

Approved: May 26, 1998
Date

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION.

The meeting was called to order by Chairperson Michael R. O'Neal at 3:30 p.m. on February 18, 1998 in Room 519-S of the Capitol.

All members were present.

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

Conferees appearing before the committee:

Scott Hill, State Board of Education
Mark Tallman, Kansas Association of School Boards
Gerry Henderson, United School Administrators of Kansas
Sue Chase, Kansas National Education Association
Anne Massey, Wellington Home Schooler
Jack Hulsey, Kansas State High School Activities Association
Dennis & Nathan Boepple, Canton, Kansas
Dr. Mark Hungerford, Little Apple Soccer Club, Manhattan
Marie Stechien, Manhattan Parks and Rec
Gary Musselman, Kansas State High School Activities Association

Others attending: See attached list

Hearings on **HB 2851, charter schools**, were opened.

Scott Hill, State Board of Education, appeared before the committee as a proponent of the proposed bill. He explained that the bill would allow those schools that are low performing to focus on improvement and have an positive effect on students. (Attachment 1)

Mark Tallman, Kansas Association of School Boards, appeared before the committee in opposition to the bill. He suggested that **SB 511** which would place the decision to develop or approve charter schools with the locally elected school board would be a better option. (Attachment 2)

Gerry Henderson, United School Administrators of Kansas, appeared before the committee as an opponent of the bill. He commented that Kansas currently has 15 charter schools and that once there has been a sufficient amount of time to determine whether they work or not the number could be raised. (Attachment 3)

Sue Chase, Kansas National Education Association, supports charter schools but is opposed to **HB 2851** because it is a very confusing bill and places too many conditions on charter schools. (Attachment 4)

Representative Ralph Tanner provided the committee with an article from *Governing* magazine regarding charter schools. (Attachment 5)

Hearings on **HB 2851** were closed.

Hearings on **HB 2827, allowing children at private schools to participate in interscholastic extracurricular activities**, were opened.

Chairman O'Neal provided the committee with a copy of a letter he had received from Olathe Christian School regarding their participation in interscholastic extracurricular activities. (Attachment 6)

Anne Massey, Wellington Home Schooler, appeared before the committee as a proponent of the bill. She commented that this would be a positive step toward uniting communities and would make available to citizens, who chose other forms of education, to be able to participate in activities, as long as they can afford to pay the fees. (Attachment 7)

Jack Hulsey, Kansas State High School Activities Association, appeared before the committee in opposition of the bill. He stated that school activities are not a requirement for graduation and don't have to be offered.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION, Room 519-S Statehouse, at 3:30 p.m. on February 18, 1998.

Courts have held that school activities participation is a privilege and not a right. Most parents and students have concerns that "outsiders" will compete and take the place of their child on the school team. (Attachment 8)

Dennis & Nathan Boepple, Canton, Kansas, appeared before the committee in opposition of both bill. Mr. Boepple commented that there are about 200 students in his district that go to private schools or are home schooled. He would like to find a way to bring those kids into public schools because public schools do a good job at teaching teamwork. (Attachments 9 & 10)

Nathan appeared before the committee and commented that he had faith that his father would not allow home schoolers into the district. His best friends are his teammates who he "hangs out with". His team represents the Canton-Galva community and they have pride in that community. High school sports are about getting along with others, working with others, and making friends.

Gerry Henderson, United School Administrators of Kansas & Sue Chase, Kansas National Education Association did not appear before the committee but requested that their written testimony be included in the committee minutes. (Attachments 11 & 12)

Hearings on HB 2827 were closed.

Hearings on HB 2424, Kansas State High School Activities Association (KSHSAA) supervision during summer months, were opened.

Dr. Mark Hungerford, Little Apple Soccer Club, Manhattan, appeared before the committee in support of the proposed bill. He commented that the KSHSAA enacted Rule 38 over two years ago. This rule restricts and penalizes students that participate in soccer activities that have nothing to do with high school soccer activities. U.S.D. 383 has been in front of the KSHSAA board on several occasions to try and come to an agreement that would allow students to participate in soccer and not be penalized. (Attachment 13)

Marie Stechien, Manhattan Parks and Recreation Board, appeared before the committee as a proponent of the bill. She believes that the KSHSAA is encroaching upon the rights of parents and children by regulating off-season, out-of-school activities. (Attachment 14)

Gary Musselman, Kansas State High School Activities Association, appeared before the committee as an opponent of the bill. He stated that KSHSAA has been making changes in their rules. He gave examples, such as, restrictions on school coaches working with athletes from their school teams were lifted in all sports except football, volleyball and basketball, and the Executive Board voted to require all member schools to complete the Loss of Instructional Time Survey every four years rather than every two. (Attachment 15)

Hearings on HB 2424 were closed.

The committee meeting adjourned. The next meeting is scheduled for February 19, 1998.

HOUSE EDUCATION COMMITTEE GUEST LIST

DATE: February 18, 1998

NAME	REPRESENTING
Rick Bowen	KS STATE HIGH SCHOOL ACT. ASSN
Bill Wagner	KS BDE
Bob Vancrum	Blue Valley USD 229
Diane Gjerstad	USD 259, Wichita
Mark Tallman	KSIB
Anne Massey	myself
Jeanne Jones	SQE
Devis Stanley	Jeff West USD 340
Dee McKee	USD 300 Coldwater (SpEd)
Dorothy Rockefeller	LOWV
GERARD HENDERSON	USA of KS
Linda Holloway	KSBE
Ernan Burnett	USD 581 #
Jim Yrally	USD #572
Pat Lehman	USD 233 Olathe



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Scott Hill
District 6

Mary Douglass Brown
District 8

Linda Holloway
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I. B. "Sonny" Rundell
District 5

Wanda Morrison
District 7

Mandy Specht
District 9

Kevin P. Gilmore
District 3

Steve E. Abrams
District 10

February 18, 1998

TO: House Education Committee
FROM: Kansas State Board of Education
SUBJECT: 1998 House Bill 2851

My name is Scott Hill, Legislative Coordinator of the State Board of Education. I appreciate the opportunity to appear before this Committee on behalf of the State Board.

House Bill 2851 amends the charter school statutes as follows.

