

MINUTES OF THE HOUSE EDUCATION COMMITTEE

The meeting was called to order by Chairman Clay Aurand at 9:00 a.m. on February 9, 2010, in Room 711 of the Docking State Office Building.

All members were present except:  
Representative Shirley Palmer- excused

Committee staff present:  
Theresa Kiernan, Office of the Revisor of Statutes  
Reagan Cussimano, Kansas Legislative Research Department  
Sharon Wenger, Kansas Legislative Research Department  
Amanda Nguyen, Kansas Legislative Research Department  
Dale Dennis, Kansas State Department of Education  
Janet Henning, Committee Assistant

Conferees appearing before the Committee:  
Paul Hettenbach, Board of Education member, Abilene USD 435  
Mark Tallman, Kansas Association of School Boards  
Brad Starnes, Superintendent, Riley County USD 378

**HB 2595 - School districts; of students residing outside the district.**

Chairman Aurand opened the hearing on **HB 2595.**

Theresa Kiernan, Senior Assistant Revisor, Office of the Revisor of Statutes, told Committee members that **HB 2595** would authorize school districts to transport any non-resident pupil enrolled in and attending school in the district. The pupil would be required to reside at least ten miles from the attendance center that the pupil would have attended in the district where the pupil resides.

The bill would eliminate the requirement that an application be submitted to the district in which the pupil resides.

She stated any pupil provided transportation under this section would be counted in the enrollment of the district in which the pupil is enrolled; the district would not be reimbursed for the cost of providing transportation to a non-resident. (Attachment 1)

Paul Hettenbach, Board of Education member Abilene USD 435, spoke as a proponent of **HB 2595.** Mr. Hettenbach told Committee members he felt the deadline places unneeded burden on families that move into an area after July 15<sup>th</sup>. He stated that when this rule first became law, the deadline was probably important for transportation directors to have time to develop bus routes. He stated the change will not have any advantage to one district over another district and there is no cost involved to help some parents. (Attachment 2)

Mark Tallman, Assistant Executive Director/Advocacy, Kansas Association of School Boards (KASB), spoke to Committee members in opposition of **HB 2595.** Mr. Tallman told Committee members that last session a bill was introduced to remove the "10-mile" requirement from the 10-mile transportation law. The KASB Legislative Committee reviewed their position on this issue and later the Delegate Assembly voted to adopt the following:

"KASB opposed changes in the "10-mile bus" rule that allows districts to transport non-resident students without permission of the district of residence in certain circumstances."

Mr. Tallman told Committee members that their committee did not review the issue raised in this bill; the procedure under which students apply by a July 15 deadline. Mr. Tallman stated that if the concern is some students may move into a district after the deadline of July 15<sup>th</sup> and would not be part of the expected enrollment, a more narrow amendment to the bill would be appropriate. (Attachment 3)

Brad Starnes, Superintendent, Riley County USD 378, spoke to Committee members in opposition of **HB 2595.** Mr. Starnes gave background information on their district and also stated their district is a relatively poor district, ranking 240 out of 295, with an assessed valuation of about \$36 million. More than 80 percent of their students utilize district transportation.

Mr. Starnes stated their district has seen continued growth over the last four years due primarily to the addition of non-resident students, however, this bill could reverse that trend, and in fact, create additional migration out of their district. He stated enrollment is impacted by a number of factors, including changes in military personnel stationed at Fort Riley.

Mr. Starnes told Committee members that under **HB 2595,** they would have no choice as a school district but to allow a Manhattan bus to enter into their school district to pick up USD 378 Riley County students. He stated in one area, they have 250 platted homes with a potential of 500 students. Since the enactment of K.S.A. 2009 Supp 72-1046b, their district has had two families apply for USD 383 (Manhattan) busing. Mr. Starnes stated his concern is that **HB 2595** may result in an increased number of families exercising this option.

Mr. Starnes further stated that USD 378 receives approximately \$800,000 in student aid for non-resident students and while he is not opposed to families or students choosing what school district to attend, he does have

CONTINUATION SHEET

Minutes of the House Education Committee at 9:00 a.m. on February 9, 2010, in Room 711 of the Docking State Office Building.

concerns when one district has an advantage over another in the recruitment of students across district lines. (Attachment 4)

A question and answer session followed each presentation.

Chairman Aurand closed the hearing on HB 2595.

**HB 2539 - School districts; supplemental general state aid; litigation.**

Chairman Aurand opened the hearing on HB 2539.

Theresa Kiernan, Senior Assistant Revisor, Office of the Revisor of Statutes, gave an overview of HB 2539 to Committee members. She stated that HB 2539 would amend two provisions in the school finance act.

