

Approved March 19, 1991  
Date

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION

The meeting was called to order by Representative Rick Bowden at  
Chairperson

3:30 XXX a.m./p.m. on February 20, 1991 in room 519-S of the Capitol.

All members were present except:

All Present

Committee staff present:

Avis Swartzman, Revisor of Statutes Office  
Ben Barrett, Legislative Research  
Dale Dennis, State Board of Education  
Donna Luttjohann, Secretary to the Committee

Conferees appearing before the committee:

Craig Grant, KNEA  
Barry Robinson, teacher, Ottawa  
Les Kuhns, English Teacher, Topeka West High School  
Cheryl Hewitt, Shawnee Mission schools  
Norm Wilkes, KASB  
Gerald Henderson, USA

The meeting was called to order by Vice-Chairman Reardon as requested by Chairman Bowden. Hearings on HB 2115 were opened.

The first proponent, Craig Grant, KNEA was the first proponent of the bill. He felt the bill would make the two parties at the negotiating table talk about assignment and transfer procedures, class size, and employee appraisal criteria. (Attachment 1).

The second proponent was Barry Robinson, proponent.. She stated that class size is omitted from the present negotiation criteria. (Attachment 2).

Les Kuhns, English teacher in Topeka Public Schools testified in favor of HB 2115. He felt the need of transfer and assignment to be included in the list of negotiations. (Attachment 3).

Proponent Cheryl Hewitt, President of NEA-Shawnee Mission, explained the importance of HB 2115 and specifically referenced three components of the bill. (Attachment 4).

Norman D. Wilkes, KASB, was the first opponent of the bill. He felt this bill would limit the board's management ability. (Attachment 5).

The final conferee for HB 2115 was Gerald W. Henderson, USA, opponent. He stated that assignment and transfer procedures and class size remain the responsibility of the people in a community elected to make such policy decisions. (Attachment 6)

Hearings on HB 2115 were closed.

Discussion on HB 2107 was opened by Rep. Bowden. He stated that a fiscal note for \$30,000 on the bill was received. Rep. Praeger made a motion that HB 2107 be passed favorably out of committee. The motion was seconded by Rep. Wiard. The motion carried.

Rep. Bowden then opened discussion for HB 2067. Rep. Hackler moved that HB 2067 be passed out favorably. Rep. Harder seconded the motion. Motion carried.

CONTINUATION SHEET

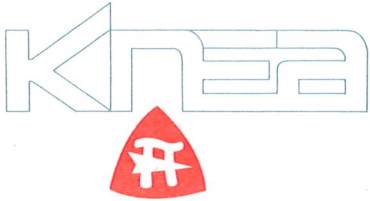
MINUTES OF THE HOUSE COMMITTEE ON EDUCATION,  
room 519-S, Statehouse, at 3:30 XXX a.m./p.m. on February 20, 1991.

Discussion was then opened for HB 2066 by Chairman Bowden. Removes the requirement that the State Board of Education conduct a hearing upon application from local school boards for issuance of bonds. There is no financial impact upon school districts if this bill should pass. Rep. Smith proposed an amendment to the bill which would allow a board of education upon its own motion without being presented with the petition provided for in this section shall require for passage of the motion the affirmative vote of not less than 2/3 of the full membership of the board. Rep. Smith motioned to amend the bill as stated and it was seconded by Rep. Amos. Motion carried. Rep. Crumbaker made a motion the bill be passed as amended. It was seconded by Rep. Lane. Motion carried.

Rep. Bowden called attention to the minutes from February 11, 12 and 13. Action would be taken on them at the next meeting.

The meeting was adjourned at 5:12 p.m. with the next meeting scheduled for Thursday, February 21, 1991 at 3:30 p.m. in room 519-S.





Craig Grant Testimony Before The  
House Education Committee  
Wednesday, February 20, 1991

Thank you, Mr. Chairman. I am Craig Grant and I represent Kansas-NEA. I appreciate this opportunity to speak to the committee in favor of HB 2115.

