vehicle or to have consented to the operation of the vehicle.

ATT. ①  
 S. T+U 3/26/86

# Kansas State Pupil Transportation Association



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## SUMMARY OF TESTIMONY PRESENTED BY KANSAS STATE PUPIL TRANSPORTATION ASSOCIATION BEFORE THE SENATE TRANSPORTATION COMMITTEE MARCH 26, 1986

Kansas State Pupil Transportation Association is strongly in favor of House Bill 2787.

Statistics from the National Survey of School Bus Loading and Unloading, Calendar year 1984, School Year 1984-85:

	1981	1982	1983	1984
Total children killed	37	28	31	30
Children Killed by Vehicle Passing				
School Bus	11	11	8	9

The above statistics reflect an average of 31.1% of those children killed each year, are killed as a result of a passing vehicle.

The present law is ineffective in that it is almost impossible to positively identify the driver and most prosecutors will not prosecute unless positive identification can be made.

Presently Missouri has a stop-arm law in effect and has experienced no problems as a result of it. Nebraska, Oklahoma and Iowa have similar laws in this year's legislation.

I cannot express how important it is for the drivers of buses to feel that they maintain some control over potentially hazardous situations. After all, we have charged them with our children's safety.

At the K.S.P.T.A. Spring Conference, transportation directors from all over the state were unanimously in favor of H.B. 2787. We feel more penalty is needed in order for this legislation to be truly effective, but feel H.B. 2787 is a step in the right direction.

For the safety of our children, I would urge you to carefully consider this bill.

*Edward J. Lindsay*

Edward J. Lindsay  
Vice President  
Kansas State Pupil Transportation Assn.

S. THU 3/26/86 ATT. (2)

KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS

5401 S. W. 7th Avenue Topeka, Kansas 66606  
913-273-3600

Testimony on HB 2787  
before the  
Senate Transportation Committee  
by  
John W. Koepke, Executive Director  
Kansas Association of School Boards

March 26, 1986

Mr. Chairman and members of the Committee, we appreciate the opportunity to appear before you on behalf of our 303 member boards of education. Our delegates last fall adopted a resolution regarding the problems of vehicles which unlawfully passed school buses. A copy of that resolution is attached to my testimony.

It is our belief that this issue is one that is best resolved at the local level with better cooperation between school districts and law enforcement officials. Bus drivers already have the ability to report this crime to local law enforcement officials and where the penalty is potentially more severe than the penalty contemplated in this act.

The procedure contemplated in this act seems to us to be rather burdensome for a potential penalty of \$10. More time and effort would be required on the part of school officials and state employees than would be justified for this relatively minor penalty.

We understand and support efforts to deal with the concerns expressed by this bill. We do not, however, think this is the best approach to deal with the problem. We appreciate your consideration of our position.

ATT. ③  
S. 744 3/26/86

ENFORCEMENT OF ILLEGAL PASSING OF SCHOOL BUSES

WHEREAS Kansas school boards have a vital interest in the safety of children riding school buses; and

WHEREAS there is a problem with vehicles illegally passing school buses stopped to pick up or unload children; and

WHEREAS attempts have been made to require bus drivers to report vehicles which illegally pass stopped school buses; and

WHEREAS bus drivers are quite busy when picking up or unloading children as they are watching the children to insure their safety;

NOW, THEREFORE BE IT RESOLVED by the Delegate Assembly of the Kansas Association of School Boards that the Association oppose legislation which requires school bus drivers to report vehicles which illegally pass stopped school buses; and

BE IT FURTHER RESOLVED that the Association urge and encourage local districts to work cooperatively with law enforcement agencies to resolve this problem without placing an undue burden upon the bus driver.





JOHN CARLIN  
MICHAEL LENNEN  
MARGALEE WRIGHT  
KEITH R. HENLEY  
JUDITH A. McCONNELL  
BRIAN J. MOLINE

Governor  
Chairman  
Commissioner  
Commissioner  
Executive Secretary  
General Counsel

State Corporation Commission

Fourth Floor, State Office Bldg.  
Ph. 913-296-3355  
TOPEKA, KANSAS 66612-1571

STATEMENT PRESENTED ON H.B. 2807 TO THE SENATE  
TRANSPORTATION & UTILITIES COMMITTEE MARCH 26, 1986 BY THE  
STATE CORPORATION COMMISSION OF KANSAS

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I AM BILL GREEN, ADMINISTRATOR OF THE TRANSPORTATION DIVISION OF THE STATE CORPORATION COMMISSION, I APPEAR HERE TODAY ON BEHALF OF THE COMMISSION IN SUPPORT OF H.B. 2807.