- The first amendment is clarifying in nature and specifies that moneys received as supplemental general state aid shall be expended solely to meet the requirements of the school performance accreditation system adopted by the state board, to provide programs and services required by law and to improve student performance.
- The second amendment would provide that after July 1, 2011, any school district which expends money from its supplemental general fund to finance or support litigation against the state, the state board of education or any state agency or employee regarding any law concerning school finance would be ineligible for supplemental general fund in the year following such expenditure.

Ms. Kiernan told Committee members that under current law, a school district may not expend any money in its general fund to finance or support such litigation. (Attachment 5)

Representative Aurand spoke to Committee members as a proponent of HB 2539. Representative Aurand told Committee members that the state currently has a huge structural deficit that we have no way of filling and schools aren't getting their money on time. At the same time, schools seek to sue for more money from the state.

Representative Aurand stated it would appear, looking at the estimates of lack of funds to fund all other areas of government this year, that when you turn the appropriations process over to the court, you do not get in the business of what legislators are voted into office to do. That is to decide where that final dollar has the most amount of good. Is it in Education? Is it in KBI having someone to stop crimes? There are all of these things that are competing interests and that is what the elected body is supposed to do and decide as a majority, where that money should go.

Representative Aurand stated that when you turn that process over to another entity, then you have the problems that we currently have. Because people are more than willing to spend money but the same folks are not willing to raise the money to spend.

Representative Aurand told Committee members that this bill simply says that if those districts want to spend money, have the excess resources to spend to hire very good lawyers to make very good arguments over something that he believed to be a function of the legislative body, and deliberating on where that money should go, then they have enough money. He further stated he didn't think the state should continue to subsidize, in the future, those districts that have made that decision. That is the essence of HB 2539.

Mark Tallman, Assistant Executive Director/Advocacy, Kansas Association of School Boards, spoke to Committee members in opposition of HB 2539. Mr. Tallman told Committee members that KASB was not part of the original action in the *Montoy* lawsuit and are not involved in either the funding or direction of the renewed litigation. However, several years ago, the KASB members adopted the following:

"KASB supports the role of an independent judiciary in enforcing constitutional provisions. We oppose either changing the selection process for judges or limiting the ability of the courts to enforce those provisions, which would weaken the traditional separation of powers in Kansas."

Mr. Tallman stated this bill obviously would limit the ability of their members to pursue legal action they believe necessary to protect the interests of the students, patrons, and taxpayers of their districts. He stated this position neither endorses nor opposes the new lawsuit. (Attachment 6)

A question and answer session followed each presentation.

Chairman Aurand closed the hearing on HB 2539.

The meeting was adjourned at 10:40 a.m. The next meeting is scheduled for February 10, 2010.

MARY ANN TORRENCE, ATTORNEY  
REVISOR OF STATUTES  
JAMES A. WILSON III, ATTORNEY  
FIRST ASSISTANT REVISOR  
GORDON L. SELF, ATTORNEY  
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES  
KANSAS LEGISLATURE

Legal Consultation—  
Legislative Committees and Legislators  
Legislative Bill Drafting  
Legislative Committee Staff  
Secretary—  
Legislative Coordinating Council  
Kansas Commission on  
Interstate Cooperation  
Kansas Statutes Annotated  
Editing and Publication  
Legislative Information System

TO: House Committee on Education  
FROM: Theresa Kiernan  
RE: House Bill No. 2595  
DATE: February 9, 2010

HB 2595 would authorize school districts to transport any non-resident pupil enrolled in and attending school in the district. The pupil would be required to reside at least 10 miles from the attendance center that the pupil would have attended in the district where the pupil resides.

The bill would eliminate the requirement that an application be submitted to the district in which the pupil resides.

Any pupil provided transportation under this section would be counted in the enrollment of the district in which the pupil is enrolled; the district would not be reimbursed for the cost of providing transportation to a non-resident.

There would be no fiscal impact to the state.

RS- C:\Documents and Settings\tkiernan.RS\Desktop\Explnrs\HB2595Expr.wpd (tkiernan)

300 SW TENTH AVE - STE 24-E, Statehouse—TOPEKA, KANSAS House Education Committee  
PHONE (785) 296-2321 FAX (785) 296-6668 E-mail: Revisor Date 2.9.10  
Attachment # 1

Testimony before the  
**House Education Committee**

On

**HB2595**

By

Paul Hettenbach, Board of Education Member

Abilene USD 435

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to testify. I appear today as a proponent of HB 2595. As a board member with over 22 years experience, I feel that this deadline places unneeded burden on families that move into an area after July 15<sup>th</sup>. At the present they must provide transportation to the district boundary to meet the bus. Also, in the past there have been parents of kindergarteners that during enrollment find out about the July 15<sup>th</sup> deadline for the 10 mile rule. They too, must provide transportation to the district boundary. In July most families are not thinking of school. With busy kids and activities it is easy to miss the deadline.