The change in policy proposed by HB 2115 is contained on pages 2 and 3 of the bill. What we are asking for is to change the list of things that can be negotiated if either side wishes. The list starts on line 37 of page 2. The changes are found on lines 39 and 40 of page 2 and line 4 of page 3. What the addition of these topics will do is require that the two parties at the negotiating table would be required to talk about assignment and transfer procedures, class size, and employee appraisal criteria.

There are three basic types of issues as defined by the negotiation statute--mandatory items, permissive items, and nonnegotiable items. Mandatory items must be talked about, if requested; permissive items are items which may be talked about if both sides agree; and nonnegotiable items are not subject to the process. HB 2115 would change the three items from permissive to mandatory topics. Nothing in this bill requires an agreement on these items, just the ability to talk about them.

Much of the talk in the "reform" movement is of "empowering the teachers" in many different aspects and allowing significant input from the "front line" workers. HB 2115 would allow input in three areas which are important conditions under which a teacher must work. It would seem important to get such input if the teachers believe there is a problem.

Some districts allow discussion on some permissive items while others hide behind the statute and refuse to even talk about any issue they do not

HOUSE EDUCATION  
Attachment 1  
February 20, 1991

have to by law. It is in those districts where HB 2115 will change the practice. Teachers want to be able to discuss problems and reach mutual solutions with their employers through the negotiations process. Three teacher negotiators are here today to share their thoughts about HB 2115.

I hope you will listen not only to their requests, but also to the requests of our other teachers who want to open up the process and be able to discuss these items.

Kansas-NEA supports HB 2115 and hopes that you will act favorably on the bill. Thank you for listening to our concerns.

February 20, 1991

I am currently an Elementary Gifted teacher and consultant in Ottawa, Kansas. I have participated in the negotiations process in Kansas over the last ten years. I have been a negotiations team member representing my local education association at the negotiations table. I have chaired that team process and I have been the spokesperson during that process.

I have represented a larger group of local education associations at the state level on the KansasNEA Negotiations Commission and I recently completed a three year chairmanship of that Commission.

It is with this background that I am here to share with you my thoughts about the current mandatory negotiations list. The current list is beneficial in that it covers many of the issues that arise in a school setting. However the topic of class size is glaringly missing from that list. In this time of increased mobility, school populations are constantly changing--not only year to year, but month to month. The problems of increasing and decreasing class enrollments belong to building administrators and teachers as well as the Board of Education. Kindergarten Roundup and enrollment is soon approaching in many schools. The questions of numbers of students and numbers of teachers and numbers of classrooms will be posed. The answers lie within the expertise of both the building staffs and the Board of Education. The issue needs to be viewed both financially and in the best interests of the individual students we will be serving.

The only way we can facilitate this is to meet together to share ideas and solutions. We are fortunate at this time in Ottawa to have a group of educators and Board members who are willing to come together to talk about this issue of class size. However, I know that this is not the case in

HOUSE EDUCATION  
Attachment 2  
February 20, 1991

some school districts. And it has not always been the case in Ottawa. In the early 1980's, our local association was involved in a district court case about the right to discuss the issue of class size and the finances surrounding it. This was not beneficial to the negotiations process nor to the task of improving education in our schools.

By including class size in the list of mandatory issues, the avenues of communication can be opened. With the increased exchange of ideas and the use of problem-solving in the negotiations process, we can focus on the task that belongs to all of us--the improvement of education for all our students.

Thank you for your time and consideration.

*Barry Robinson*

I am Les Kunns. I am employed by the Topeka Public Schools as an English teacher at Topeka West High School.

I'm here today to talk about the need to include assignment and transfer to the list of mandatorily negotiable items in the Professional Negotiations Act. This important area of human resources management currently falls into that dimension of bargaining known, laughingly in some places, as permissibly negotiable. Most of my experience has been that to school boards that phrase means, "We don't have to discuss it, so we won't." That attitude can be true for at least a couple of reasons. The first is that some boards don't want to establish a precedent of discussing any item beyond what is minimally required in the law. For others, it is a matter of belief that negotiating assignment and transfer procedures would somehow hobble a district's ability to assign staff in an appropriate manner.