- The limitation of 15 charter schools that can operate in any one school year is deleted. (This limitation has been reached with the recent approval of charter schools by the State Board of Education.)
- Any charter school established after the effective date of House Bill 2851 must be established for the purpose of serving pupils in attendance at schools in the bottom one-third of schools whose pupils have shown the lowest level of performance on the state assessments in reading and mathematics and who have shown little improvement over the past three years.
- Charter school petitions for establishment or continuation of a charter school must include a description of the educational program of the school, which program must utilize innovative and experimental procedures and activities which would require a waiver from specified school district policies or State Board of Education rules and regulations.
- Charter school petitions must include a description of the facilities that will be used to house the program.
- Boards of education shall approve charter school petitions that adequately fulfill the requirements of House Bill 2851.
- Local boards of education may initiate charter school petitions.

In summary, the State Board of Education believes these amendments would allow schools that are consistently low performing to focus on school improvement and have a positive effect on student achievement.

House Education
2-18-98
Attachment 1



TO: House Committee on Education
FROM: Mark Tallman, Director of Governmental Relations
DATE: February 18, 1998

RE: Testimony on H.B. 2851 - Charter Schools

Mr. Chairman, Members of the Committee:

We appreciate the opportunity to speak to you today about the important issue of charter schools. We support changes in the current charter school law; however, we oppose the bill before you today. Instead, KASB requested the introduction of legislation in the Senate, in the form of S.B. 511. We urge you to recommend the provisions of S.B. 511 as the best way to improve the charter school process in Kansas.

There are now charter school laws in a number of states. Although there is a great deal of variation among these laws, the underlying premise is that certain public schools should be allowed more freedom in their operations than traditional schools. It has been said that legislatures created charter schools to get around the very laws, rules and mandates that those same legislatures created. Unfortunately in our opinion, many legislatures have allowed "deregulated" schools to be created without the approval of the local school boards. In effect, such laws allow new schools to operate in freedom while continuing to limit the autonomy of locally elected school boards.

KASB supported the enactment of the current charter school law in 1994; in fact, we supported a much stronger law. Assisted by federally-funded planning grants, all 15 charter schools authorized by the 1994 are in operation. Unless the Legislature acts, the expansion of charter schools in Kansas will come to a halt. The KASB board has adopted the following priority position:

Innovation and excellence should be fostered by allowing boards to exempt any accredited school or any new school or education program from most state laws or regulations. The exemption should remain in effect for existing schools as long as they remain accredited, and for new schools through the first accreditation cycle and then continuing if accreditation is received and maintained.

The charter school concept is a way to promote innovation, flexibility and choice. However, we believe that a Kansas charter school law must be consistent with the Kansas Constitution, through which the people of the state have clearly reserved the authority to "maintain, develop and operate public schools" to "locally elected boards." (Article 6)

We therefore oppose H.B. 2851 because it could require local boards to approve charter school proposals even if the board believes it would not be in the interest of the district.

House Education
2-18-98
Attachment 2

In fact, this bill seems to require that local boards must approve any petition brought forward by a group of employees or parents in a school, including budget, admission and discipline policies, facilities and curriculum, regardless of impact on other students, staff and facilities. It does not specify a process for "employees" or "parents" to develop such a proposals. It does not require a majority of employees or parents in a building to support such a petition, or require that both parents and employees support such a petition. It is also distressing that this bill would change current law to require that local school boards approve any petition presented, but would also change the law so that the State Board would **no longer** be required to approve any petition!

We believe there two other problems with the bill. First, it limits new charter schools to conversions of existing schools which fall in the bottom one-third of the state in performance on reading and math tests, and are not showing improvement. This means at least two-thirds of existing public schools are ineligible, and also means that new schools cannot be created.

Second, H.B. 2851 does not provide any ability for charter schools to receive exemptions or waivers from state schools laws. The only waivers possible under this bill would be from regulations of the State Board, which the State Board can already grant. As a result, this bill does not grant public schools any authority they do not already have.

We believe that a much better approach to improving the Kansas charter school law is embodied in S.B. 511, which was introduced by the Senate Education Committee at our request. S.B. 511 would place the decision to develop or approve charter schools with the locally elected school board. Such schools will be automatically exempt from state school laws, as long as they remained accredited by the State Board. Limits on the number of such schools would be removed. The local school board's authority in operating those schools would be broadened.

We believe a law which encourages local boards to be partners in the development of innovative, flexible programs that expand student choices is far better than a law which says, in effect, local school boards are the problem. We believe a law which allows local public schools to experiment outside of state school laws - but under the control of local officials and the school accreditation system - holds a much greater promise of education improvement than the bill before you today.

Thank you for your consideration.

Comparison of Key Provision of Charter School Bills

Issues	Current Law	SB 511 (KASB)	HB 2851 (KSBE)	SB 160/HB 2220 (State Charters)
Number of Charters	15 statewide; 2 per district	No Limit	Any school in bottom 1/3 on state tests	No Limit
Are new schools allowed?	Yes (currently all slots are filled)	Yes	Only conversions of existing schools	Yes
Role of local school board	May approve petition to charter	May authorize charter	Must approve petition if offered	No role in approval
Role of state board of education	"Shall" approve if petition is in order	"Shall" approve if petition is in order	"May" approve if petition is in order	"Shall" approve if petition is in order
Who may initiate?	Any "person or entity."	Determined by local board	Local board; building staff or parents	Any person or entity
Waiver of state school laws?	Yes, by KSBE (Constitutionality questioned)	Yes, by law	No	Yes, by law
Broadened authority?	No	Yes	No	Yes
Budget	Determined by local board	Determined by local board	Determined by petitioner?	Determined by KSBE, Legislature



HB 2851

Testimony presented before the House Committee on Education
by Gerald W. Henderson, Executive Director
United School Administrators of Kansas
February 18, 1998

Mister Chairman and Members of the Committee:

We appreciate the fact that **HB 2851** attempts to focus on academic improvement for the lowest performing students in Kansas, and further attempts to provide remedies for schools caught up in burdensome rules and regulations. Our plea is that now that due to the efforts of the people at the state department of education, we now have the 15 charter schools allowed by current law, we allow sufficient time to see if they make a difference.

A major problem in all of the so-called school reform initiatives across the country is our general impatience as a people. We want evidence right now. It does not happen.