THIS BILL WAS INTRODUCED BY THE HOUSE TRANSPORTATION COMMITTEE AT THE REQUEST OF THE COMMISSION. THE BILL WAS REQUESTED FOLLOWING THE COMMISSION'S INVESTIGATION OF A NEBRASKA BASED MOTOR CARRIER, FOR OVERWEIGHT VIOLATIONS (SEE ATTACHMENT). THE WEIGHT VIOLATIONS WERE BROUGHT TO THE ATTENTION OF THE COMMISSION BY THE COUNTY ATTORNEY OF RAWLINS COUNTY. THIS MOTOR CARRIER RECEIVED 11 TICKETS FOR BEING OVERWEIGHT AND 3 TICKETS FOR FAILURE TO CLEAR OPEN SCALES IN A PERIOD OF 8 MONTHS WHILE OPERATING UNDER HIS PRIVATE MOTOR CARRIER AUTHORITY.

THE HEARING EXAMINER RECOMMENDED THAT THE COMMISSION:

1. SUSPEND THE CARRIER FOR 90 DAYS;
2. THAT THE CARRIER NOT BE PERMITTED TO LEASE ITS EQUIPMENT TO ANOTHER CARRIER DURING THE PERIOD OF SUSPENSION; AND
3. REQUIRED THE CARRIER TO PURCHASE SCALES AND FILE ALL SCALE TICKETS FOR TRIPS INTO KANSAS EVERY 30 DAYS FOLLOWING THE SUSPENSION PERIOD (LIMITED TO 90 DAYS).

S.T.U 3/26/86 ATT. (4)

ONE OF THE RECOMMENDATIONS CONSIDERED IN THIS CASE WAS TO BRING AN ACTION AGAINST THE MOTOR CARRIER UNDER K.S.A. 66-177 (CIVIL PENALTY PROVISION) FOR "WILLFUL VIOLATIONS" OF THE LAWS GOVERNING MOTOR CARRIERS.

THE STATUTE (K.S.A. 66-177) COULD NOT BE APPLIED BECAUSE THE CURRENT STATUTE ONLY MAKES REFERENCE TO COMMON CARRIERS, AS DEFINED BY K.S.A. 66-105. THE LAW CURRENTLY DOES NOT, AS IN THE CASE JUST MENTIONED, APPLY TO PRIVATE MOTOR CARRIERS WHO ARE REGULATED BY THE COMMISSION.

AS A RESULT OF THE INVESTIGATION OF THIS NEBRASKA BASED MOTOR CARRIER, THE COMMISSION BELIEVES THE LANGUAGE IN K.S.A. 66-138 AND 66-177 SHOULD BE AMENDED TO INCLUDE ALL MOTOR CARRIERS WHO ARE REGULATED BY THE COMMISSION. THE NEW LANGUAGE CONTAINED IN H.B. 2807 MAKES REFERENCE TO "CERTIFICATE, PERMIT OR LICENSE". BY THE USE OF THESE THREE TERMS, WHICH ARE DEFINED IN THE MOTOR CARRIER ACT AND IN THE COMMISSION'S REGULATIONS (K.A.R. 82-4-1), ALL MOTOR CARRIERS REGULATED BY THE COMMISSION WOULD BE INCLUDED UNDER THE CIVIL PENALTY PROVISIONS.

MR. CHAIRMAN, AND MEMBERS OF THE COMMITTEE, SHOULD YOU HAVE ANY QUESTIONS I WILL ATTEMPT TO ANSWER THEM.

ATTACHMENT

3/24/86

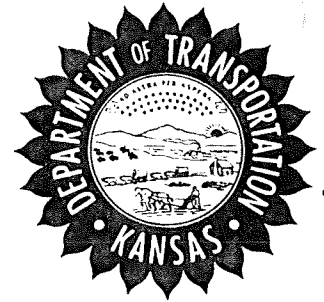
Fines imposed between November 8, 1984 and June 3, 1985

DATE	COUNTY	VIOLATION	DISPOSITION	FINE/ COST
11/8/84	Cheyenne	Overload (15,260 lbs)	Guilty	\$1,501.00 25.00
11/8/84	Cheyenne	Failure to clear open scales	Guilty	220.00 25.00
12/27/84	Wallace	Overload (7,400 lbs.)	Guilty	500.00 25.00
1/8/85	Cheyenne	Overload (5,700 lbs.)	Bail Forfeited	399.00 25.00
1/18/85	Cheyenne	Failure to Clear Open scales	Bail Forfeited	225.00 25.00
1/18/85	Wallace	Overload (13,400 lbs.)	Bail Forfeited	2,010.00 25.00
4/17/85	Wallace	Overload (11,400 lbs.)	Bond Forfeited	1,140.00 25.00
4/17/85	Wallace	Overload (11,400 lbs.)	Bond Forfeited	1,950.00 25.00
4/22/85	Sherman	Failure to clear Open Scales	Guilty	220.00 25.00
4/29/85	Sherman	Overload (14,400 lbs.)	Guilty	1,440.00 25.00
5/9/85	Rawlins	Overload (18,400 lbs.)	Guilty	1,840.00 25.00
5/24/85	Wallace	Overload (5,200 lbs.)	Bond Forfeited	364.00 25.00
5/24/85	Wallace	Overload (11,300 lbs.)	Bond Forfeited	1,130.00 25.00
6/3/85	Wallace	Overload (3,000 lbs.)	Guilty	225.00 25.00
			Total Fines	\$13,164.00
			Total Costs	350.00

Note: A show cause order was mailed on June 11, 1985.