In the first case, including assignment and transfer in the list of mandatory items would provide the framework to bargain the issue while preserving a board's desire to stay within what is minimally required by law. In the second case, I have two responses. We recognize that there is a legitimate management interest in being able to assign personnel. Even if there were an association which believed that it should have the ability to block appropriate assignment of personnel, school boards are sophisticated enough at the bargaining table to keep such a result from occurring. That is obviously the case in those districts where assignment and transfer clauses have been successfully negotiated.

While we do recognize that there is a legitimate management interest in assignment and transfer, it must be recognized that there is a legitimate employee interest as well. The fundamental difference between human resources and material resources is too often overlooked, especially in larger districts where those who manipulate personnel are removed from those whose lives and job satisfaction are affected by their decisions. A computer doesn't care where it is. The person who teaches children to use



that computer does care where she is assigned. She has an emotional investment in her children, her colleagues, her school. Unfortunately, she may be little more than a number on the staff chart to a manager in an office blocks or miles distant from her classroom.

In a district with no assignment and transfer policy, every employee may have cause to be concerned about being uprooted at any time. The emotional drain can be debilitating. In some school districts, wholesale transfers are an annual event. They occur for a variety of reasons. In some cases, they are a result of shifting student population. Reassignment of personnel is necessary in these cases. However, in other cases, transfers are a way of shuffling a "problem" to someone else. In those rare instances where an employee is perceived as performing at a substandard level, a principal may simply transfer the individual rather than dealing with the need to provide remedial assistance. The annual shuffling of personnel in USD 501 is known outside the district as "the ball of the dancing lemons."

Kansas law contemplates an evaluation procedure which provides verification of reasonable performance by teachers, and remediation when performance is found to be lacking. Arbitrary transfers used as a substitute serves neither the interests of the teacher nor the students. Even superior teachers can fall into this abyss because they "have a personality conflict with the principal." It is a commonly held view in my district that such punishment transfers occur. Whether it is true or not, whether it is denied here or in the schools, the absence of a uniformly applied transfer policy perpetuates the perception. At the same time, a teacher has little reason to expect that a request for a transfer away from an abusive principal will be seriously considered. Such situations are not the rule, but they do occur.

Teachers invest more than just emotion in the places where they work. They invest time. It is common for teachers to spend days, often before they are required to report for duty, preparing a classroom for the children. To uproot that teacher after that investment, sometimes after the beginning of school, as if she were just another piece of hardware, is poor human

resources management. When the shift in location is coupled with a change in grade level or subject matter, the dislocation is compounded. That is what happened to my next door neighbor two years ago. She had spend the summer preparing lesson plans with a new series of textbooks for one grade level at one school. In the fall, she was assigned to a different grade level in a building on the other side of town. In addition to emotional trauma of feeling rejected, she had to prepare a second classroom and a second set of lesson plans for a grade level she had not taught in many years. The transfer may have been justified by enrollment shifts. Still, in the absence of a uniform policy, nobody on the staff knew why a senior teacher was chosen. The teachers who were left in place were also left with the uneasy knowledge that next year they could be the ones to be dislocated without warning. The only person well-served by such a procedure is the number shuffler up on the hill miles away. These events occur annually in my district. I'm sure we aren't unique.

The solution to this problem is simple. Place assignment and transfer on the list of mandatory subjects for bargaining. That way, management and employees can sit down and work out an orderly policy which protects the needs of a district to place personnel where they are needed and the needs of the employees to have a stable work environment. In some districts, these interests have been voluntarily addressed to the satisfaction of both parties. In other districts, human resources management has been depersonalized to the detriment of employees and children. The districts where a problem exists are easy to identify. They are the ones whose failure to recognize the human elements of personnel policies is evidenced by their refusal to sit down and voluntarily address the mutual concerns of assignment and transfer of individual human beings. Amending the Professional Negotiations Act to include assignment and transfer will provide the avenue we need to solve this "people" problem.