House Education
2-18-98
Attachment 3



KANSAS NATIONAL EDUCATION ASSOCIATION / 715 W. 10TH STREET / TOPEKA, KANSAS 66612-1686

Susan Chase Testimony Before
House Education Committee
Wednesday, February 18, 1998

Thank you Mr. Chairman and members of the committee. I am Susan Chase and I represent the Kansas National Education Association. I am here to speak in opposition to HB 2851 on charter schools.

KNEA does not oppose charter schools. We believe that charter schools are one way to encourage innovation, creativity, and enhanced student learning. We also recognize that they are not the silver bullet to educational reform.

While we support charter schools and understand the desire to target them towards schools that are not achieving, we do not support HB 2851. We believe this legislation not only is very confusing, but also places too many conditions on the charter schools.

For example: by only allowing petitioners to establish charters for pupils who attend the bottom 1/3 of schools, you limit the creation of schools for those students who might benefit in the other 2/3 of the schools. We also believe that the current provision that states "pupils in attendance at the school must be reasonably reflective of the racial composition of the school district as a whole", in conjunction with the limitation of the bottom one-third, could prove to further eliminate many schools in urban areas where the school itself may not be reflective of the district.

The above limitation also leaves many questions as to who would and wouldn't be able to charter. What if a charter is granted to a group which establishes a school at a separate location from the low-performing school, but designed to serve that population? Then the following year the original school no longer is in the bottom one-third. Can the charter continue? Who then becomes eligible to attend the school? This provision also creates confusion around who is and isn't eligible to attend. Can only students in the attendance area of the low-performing school attend, do they have preference over other students, or are they subject to the lottery? What if a low-performing school is converted to a charter and then no longer fits in the bottom one-third. Can they remain a charter school? What happens to any waivers they received if they no longer are considered a chartered school?

House Education
2-18-98
Attachment 4

Another provision that is troublesome is the requirement that the program must utilize innovative and experimental procedures and activities which require waiver from school district policies and state board rules and regulations. There are numerous examples of innovative educational programs that would not require a waiver from any policies, rules or regulations. Many times what makes the difference between high and low performing schools is who is in the leadership position and who makes decisions. These kind of changes don't require waivers but may require charter school status.

Finally, what happens to those schools that are currently chartered? Can those charters be renewed if they don't fit the new requirements?

As I hope I have pointed out, HB 2851, although well intentioned, does not further the cause of a quality public education in Kansas. While we would agree that some changes may need to be made to the charter school law, those contained in this bill are not appropriate.

I would like to thank the committee for allowing me to speak and urge you not to pass this bill out of committee.

STATE OF KANSAS

House of Representatives



THE CAPITOL

RALPH TANNER

Representative, Tenth District

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Memorandum

February 18, 1998

To: Members, House Committee on Education
From: Ralph M. Tanner
Re: Charter Schools

A handwritten signature in black ink, appearing to read 'R. Tanner', with a long, sweeping horizontal stroke extending to the right.

As we are scheduled to look at the Charter Schools issue in this committee, I offer the article which I copied from the January issue of *Governing* magazine for your reading.

I am much interested that we have an opportunity to craft a meaningful charter schools bill, whether or not we do it this session or next.

Kansas is not in the forefront of this movement. In fact, the attached article gives very low marks in that regard.

House Education
2-18-98
Attachment 5

Charter Schools Learn a Few Lessons

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our years ago, Arizona and Kansas sprinted to the forefront of the school reform movement by introducing a new form of choice into public schools.

They were among the first states to take a chance on charter schools—the independent, experimental schools designed to add a competitive element into public education. The idea is to seize upon the creativity of parents, teachers and community leaders—rather than the local school district—and leave the creators free to design their product in virtually any way they wish.

In Arizona, it is working. Today, nearly 50,000 students—6 percent of the total pupil population—are enrolled in 400 charter schools all across the state. There are Montessori schools, schools for the hearing-impaired, schools for agribusiness and the performing arts. One high school focuses on pregnant and parenting teens. Another targets juvenile ex-offenders. Twelve school charters alone have been awarded to Education Alternatives, a for-profit education management company.

Kansas, on the other hand, has done virtually nothing. It is home to one lone char-

ter school, serving about 70 students in the rural southeastern part of the state. The reason isn't difficult to figure out.

One solitary charter school may not have been what Kansas legislators intended, but given the bill they passed, it was about as much as they could expect. There is a distinct difference between a law that encourages charter schools and a law that merely permits them. Kansas merely permits them.

It fact, it permits only 15 charter schools in the entire state. There is a single chartering authority, and no appeals process

for applicants who are rejected. Existing public schools

are eligible for charter conversion, but private schools are not. Neither are for-profit schools. There is no automatic waiver from teacher certification regulations. If a charter school wants freedom to hire teachers with an unconventional background, it needs special permission from the state.

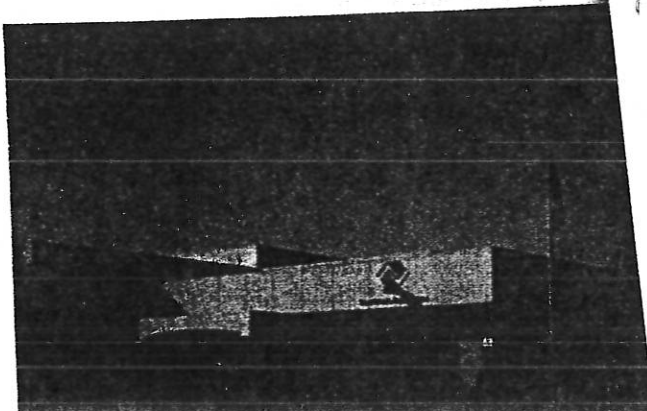
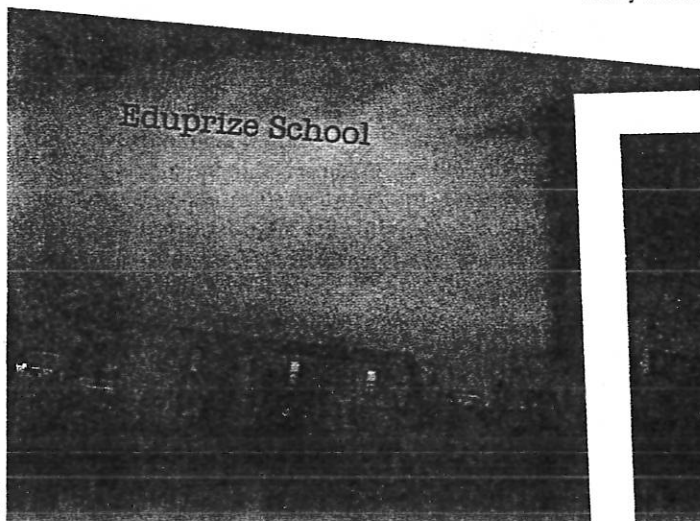
In short, the Kansas system represents the opposite of the approach that has led to a flowering of charter school experiments in Arizona.