When this rule first became law, the deadline was probably important for transportation directors to have time to develop bus routes. I don't believe that there are significant changes each year that removing the deadline will cause more problems for transportation directors. One thing that it will change, is dealing with upset parents that missed the deadline. In our area, most kids go to school where their parents want them to attend.

This change has no advantage to one district over another district. There is no cost involved to help some parents. Thank you for this opportunity to testify, and I would stand for questions.

House Education Committee

Date 2-9-10

Attachment # 2

KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024  
785-273-3600

Testimony before the  
**House Education Committee**  
on  
**HB 2595**

by  
**Mark Tallman, Assistant Executive Director/Advocacy**  
Kansas Association of School Boards

**February 9, 2010**

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to testify on **HB 2595**, which makes changes to the 10-mile rule in regard to providing transportation for non-resident students. It removes the requirement that parents of students eligible under the 10-mile rule have to apply to the non-resident district by July 15. If the student is eligible for transportation under the 10-mile rule, the receiving district may furnish transportation.

Last session, a bill was introduced to remove the “10-mile” requirement from the 10-mile transportation law. At the request of one of our members, the KASB Legislative Committee reviewed our position on this issue. In December, our Delegate Assembly voted to adopt the following statement:

“KASB opposes changes in the “10-mile bus” rule that allows districts to transport non-resident students without permission of the district of residence in certain circumstances.”

As a result, we appear as opponents of this bill. However, I should note our committee did not review the issue raised in this bill: the procedure under which students apply by a July 15 deadline. Our discussion concerned whether the distance requirement should be changed or eliminated. However, none of our members have ever suggested problems in the deadline or application process under the law.

We note the July 15 deadline was originally adopted to give districts some advance notice about possible changes in enrollment before the adoption of their budget for the upcoming school year. We think that still makes sense. If the concern is some students may move into a district after that deadline – and would not be part of the expected enrollment anyway – a more narrow amendment to the bill would be appropriate.

Thank you for your consideration.

House Education Committee  
Date 2-9-10  
Attachment # 3

**House Education Committee**

**Testimony on HB 2595**

**February 9, 2010**

**Presented by: Brad Starnes, Superintendent, Riley County USD 378**

Good morning, I am Brad Starnes USD 378 Riley County superintendent. Riley County is a 3A school district of approximately 700 PK-12 students. The district is located just north of the Ft. Riley military reservation in Geary County, is bordered to the west by Clay County, to the north by Washington and Marshal counties, to the east by Pottawattamie and Wabaunsee counties and includes the communities of Leonardville, Riley and Keats. Our Eastern district line is included within the city limits of Manhattan. Non-resident students comprise approximately 13 percent of our student enrollment. Our military population is 9.7 percent and we have approximately 34 percent free and reduced students. USD 378 is a relatively poor district – ranking 240 out of 295, with an assessed valuation of about \$36 million. More than 80 percent of our students utilize district transportation.

Thank you for the opportunity to testify before you today. I am here to speak against HB 2595 and share my concerns about how this bill would impact Riley County USD 378.

Our school district's furthest Southeast border is located within the city limits of Manhattan, which is approximately 15-17 miles away from our grade school and 17-20 miles from our high school. According to our non-resident families that attend Riley County schools, the bus ride from our locations near Manhattan, Marlatt and Highway 24 on the North and within the Highlands Meadow subdivision on the South, is between 30-40 minutes. They tell us that time is very similar or less than what their children experience when enrolled in neighborhood schools in Manhattan USD.

Riley County USD has seen continued growth over the last four years (7.6 percent) due primarily to the addition of non-resident students; this bill could reverse that trend and, in fact, create additional migration out of our district. Our enrollment is impacted by a number of factors, including changes in military personnel stationed at Fort Riley.

Under HB 2595 we would have no choice as a school district but to allow a Manhattan bus to enter into our school district to pick up USD 378 Riley County students. We have 250 platted homes with a potential of 500 students in the housing development just south of Anderson Avenue on Scenic Drive-Highland Meadows. Since the enactment of K.S.A. 2009 Supp. 72-1046b, we have had two families apply for USD 383 busing. My concern is that HB 2595 may result in an increased number of families exercising this option.

USD 383 receives approximately \$800,00 in student aid for non-resident students and while I am not opposed to families or students choosing what school district to attend, I do have concerns when one district has an advantage over another in the recruitment of students across district lines. In our case, students residing in Riley County USD would be eligible for

House Education Committee  
Date 2-9-10  
Attachment # 4

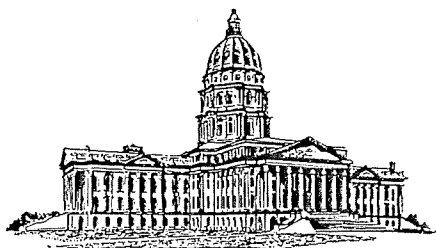
transportation into Manhattan USD, but Manhattan USD residents currently enrolled in Riley County USD may not be eligible for transport into our district since they are less than 10 miles away from their attendance center.