# NEA SM

NATIONAL EDUCATION ASSOCIATION OF SHAWNEE MISSION  
7820 CONSER PLACE, SHAWNEE MISSION, KANSAS 66204  
Affiliated with: Kansas National Education Association / National Education Association

TELEPHONE  
913-649-3175

February 20, 1991

*My name is Cheryl Hewitt; I am the president of NEA-Shawnee Mission. The introduction of HB2115 is of paramount importance to teachers especially at this time as we enter the collective bargaining season with boards of education. The Shawnee Mission Board's Chief Negotiator was recently quoted as saying that teachers again had proposed items that were a "rehash of the same proposals that have led to trouble in the past." Yes, he's correct because those items are still problems that need to be dealt with and not dismissed year after year because they are not mandatorily negotiable items. Certainly teachers understand that many bargaining proposals are cost items for BOE's, but they still need to be explored and solutions sought in a problem-solving mode to arrive at ultimate improvements for students.*

*With the average age of teachers in Shawnee Mission, as well as other districts statewide, being between 45 and 50 years, the basically no cost issue of transfer and assignment needs to be a topic for discussion at the table. Career teachers need changes to occur from time to time in their basic assignments. The ability and flexibility to move laterally in the district within one's areas of certification can be a vital renewal of focus, commitment and energy for those*

HOUSE EDUCATION  
Attachment 4  
February 20, 91

*planning to teach until eligible for KPERS. Allowing teachers a voice in the future of their careers is imperative and an excellent manner in which BOE's could express their appreciation for the dedication of professional employees.*

*The issue of class size is extremely close to the hearts of all educators. Indeed it is a cost item, but that cost is directly correlated to the quality of products that can be delivered. School district officials and much of the public judge the quality of education on test scores. As a special ed teacher, I know that testing as an assessment is probably the least reliable in evaluating student performance; informal teacher observation is the most meaningful in setting goals and planning for instruction. Recently, there was an article in the K.C. Star indicating that there was no research to show that class size significantly impacts instruction. That statement certainly got the attention of numerous teachers! As the teacher's role becomes more of a "be all" for many students, reasonably low class sizes become increasingly important. Teachers are responsible for educational objectives to be met, but before that can happen, awareness and addressing issues of whose parents are about to split-up, the death of a loved one, a kitty that's been missing for three days, or "my dog died last night" can only be met with time to interact with students on a one-to-one basis. The years I had 20 fourth graders and the years I had 28 or 29 were very different experiences for me as a teacher and the job I felt I could do, as well as achieving realistic student outcomes.*

*The third component of HB2115 is that of evaluation criteria. In Shawnee Mission, we have a good evaluation tool that teachers helped to design; I taught at a pilot school and saw meaningful revisions implemented over a four year period. However, as objective as it was intended to be, it is often administered in an arbitrary, discriminatory fashion. For example, under the "Instructional Process" competency, C.5. which states that the teacher "includes District accepted components of the teaching act in teaching a unit or objective", a teacher may not "meet or exceed criteria" in this area yet meet or exceed all other criteria in this lengthy process and still be recommended for nonrenewal. Much of this depends on the evaluator's subjectivity. So what are "District accepted components"? How boring for students and teachers if teachers all must follow the same cookbook approach!! Students' individual needs must be taken into account and sensitivity must be shown in daily relations with all students.*

*In the spirit of site based-decision making, employees and boards of education must have the leverage to sit down to discuss options for all problem situations and reach consensus for solutions regarding the ever-changing conditions in our public schools.*

**KANSAS  
ASSOCIATION**



**OF  
SCHOOL  
BOARDS**



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

**Testimony on H.B. 2115  
before the  
House Committee on Education**

**by**

**NORMAN D. WILKS, LABOR RELATIONS SPECIALIST  
Kansas Association of School Boards**

**February 20, 1991**

Mr. Chairman and members of the committee, on behalf of 292 of 304 of the unified school boards of education which are members of the Kansas Association of School Boards, U.S.D. 512, Shawnee Mission, U.S.D. 229, Blue Valley, and schools for quality education, we wish to express our opposition to the passage of H.B. 2115.