There, nearly anyone is eligible to submit a charter school application. Nearly any

There are many ways to set up a charter school system. Some work, and some don't.

□ CHARLES MAHTESIAN

Reed Rahn photographs



5-2

school can qualify. There is no limit on the total number of charter schools in the state.

And there are several different ways to get approval. If one of the three panels with chartering authority—the local school board, the state education department or the state charter board—rejects an application, the decision can be appealed to one of the other chartering bodies. Most state and local education regulations, including the rule that teachers must be certified, do not apply. The only requirements are that the schools comply with federal and state health, safety and non-discrimination laws. Charter school detractors and supporters alike refer to Arizona as the “Wild West.”

But if there is something wild about Arizona’s free-wheeling experiment with charter schools, there is something exciting about it as well. In just a couple of years of operation, it has begun to make the state’s traditional public schools look lifeless and hidebound by comparison. Indeed, the Mesa school district, home to 22 charter schools, is losing so many students from its regular schools that it is advertising in newspapers to attract new ones.

“This is gradually changing the shape of the education system in Arizona,” says state School Superintendent Lisa Graham Keegan. “It leaves the traditional district wondering what happened.”

There are a few other states currently celebrating the giddy experience of charter school creation fever. But there are also quite a few like Kansas, states that enacted a charter school law but have yet to see many experiments flowing from it.

New Mexico, which passed its law a year before Arizona did, has just five charter schools. Rhode Island has just one. Arkansas, where only public school personnel can apply for charters, and Wyoming, where 10 percent of a district’s teachers must support creation of a school, are still awaiting their first.

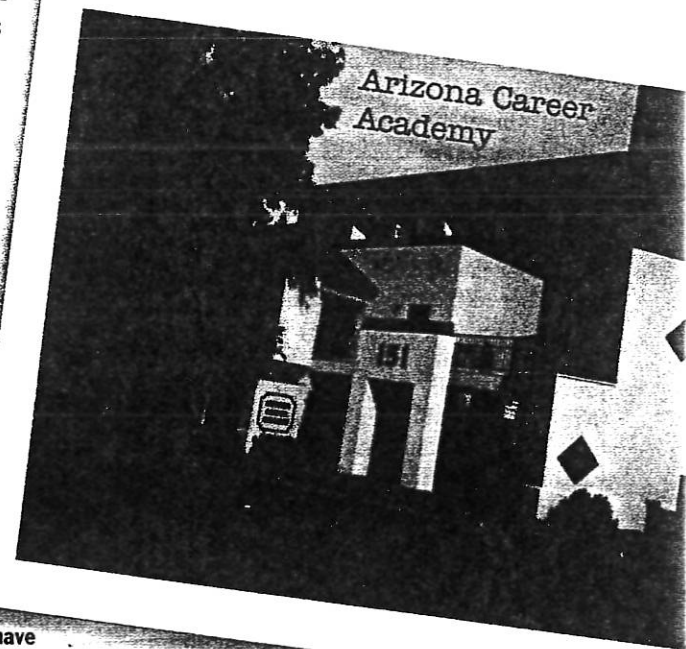
As of the beginning of this school year, reports the Washington, D.C.-based Center for Education Reform, close to 800 charter schools were in operation across the country. But they are overwhelmingly located in the states that, like Arizona, passed relatively free-wheeling laws. Where the legislative process brought forth tightly restrictive rules and regulations, very little has taken place. “By and large,” says Ted Kolderie, a charter school advocate at the Center for Policy Studies in Minnesota, “either nothing is happening in those states or, if it is, it is just an enlargement of alternative school programs. The point of having a law like that is to avoid having a stronger law.”

Nothing in the strong law/weak law debate, of course, answers the question of whether competition will ultimately change the public schools. It does, however, raise the possibility that many states will never find out.

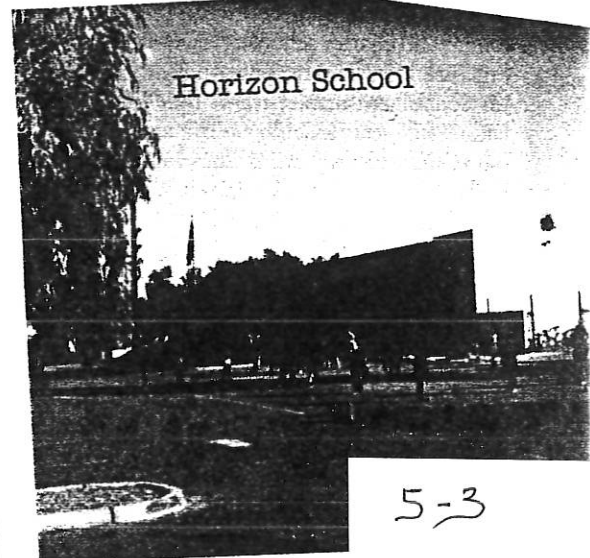
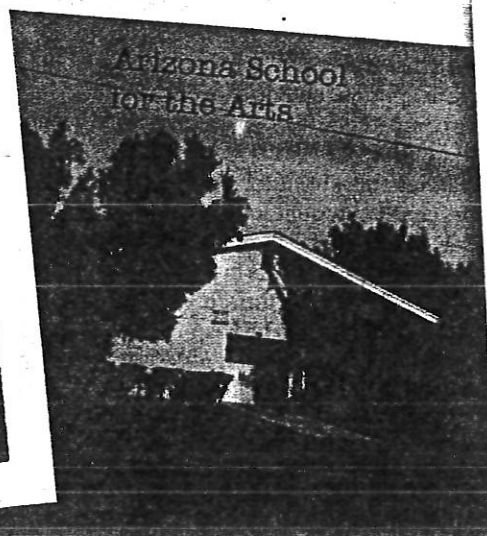
The basic charter design, first devised by Minnesota in 1991, is a publicly funded school under contract or charter to a public agency such as a school district. The new institution is exempt from most regulations governing other public schools, although it must comply with health, safety and non-discrimination laws. It cannot charge tuition and, space permitting, it must take all comers.

