

Approved:   
Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

The meeting was called to order by Chairperson Barbara Lawrence at 9:00 a.m. on March 12, 1997 in Room 123-S of the Capitol.

All members were present except: Senator Lee

Committee staff present: Ben Barrett, Legislative Research Department  
Avis Swartzman, Revisor of Statutes  
Jackie Breymeyer, Committee Secretary

Conferees appearing before the committee: Mark Tallman, Kansas Association of School Boards

Others attending: See attached list

Chairperson Lawrence called the meeting to order and stated the agenda was the continuation of

HB 2098--enrollment and transportation of nonresident students

Mark Tallman, KASB, spoke in opposition to the bill. (Attachment 1) He stated that he appears not because of a policy position, but because of the precedent that it might set. The major concern is once this precedent is established of allowing this exception, on what basis will other reasons be denied. Once 10 miles is allowed, maybe next year someone may come in and make just a compelling case for 9 1/2 miles.

To deal with this, the recommendation of KASB for the bill is quite the opposite of what Scott Hill from the State Board stated at yesterday's hearing. KASB thinks there should be a true appeal to the State Board to allow a district that is opposed to granting this to go before the State Board and state its case. There may be reasons why a local board believes it is inappropriate to let another bus come in and the district should have an opportunity to present this to some authoritative body. This bill addresses problems that arise when two districts cannot work out an arrangement. If the bill goes forward, it would be appropriate to let those districts that might be adversely impacted have the opportunity to say why before the State Board if for no other reason than to have a record of the districts decisions.

In response to one of the members of the Committee, Mr. Tallman stated that their suggestion would be that the State Board be clearly directed to evaluate the claim of the individual family and weigh that against the reasons the local board or resident board had for turning a particular family down; find out why they were denied and make a determination on that basis.

The comment was made by a committee member to the effect that it is the ten miles that is the threshold at which the request can be made.

Mr. Tallman's response was that what he thinks Mr. Hill of the State Board was saying was that the Board would only determine the mileage; they did not want it to be interpreted as having a hearing on the case. What his organization is suggesting is that the State Board should be able to have a hearing on the case to determine whether there are compelling reasons for turning down a request.

Representative Aurand stated to the committee that since 1992 especially, the main reason for a school board's objection is money. He has spoken with his own board members in his district and asked if there was any compelling reason to turn down a family's request and they all replied it was solely money.

Mr. Tallman responded to this that at some point this is not just money, but a lot of money. What if this creates the potential for a substantial number of students leaving a district; this would have a significant impact on the budget of that district. What Mr. Tallman stated he should have put in his testimony was that if this bill passes, it should be coupled with the declining enrollment provision so that districts have at least a year to plan for the possible loss of students.

The Chairperson stated that putting a two-year sunset on this might answer some of his concerns.

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION, ROOM 123-S-Statehouse, at 9:00 a.m. on March 12, 1997.

One of the Committee members commented that this issue has been amended into **SB 17**. A conference committee was appointed yesterday. The conferees on behalf of the Senate are Transportation Committee members. He would recommend that Senator Downey replace Senator Gilstrap on the conference committee.

Mr. Tallman stated that a child would have to be 10 miles or more from the school he/she would go to and would have to be closer than that to the school that he/she wants to go to. It is limited in that it does not expand the right to go to whatever school a child wants to go to or be bused wherever a child would want to go.

The Chairperson stated that after two years if the sunset amendment goes on, if it seems that it is causing a problem, then the Committee might want to look at an attachment of the declining enrollment provision. With the safeguard of a sunset, the problems could be addressed that are out there.

Mr. Tallman said another thing that has to be remembered about this bill. There is nothing in the bill that says that a district that has been willing to accept these children still has to take them. Should it no longer be in a particular district's best interests to take these children, it could stop taking them as well.

After a few further comments, the Chairperson stated the hearing closed on **HB 2098**.

Senator Bleeker recommended that **HB 2098** be passed favorably. There was no second to the motion.

Senator Downey amended **HB 2098** by adding a two-year sunset.

Senator Downey stated that this is not to be punitive, but because there are a lot of unknowns. It will require the Committee to take a look at the bill and require Boards to make good decisions and to keep good records.

Senator Umbarger gave a second to the amendment.

A member of the Committee stated that it should be the intent that these reasons be adequately articulated in the minutes. The Boards will know they will have to have documentation.

The question was asked if every district in the state will now have to do documentation.

Mr. Dennis replied that as the bill stands now, they will just put a question on the organizational report on how many the district approved; how many the Board approved for that purpose to go to a district. He clarified that approval must come from the receiving district before going to the local board to get permission to go. The State Board knows the number of students who are crossing district boundary lines.

Staff clarified that this is just a bill to transport, not to attend.

Senator Kerr stated for clarification that the State Board is still in the bill, the only criteria is mileage. He stated that these reasons are not compatible. The State Board needs to have some reason to review and mileage is not one of them. If the reason for having the two-year review is to see if it is being abused, probably the State Board review should come out also.

Senator Kerr made a substitute motion to include the sunset provision and remove the State Board of Education review. Senator Hensley gave a second to the motion.

Chairperson Lawrence reiterated that the only criteria is the 10 miles and it does not have to be reviewed by the State Board of Education.

Comments on the 10 miles were made. If a sending district refuses the request, it will be in violation of the statute if it does not comply.

The substitute motion to amend carried.

Senator Bleeker moved to recommend **HB 2098** favorably for passage as amended.

Senator Downey gave a second to the motion.

The motion carried.

The meeting was adjourned.





TO: Senate Committee on Education  
FROM: Mark Tallman, Director of Governmental Relations  
DATE: March 10, 1997

**RE: Testimony on H.B. 2098**

Madam Chair, Members of the Committee:

KASB appears today in opposition to H.B. 2098. However, it is not because we disagree with the sponsors' desire to accommodate children and families who have real concerns about transportation which they have not been able to resolve locally. We recognize this bill is more limited than similar legislation from past sessions.

Our concern is once you open the door to busing across district lines, it will be very hard to draw any other lines. This bill essentially allows the State Board to grant permission for cross district busing in cases of where a student lives 10 miles or more from a school in their own district, and wants to attend a closer school in another district. The justification for this change is hardship due to distance and time. But if this principle is established, why not other types of hardship? Why not any number of other reasons? What if a family wants to transportation to attend another district because of academic programs - or even athletic programs?

It is important to note that this bill - like so many other school choice proposals - still leaves the choice with the school, not family. This bill would only apply to cases where a district is willing to accept a nonresident student, where the district is willing to send a school bus to pick up the students, and willing to do it without receiving state transportation aid.

Because of these limitations, the consequences of passing H.B. 2098 in its present form are unlikely to impact many students or districts. But we believe the pressure to expand the scope of this measure will almost certainly grow, and the Legislature will face a new set of problems to confront. If a significant number of students end up transferring to another district, it will not only mean a loss of students and funding per pupil, it will likely also mean those families will be less supportive of district needs (such as bond issues, local option budgets, etc.) because their students will no longer have a stake in that district.

If the Legislature believes H.B. 2098 is an appropriate measure, we suggest the bill be amended to make clear that the State Board can and should consider that consequences of an appeal to allow busing across district lines on not only the student and family making the appeal, but also the other students in the districts affected.

Thank you for your consideration.

*Senate Education*  
*3-12-97*  
*Attachment 1*