We are opposed to the expansion of mandatory topics of bargaining to include assignment and transfer procedures, class size and evaluation criteria. Such action will limit the board's management ability, increase costs of providing educational services and create the potential for less efficient use of professional staff.

Professional negotiations in Kansas school districts began with the passage of the Professional Negotiation Act in 1970. Early the test to determine which items were mandatorily negotiable was the impact test. The impact test determined that items which had a greater impact on teachers than on the board were mandatorily negotiable. The result was frequent litigation. The Professional Negotiations Act was substantially amended in 1980 to include a list of mandatory topics.

HOUSE EDUCATION  
Attachment 5  
February 20, 1991

The change created a list of topics the legislature determined had a greater impact on teacher interest than on the board of education. The determination of specific items was also changed from the impact test to a topic approach. At the time the change was made, assignment and transfer procedures, class size and evaluation criteria were not included, arguably because the legislature at that time determined that such topics had a greater impact on management than on the individual teachers.

The impact of expanding the mandatory topics is even greater based on Dodge City National Education Association v. U.S.D. 443, 6 Kan. App.2nd 810 (1981). The court held that boards could not make changes in mandatory negotiable items without going through professional negotiations. The board could not change its custom and practice even if neither party noticed the item for bargaining.

Assignment and transfer should not be included because such action will limit the board's right to determine the best use of staff. The district should not be limited in its right to assign staff in areas or subjects in which they may be certified. K.S.A. 72-1390 provides an effective bar to assigning teachers to teach courses for which they are not certified. The statute makes it unlawful for the board of education to pay a salary to a certificated employee which does not hold a valid certificate for the particular kind of work to be performed. In our view, there is no other result from inclusion of assignment and transfer procedures but the restriction of the board's ability to change or modify assignments to meet the educational needs of students.

Class size should not be included because creation of an artificial limit on the number of students reduces the board's ability to make management decisions utilizing existing teachers, available

classrooms and financial resources. Students enroll and leave school districts throughout the school year. An artificial limit on the class size may cause the addition of new teachers for limited periods of time and may also require teachers and classes when adequate physical facilities are not available. Further, we are not aware of evidence that class size has a direct correlation to student performance or success.

In addition the evaluation criteria should not be mandatorily negotiable because evaluation criteria is the basis of school and professional employee improvement. The criteria really is the performance standard or educational expectation of the school district. The board is required by Kansas law to adopt policies for professional employee evaluations and is further required to involve the evaluator, the employee being evaluated and to the extent possible, community interests. At a time of greater demands for educational improvement, restrictions of the board's ability to establish performance goals or standards would impede the improvement process.

As this committee is well aware, any significant expansion of school funding is tenuous at best. Negotiated limits of class size or limiting the ability to transfer or assign professional employees as needed within the school district can increase the operating cost of the district. The right to assign, transfer and determine class size is necessary for the board to manage the district within the available finances, available space and the student educational needs. K.S.A. 72-8205(c) states in part that the board shall have the authority to provide the courses of study within the school district. Restrictions as contemplated by this bill will have a detrimental impact on the part of the board of education to establish and determine such courses of study.



For the reasons stated above, we encourage this committee to take no action to increase the list of mandatory topics of bargaining for professional negotiations.



## HB 2115

February 20, 1991

Testimony presented before the House Committee on Education  
by Gerald W. Henderson, Executive Director  
United School Administrators of Kansas

Mister Chairman and members of the committee. United School Administrators of Kansas again rises in opposition to the addition of **assignment and transfer procedures** and **class size** to the list of mandatorily negotiable items under the PN law. Kansas administrators continue to believe that the assignment of employees within a district and the size of classes within schools of a district must remain the responsibility of the people in a community elected to make such policy decisions.

To mandatorily negotiate these items would be to unnecessarily limit the flexibility of boards and administrators in managing schools. We encourage you to report **HB 2115** unfavorably.

HB2115/gwh

HOUSE EDUCATION  
Attachment 6  
February 20, 1991