Each school is free to devise its own testing and curriculum. After a certain time period, if it fails to attain the expected outcomes specified in the proposal, the sponsoring authority can choose not to renew the charter.

It is simple, but in many states, it became a recipe for instant controversy. Teachers’ unions and school boards



Some of the 400 charter schools that have sprouted in Arizona in the past four years



responded with reactions ranging from outright hostility to cool indifference, viewing the charter schools as, in the words of National Education Association President Robert Chase, "a halfway house en route to privatization."

In Michigan, the teachers' union filed suit soon after passage of an expansive charter law in 1993, claiming that charter schools should not receive state funding because they were not public schools. A state appellate court agreed in 1994, but by then it was irrelevant. Lawmakers had already amended the law to bar home schools, one of the most objected-to provisions. Then, universities involved in chartering schools—under Michigan law, universities qualify as sponsoring authorities—found themselves threatened by public school teachers and school district officials who refused to accept student teachers from charter-granting institutions.

In other states, the debate has centered on teacher certification and collective bargaining questions. The most contentious charter school issue, however, concerns provisions that allow for-profit companies to run schools. "What I am afraid of is that these bills are in the best interests of a private organization like the Edison Project," says Bob Cribbs, government relations specialist for the Georgia Association of Educators. "That's where our skepticism comes in."

Skepticism is a good way to characterize the uneasy relationship that currently prevails in many states between teachers' unions and charter schools. Nowhere have organized teachers become outright charter school enthusiasts. But they rarely launch full-scale assaults on the idea anymore. Instead, they are zealous in beating back attempts to broaden individual charter school laws and subtle in attempting to add restrictions.

Part of the reason for this approach is the undeniable allure of charter schools to many rank-and-file teachers. The formerly antagonistic National Education Association for example, actually plans to open six charter schools of its own—including one in Arizona.

The NEA and its state affiliates are politically astute enough to recognize a



It's hard to get local school boards to accept the idea of charter schools, says Arizona School Superintendent Lisa Graham Keegan.

losing fight when they see one. When a charter proposal is bundled together with vouchers or other private-school assistance in a school choice package, the package can usually be defeated. But once the two issues are decoupled, as they have been in many states, it is more difficult to make the case against charter schools without appearing to be obstructionist.

In any case, say charter school advocates, it is not the teachers' unions that currently pose the most serious threat to their success—it is local school districts. In many states, as the sole chartering body, school districts are uniquely positioned to transfer their quarrel with charter schools from the state capitol to the local level. Often, they take full advantage of the inherent conflict of interest in a mechanism that grants local school boards life-or-death approval authority over their would-be competitors.

Charter schools are, after all, adversaries. Every student lost by a local district to a charter school represents the loss of thousands of dollars in per-pupil funding from the state, and the erosion of a small measure of control. "The local school board has no interest in encouraging competition against its own schools," says Kansas state Representative Kay O'Connor, a leading national proponent of school choice. "They don't want another school in

town taking its students away and, in other words, its money."

"It's tough to go before your local board and ask for divorce," agrees Lisa Graham Keegan in Arizona. She stresses the importance of establishing multiple chartering authorities. They offer an alternative for applicants who find a local school board unwilling to consider their ideas.

But even in states that provide for different sponsoring authorities, there are frequently built-in obstacles to getting a charter program off the ground. In California, for example, one district requires that a charter school kick in a 10 percent fee for administrative purposes. It also charges the school to lease space. During a recent fiscal squeeze, the district requested an additional 10 percent charge. Palm Beach County, Florida, the only sizable school district in that state to require charter applicants to secure financial bonds and a wide-ranging insurance policy, is also, not coincidentally, the only one in the state without a charter school.

These obstacles exacerbate the already burdensome task of school startup and operation. Few states, for example, guarantee charter schools the same per-pupil level of funding provided to local school districts. Some, such as Minnesota, only allo-

cate the state portion—not the district portion—of the funding formula. Others simply allow sponsoring school districts to negotiate funding with charter schools. Many school districts would like to keep it that way.

Of course, the ultimate question about charter schools is not how to create more of them. It is whether they deliver, as promised, an improved education. So far, many appear to be thriving, but most are too new to gauge how well they measure up with traditional schools or whether they produce higher student achievement. Since charters vary so much from state to state, and even within a single state, it is difficult to make broad generalizations. Education policy makers are often forced to distinguish between battling studies.

But some of the initial criticisms were muted by one of the most definitive reports to date, a recently published federal study as of January 1996. Racial composition of charter schools, according to the U.S. Department of Education study, roughly mirrors statewide averages. Charters serve slightly lower proportions of students with disabilities and limited English proficiency, but there is no evidence that they “cream” the best students. About one-third of charter students are eligible for free or reduced price school meals—roughly the same as public schools.

What the report did not address is the growing number of charter school failures. More than a dozen schools across the country have closed down for reasons ranging from internal power struggles to financial mismanagement.

The bad news is that a few charter schools are failing. The good news is that, unlike regular public schools, they can be shut down.

Perhaps the most damaging blow to charter school credibility came from a *60 Minutes* television report about a Washington, D.C., charter school where a reporter was attacked by school administrators and students. The school's principal later scuffled with police officers who arrived at the scene, leading to her conviction last year on assault charges.

In Los Angeles, within 18 months of opening in 1993, Edutrain Charter School became the first to have its charter revoked after audits revealed evidence of fraud and questionable expenses. The school's president, it turns out, used school funds to lease a \$39,000 sports car and to hire a bodyguard. Another \$30,000 went toward furnishings for administrative offices.

In Arizona, Citizen 2000 shut its doors after just over a year under a cloud of fiscal mismanagement charges. In addition to violating state accounting procedures, the school was found to have exaggerated its enrollment figures to receive more public funding.