The bottom line is that most school districts, unless there are safety issues, have not allowed other school districts to enter into their school district boundaries to pick up students. This bill makes it relatively easy to move school district lines and to allow non-resident transportation.

Thank you for your time and for your work in supporting Kansas students. I would be happy to answer any questions you may have at the appropriate time.



MARY ANN TORRENCE, ATTORNEY  
REVISOR OF STATUTES  
JAMES A. WILSON III, ATTORNEY  
FIRST ASSISTANT REVISOR  
GORDON L. SELF, ATTORNEY  
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES  
KANSAS LEGISLATURE

Legal Consultation—  
Legislative Committees and Legislators  
Legislative Bill Drafting  
Legislative Committee Staff  
Secretary—  
Legislative Coordinating Council  
Kansas Commission on  
Interstate Cooperation  
Kansas Statutes Annotated  
Editing and Publication  
Legislative Information System

TO: House Committee on Education  
FROM: Theresa Kiernan  
RE: House Bill No. 2539  
DATE: February 9, 2010

HB 2539 would amend two provisions in the school finance act. The first amendment is clarifying in nature and specifies that moneys received as supplemental general state aid shall be expended solely to meet the requirements of the school performance accreditation system adopted by the state board, to provide programs and services required by law and to improve student performance.

The second amendment would provide that after July 1, 2011, any school district which expends money from its supplemental general fund to finance or support litigation against the state, the state board of education or any state agency or employee regarding any law concerning school finance would be ineligible for supplemental general fund in the year following such expenditure.

Under current law a school district may not expend any money in its general fund to finance or support such litigation.

The fiscal note states there is no fiscal impact to the state.

RS- C:\Documents and Settings\tkiernan.RS\Desktop\Explnrs\HB2539Expr.wpd (tkiernan)

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House Education Committee  
Date 2-9-10  
Attachment # 5



KANSAS  
ASSOCIATION



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1420 SW Arrowhead Road • Topeka, Kansas 66604-4024  
785-273-3600

Testimony before the  
**House Education Committee**  
on  
**HB 2539**

by  
**Mark Tallman, Assistant Executive Director/Advocacy**  
Kansas Association of School Boards

**February 9, 2010**

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to testify on **HB 2539**. As we understand the bill, it would prohibit any district from receiving local option budget state aid for the year after the district spent money from the supplemental general fund (local option budget) to engage in or support litigation against the state regarding school finance. It would also limit the use of supplemental state aid "solely" for compliance with state accreditation requirements, "to provide programs and services required by law and to improve student performance."

The Kansas Association of School Boards was not part of the original action in the *Montoy* lawsuit and we are not involved in either the funding or direction of the renewed litigation. However, several years ago, our members adopted the following statement:

"KASB supports the role of an independent judiciary in enforcing constitutional provisions. We oppose either changing the selection process for judges or limiting the ability of the courts to enforce those provisions, which would weaken the traditional separation of powers in Kansas."

Obviously, this bill would limit the ability of our members to pursue legal action they believe necessary to protect the interests of the students, patrons and taxpayers of their districts. Please understand this position neither endorses nor opposes the new lawsuit. Over 70 school districts have joined in the suit; but over 200 have not. The school board members who made those decisions are ultimately accountable to the voters, who can change those members in elections held every two years. What is at issue is not the wisdom of those decisions but the right to make those decisions.

House Education Committee  
Date 2-9-10  
Attachment # 6

We believe it is completely consistent with the role of public bodies to use public funds seeking to enforce or clarify constitutional rights. Article 6 of the Kansas Constitution gives the Legislature not merely the right, but the responsibility, to make suitable provisions for the finance of the education interests of the state. Limiting the ability of school boards to ask the courts to evaluate and remedy the constitutional deficiencies in school funding would weaken the protection Article 6 provides.

Certainly it would be hoped the legislative process itself would be sufficient. But as we know, constitutions are written to provide a higher standard than the legislative process alone. To argue the legislature alone should determine what is suitable funding would weaken the checks and balances the judicial branch provides by interpreting the constitution.

This bill, of course, does not prohibit districts from engaging in lawsuits. Instead, it seeks to punish districts who do so if, and only if, they are "poor" enough in terms of assessed valuation to receive state assistance to "equalize" the local option budget. This means the wealthiest districts in the state would receive no "punishment" at all. Furthermore, it means wealthier districts which receive very little state aid would be less penalized than poorer districts. It also means this bill is aimed at precisely the class of districts historically found less likely to be able to provide a suitable education because they have less local wealth. It is the students in such districts that are often most at-risk.

Thank you for your consideration.