# KANSAS DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING—TOPEKA, KANSAS 66612-1568



JOHN B. KEMP, Secretary of Transportation

JOHN CARLIN, Governor

March 26, 1986

MEMORANDUM TO: The Honorable Bill Morris, Chairman  
Senate Committee on Transportation and Utilities

FROM: John Scheirman, Staff Attorney  
Kansas Department of Transportation

REGARDING: House Bill 2998, As Amended

Mr. Chairman, members of the committee, thank you for the opportunity to comment on House Bill 2998, an act concerning abandoned railroad right of way property. House Bill 2998 was recommended in the Governor's legislative message and was requested by the Secretary of Transportation to address concerns arising from abandonments of railroad right of way. Several members of the legislature and numerous concerned citizens contacted the Kansas Department of Transportation and expressed a need for some solution to these problems.

Under Kansas common law as recognized by numerous decisions of the Kansas appellate courts, it is clearly established that a railroad owns only a limited interest, similar to an easement, in the property on which its rail lines are situated. In other words, Kansas railroads do not own ordinary right of way property in fee simple, but rather they hold the right to use the property for railway purposes. When that use is abandoned, as has been done on many miles of Kansas branchlines in recent years, the ownership reverts to the underlying fee holder, who is generally an owner of adjoining property.

ATT. (5)  
S. T44 3/26/86

The problem that has developed, most notably in the instance of the bankrupt Rock Island Railroad, is that the fact of reversion does not automatically get recorded in the public records of title. Rather, some affirmative act is required, such as a quiet title lawsuit or the purchase of a quitclaim deed. The purpose of the bill is to provide a simple, economic and uniform procedure by which landowners holding the reversionary rights to railroad right of way may obtain clear title to their property in the event that rail service on such a line is abandoned by a rail carrier.

Most railroad companies in Kansas have handled this issue in a responsible manner, and the Kansas Railroad Association has been helpful in our effort to draft a reasonable bill to cover those situations where problems have occurred. Despite the overall trend in the industry, there have been numerous complaints of abuse by a couple of railroads in Kansas. The pattern has been for the railroad to advertise a public sale of abandoned railroad property, and to offer quitclaim deeds for sale to any takers. This has created fear among the rightful landowners that they may lose control of their land and have all variety of uses being made of it by interlopers. Although the case law is on their side, such landowners often do not have the benefit of informed legal advice on the subject.

In effect, such railroads have attempted to sell what they do not own. House Bill 2998 would cure this problem by requiring railroads or their successors, such as bankruptcy trustees, to file disclaimers of interest with the county register of deeds upon a request by a rightful reversionary landowner. This would create a clear chain of title for the landowner. If the railroad failed to comply, within a reasonable time, the railroads could be taken to court for enforcement of the landowner's rights.

Amendments to the bill by the House Committee would:

- + Permit the filing of a general release with a county registrar of deeds as an alternative to numerous individual releases (lines 50 through 57).
- + Require the county clerk, in a county in which abandoned railroad right of way has been entered upon the tax rolls to provide within 30 days to the rail company abandoning the right of way a certified list of the names of affected property owners.
- + Require the rail company abandoning the right of way to notify those persons identified as property owners by the county clerk within 30 days of receiving the list.

In closing, Mr. Chairman, I would note that it is not the intent of this bill to hasten the abandonment of railroad branchlines in Kansas. On the contrary, the bill provides some disincentive to abandonments in marginal cases, as it ensures that railroads will not attempt to claim any resale value for their right of way when calculating their financial standing in cases before the Interstate Commerce Commission. The bill would simply ensure that railroad right of way continues to be used only for its proper public purpose, or otherwise reverts to the ownership of the underlying landowners, with the change of title being recorded in an efficient and straightforward manner.

The Department respectfully requests the Senate Committee on Transportation and Utilities to report House Bill 2998, as amended, favorable for passage. Thank you.

# KANSAS RAILROAD ASSOCIATION

920 S.E. QUINCY

P.O. BOX 1738

TOPEKA, KANSAS 66628

913-357-3392

March 26, 1986

PATRICK R. HUBBELL  
SPECIAL REPRESENTATIVE-PUBLIC AFFAIRS

MICHAEL C. GERMANN, J. D.  
LEGISLATIVE REPRESENTATIVE

## SUGGESTED AMENDMENT TO H.B. 2998

On page 1, in line 26, by striking "issuance" and inserting "exercise"; in line 33, by striking "to operate rail service" and inserting "rail operations"; in line 43, before "property" by inserting "servient"

S. THU 3/26/86  
ATT. (6)