“If you are going to create a charter school system, the state is going to have to take a more active responsibility in monitoring them,” says Tom Pickrell, legal counsel for the Arizona School Boards Association. “Citizen 2000 was an example of a monitoring system that was nonexistent at the time it went under.”

But many charter proponents argue that critics are missing a larger point about these errant schools. At least they could be shut down—something that cannot be said of failing traditional schools.

“It is unsettling,” says Sean Duffy, a charter school analyst with the Pennsylvania-based Commonwealth Foun-

ation, “but the good news is that they are more accountable than conventional public schools. You can't close *them*.”

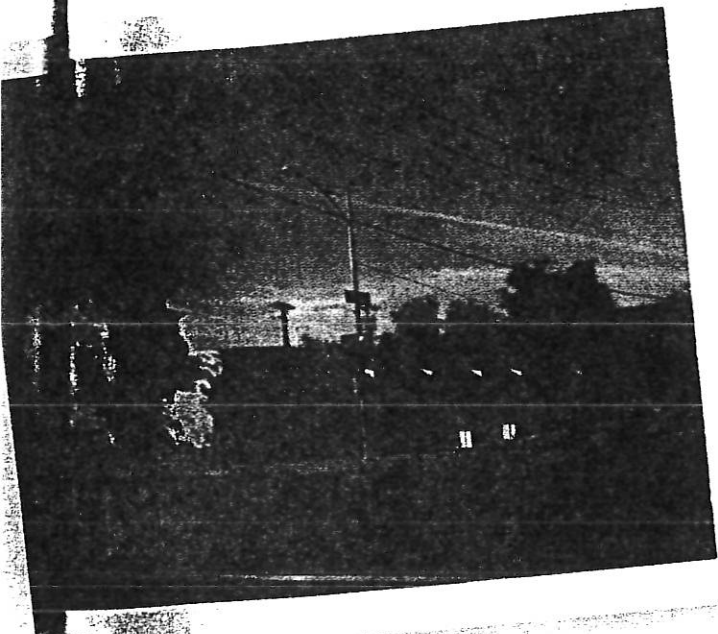
News of the recent revocations does not appear to have dampened legislative enthusiasm for charters during the past year, either in the states where the scandals occurred or elsewhere. Indeed, a new wave of charter legislation is rolling through, this time aimed at strengthening charter school laws.

The irony is that most of it is taking place in states with pre-existing strong statutes. California and Minnesota, two charter pioneers, have lifted caps on the total number of charter schools permitted statewide. Texas has upgraded its law to boost the cap from 20 schools to 100, and does not count against the cap any school in which 75 percent of the students are previous dropouts. Arizona has approved capital facilities aid for charters and, in a bow to criticism, now requires an annual independent financial audit.

But where the laws are weak, as in Kansas and Georgia, efforts to strengthen them have met with less success, largely for the reasons that placed restrictions on the program to begin with.

In a few places, charter school proponents have maneuvered around statewide opposition by targeting new measures to specific localities. Chicago is now granting wider latitude in creating charters than communities elsewhere in the state. An Ohio pilot project allows charter schools in the Toledo area.

The reasoning behind these new efforts is unlikely to re-create Arizona's experience, but then again, it is likely to avoid the problems Kansas has encountered. “By concentrating charter strategy on the areas of greatest need, it becomes easier to do,” says Kolderie. “You don't have to agitate all the school boards in the state, many of whom may be doing, or think they may be doing, an adequate job.”



Olathe Christian School

15320 S. Ridgeview Road
Olathe, KS 66062
(913)829-0074 Fax: (913)829-5550

January 14, 1998

Rep. Michael R. O'Neal
Box 2977
Hutchinson, KS 67504

Dear Rep. O'Neal:

I have been contacted by Gary Mussleman of the KSHSAA informing me that our school may not be accepted as an approved member school next year because of the involvement of home schoolers in our program. To not be approved would create an extremely difficult problem in our athletic program. We presently serve approximately one hundred home educated young people in the Johnson County area.

I do not understand what purpose would be achieved by disallowing these young people to participate in Kansas athletics. At the present time, no school is forced to play us. Usually, the primary reason that schools choose to play us in sports, is to fill their season or tournament. We are very thankful for the opportunity we have had to participate in athletic contests with these different schools.

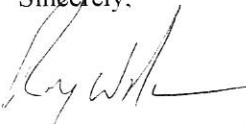
We require all participants to be tested annually with standardized achievement tests to assure the quality of their home education. In almost every instance they are scoring much above the national averages. Some have qualified as national merit scholars and more are seeking to become eligible.

These are extremely responsible parents that have taken on the responsibility of home educating their children. The children are among the finest in the state. They will grow to become very responsible Kansas citizens-- the kind we need in Kansas. Please don't disenfranchise these people from Kansas society.

Virtually every single home school family in our group are home schooling for religious beliefs and principles. They have all signed a statement of faith that requires them to have their children educated in an environment that recognizes God as our Creator. These are good people.

Rep. O'Neal, is there anything you can do to help us? Thank you for any effort in the support of these home schooled children.

Sincerely,



Roy Wilson, administrator
cc: Rep. Kay O'Connor

House Education
2-18-98
Attachment 6

February 18, 1998

Testimony for H.B. No. 2827
Name - Anne Massey

My five children, ages 4 to 14, have been taught solely in my home, at a registered unaccredited private school for nine years and I have led a support group for home educators in Sumner County. I've been a pastor's wife in Wellington, Kansas, for eleven years.

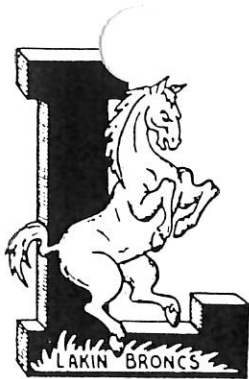
I am in favor of H.B. 2827 because I want all children to be able to have the educational opportunities provided by forensics, music, and athletics. For children who are pursuing a scholarship or career in the areas of sports, music, law, or theater, these activities are essential to their education. Other reasons for involvement in these activities include enjoyment, the discipline required by competition, and the cooperation taught by teamwork. Certainly discipline and cooperation are necessities in our children's education, that the state of Kansas should be promoting.

I feel that all students should have equal access to the activities in public schools funded by tax dollars. Dr. Steve Abrams told me today the KSHSAA very recently made a new ruling that allows non-accredited private schools to participate in KSHSAA sponsored activities. This was passed with the understanding that home schools would not be considered to be non-accredited private schools. This bill should be amended so it specifically includes home schools in the definition of private schools.

The bill should specify the rules that the state board of education should adopt that would allow the participation of private school students in public school activities (lines 29-34). The KSHSAA already has rules concerning academic eligibility, but if special rules are needed for home school students, they should be equitable for all students. If it is to be by a "nationally standardized norm—referenced achievement test," (line 33-34), this should apply to private and public school students. If the determination is "academic evaluation," this evaluation should be done by each student's teachers, whether public school teachers, or private school teachers.

In the last few days, I have talked to public school teachers, private school teachers, parents of children in private and public education, and the leaders of home school support groups across Kansas. Everyone has supported the concept of this bill.

I ask you to support it for the sake of the parents whom I've counseled, struggling with the decision of whether to give up what they feel is the best education for their children, to gain some really good things that are only available through the public schools. And I ask you to support it for the children, who I've seen faced with the terrible decision of whether to give up the home school that they love, for the sport or activity that they also dearly love. Give Kansas children all the opportunities we can. Open the doors of the public schools to all.



LAKIN HIGH SCHOOL

407 N. Campbell
Lakin, Kansas 67860

WHY I AM OPPOSED TO HOUSE BILL No. 2424 and HOUSE BILL No. 2827

Principal Jack Hulsey, Lakin High School

HOUSE BILL No. 2424

1. As a practicing high school principal of a 3A school
 - a. Use of facilities
 - b. Obligation felt by coaches
 - c. Extra money needed to fund the extra use of facilities
 - d. Unnecessary burden on students to specialize
 - e. Often coaches in small schools coach another sport or sponsor another activity after a season
 - f. More loss of local control
2. As president of KSHSAA, as well as the chairman of the AD Hoc Committee to study and make recommendations for change to the executive board about this issue
 - a. The issue of coaching during the summer and the issued of student being coached during the summer was the subject of the AD Hoc committee convened this past year
 - b. Evidence shows that coaches do not want total freedom in summer
 - c. Coaches do not want to coach during the year and outside of the season
 - d. Athletes do not want total absence of rules
 - e. Students now have the freedom to choose what they want to do during the summer--this would not be the case if the rules on summer coaching were abolished. They would be obligated to participate
 - f. Impossible to manage

House Education
2-18-98
Attachment 8

HOUSE BILL No. 2827

1. Students do not have to reside in a district to participate in the activities. This is in opposition to some board policies.
2. Students are not academically accountable, neither grade wise nor length of school day.
3. Does this include home schools?
4. If they perform academically at the 7th grade level, do they participate at the 7th grade level in activities regardless of their age?
5. More loss of local control.
6. Possible loss of funds.

Testimony to House Education Committee-HB 2827

February 18, 1998

Dennis R. Boepple, Canton, Kansas 67428

Thank you for the opportunity to speak to you today about an issue that is dear to my heart. As a parent and supporter of my child's education, I feel a need to speak to this bill. It was after a great deal of thought that I penned this statement, and I make no apologies for the personal nature of the material. As a father, nothing is more important to me than the well being of my child. I view the intent of House Bill No. 2827 as personally not in the best interest of my child.

My son, Nathan, attends school in the Canton-Galva School District. His mother and I have chosen smaller public schools with the deliberate intent of allowing him to take an active part in his school, including activities. Because he is in a small school, he is able to secure a strong education with small class size and teachers who are able to concentrate on teaching. He is also able to be part of a number of school activities including sports.

As a parent, I view these activities, including sports, to be an extension of his education. His teammates are members of his school and share many common academic interests. His coaches are classroom teachers who take their teaching into their coaching.

The rules, policies, and events that occur during the "regular" school day play a major part in his "after" school activities. Those policies and rules include requirements of academic performance and social behavior. While the threat of the loss of playing time is not a strong factor for my child, it does have an impact. There are teammates who do not play because they are unable or unwilling to put forth the effort required to pass all their classes. For these students, the needed extra encouragement and even assistance of fellow teammates and staff seems to keep classroom performance within acceptable level. Very few of my son's teammates are ineligible a second time in a season. In the Canton-Galva Schools, the concept of passing grades ahead of playing time does work to the benefit of students and parents. I appreciate the emphasis this places on study and learning.

Again, poor behavior is not a key issue for my child, nor is it an issue for the school. But the requirement that all students involved in activities must be students in good standing gives me as a parent peace of mind as I send my child off with other students.

To infuse individuals who are not part of his school experience into my son's sport teams would destroy the learning extension that takes place and remove many of the advantages I expect from a small school. The public schools are in no way a closed environment. Any parent living in the district can enroll their child in a public school system. Those children can then become part of the activities of their school. The parents can become a part of the patrons of the district and work with other parents to the common good of all children. The fact that some individuals choose to not enroll in the public school is a private decision. But it would seem unfair to allow students to become part of an activities program when they are unwilling to become part of the total team effort that is a public school.

I would also speak to this issue as a current superintendent of schools and a former debate and speech coach. As a school employee, I would have some very serious questions as to enforcement of local rules that govern my schools activities. Example: how could eligibility be measured? We currently collect grade reports weekly from staff who are in direct contact with our school office staff. How would we collect this information from those outside the school. We understand that our curriculum is designed to meet our students' needs and that standards have been established that ensure success for our graduates. How would we be assured that those from other schools would meet the same standards? Our coaches are in contact daily with their colleagues who teach alongside them in the classroom. How would such rapport be established between other teachers and our staff? My real concern is what would be the effect of having individuals who wish to be separate from the schools on school teams. Again, the activities are an extension of the school day. The coaches are public school staff, the buildings are school buildings.

players are public school children. Whatever it is about the public schools that is undesirable or unexceptable during the school day will still be present during the activities.

As superintendent of schools, it does fall within my duty to speak to the issue of finance and funding. Again, our activities are a part of our total school program. Gate receipts do not pay all bills. We do make use of general fund money to supply needed resources. Because we viewed activities as an extension of the school day and the learning environment, these expenditures can easily be justified. When we infuse other individuals into the program, there will be additional costs. The argument that these individuals or their parents are tax payers in the public school district does not wash. While these individuals who are property tax payers do pay the general fund mill levy, those funds are not tied directly to the public school unless the children are enrolled in the schools. Those taxes go into the state coffers and become part of the general tax fund of the state. As a property owner, I pay taxes in a number of Kansas counties. Does that mean I have a right to have my son on the sports teams in every school in every district where I might pay taxes. And to take that argument even further, part of the funding for education comes from other state taxes. Does that mean since I pay taxes into the general state funds that I have a right to have my child be on any and every sporting or activities team in every public school in the entire state? For me, the logic gets a little hard to follow. I understand that my child is entitled to participate in the activities of the school I have chosen for him to attend.

The final part of the bill speaks to payment of dues to "private association or corporation having for its purpose the promotion, development and direction of interscholastic activities....." I would assume that the reference is to the Kansas State High School Activities Association. The intent of the bill seems to be to set policy and rules for the KSHSAA something I resent as a public school employee. Our school belongs to this association, and we respect and follow the rules established because we believe that the rules are designed for the best interest of all students. We also believe that we have a means to request changes in the rules and that individuals with a wide area of experience and knowledge are consulted before rules are written or changed. This bill seems to be nothing less than a method of going around established practice and removing our meaningful input. Kansas enjoys a strong activities program that includes both public and private schools. The KSHSAA has a wide member base that includes many groups and allows for a great deal of input. Efforts to change rules by individual state laws can lead to a very political organization with re-election interest taking precedence over student interest.

For all the reasons listed, I would urge you to not pass this bill out of committee.

Testimony to House Education Committee-HB 2827
February 18, 1998
Nathan A. Boepple, Canton, Kansas 67428

I am a student at Canton-Galva High School in Canton, Kansas. Last week when my father came home from a meeting in Topeka and spoke of a bill being considered that would require non school students to be on sports teams. My first reaction was one of anger and also one of confusion. I was angry because this bill would take away something that was very important to me. And I was confused because I couldn't understand why anyone who did not attend my school would want to force themselves on my team. When asked later if I felt strongly enough to speak to the issue with individuals who had the power to make this bill law I jumped at the chance.

So I am here today to speak as a student enrolled in a public school and part of a school team. Because my father is a school administer I have attended a number of schools. As a seventh grade school student I attend the Stafford Schools and played basketball, ran track and took part in quiz bowl. Since my eighth grade year I have been a student in the Canton-Galva Schools and played football, basketball, track and I am a member of the scholar bowl team, a member of The Future Business Leaders of America, SAAD, National Honor Society and the Class of 2000.

All of these activities have been shared with my classmates and through these activities I have become part a team, a class and a school. My coaches have also been by teachers. I have learned much more than putting a ball in a hoop, catching a pass or buzzing in at the correct time.

I have learned that a team is the more than the sum total of its members. A team gathers strength from the shared experiences of each member. My school team members share many common elements. We attend class together. We work on assignments. We have the same teachers and we share the same concerns and problems. We are a team.

When I think about having individuals forced onto our team who's only wish is to play basketball or football I can see seven major concerns.

First there would be no companionship. These individuals would not share the school experience with the rest of the team. They would be outsiders with no common bond.

Second these students would not be able to act or become part of the team because they do not spend time together. They would not have the experience of talking in the halls, doing a science experiment or attending a school dance.

Third because they come from outside the school and the community they would not have the town support which we enjoy as a , "school team."

Fourth the academic standards required by my school would be different for non school individuals.

Fifth there is no way these individuals could have of sharing in school spirit. How could we cheer for someone we don't know, who doesn't share the same feelings we have for our school.

Sixth it would be hard for me to get to know a person if my only contact is during a one hour practice once a day or a game once a week.

Seventh the main point of sports is to get close to people and get to know them. This could not happen if individuals who's' only common point is scoring a point or winning a game.

To sum things up I understand how hard it is to make new friends. I know what it is like to become a member of a team, a school. I can not see how this can be forced by making outsiders part of something they don't believe in.

Thank you for the opportunity to speak to you today about this issue.



HB 2424 and HB 2827

Testimony presented before the House Committee on Education
by Gerald W. Henderson, Executive Director
United School Administrators of Kansas
February 18, 1998

Mister Chairman and Members of the Committee:

I appreciate this opportunity to speak in apposition to **HB 2424 and HB 2827** at the same time. My opposition stems from the same premise. The Kansas State High School Activities Association was formed by the schools of Kansas in an effort to bring both continuity and fairness to the arena of interscholastic activities. KSHSAA remains to this day an association controlled by and responsible to its member schools. General oversight of association activities has been the responsibility of the state board of education. You know all of this, but I re-state it here to make a point. The regulations addressed in the two bills were drafted for reasons of continuity and fairness.

Someone believed when these regulations were implemented, that students competing in activities ought to be in attendance at schools which met certain agreed upon standards. KSHSAA member schools still believe that, whether they are public or non-public schools. Someone at some point in time believed that unregulated off-season participation by students from member schools could be subjected to unwarranted and unhealthy pressures. KSHSAA member schools still believe that, and recent articles in the newspapers indicate that unregulated off-season programs have indeed caused problems for kids.

Again, the rules and regulations of the Kansas State High School Activities Association are those drafted and implemented by people (teacher/coaches, school administrators, school board members and others) dedicated to providing quality learning experiences for children and young adults. Those experiences are available to all Kansas children, either in public or in non-public schools settings. The KSHSAA has done and continues to do a great job in providing continuity and fairness in regulating those experiences.

House Education
2-18-98
Attachment 11



KANSAS NATIONAL EDUCATION ASSOCIATION / 715 W. 10TH STREET / TOPEKA, KANSAS 66612-1686

Susan Chase Testimony Before
House Education Committee
Wednesday, February 18, 1998

Thank you, Mr. Chairman. I am Susan Chase and I represent Kansas NEA. I appreciate this opportunity to visit with the committee in opposition to HB 2827.

When a child or his/her parents choose not to take advantage of the public schools which are available in the child's district--for whatever reason--a definite decision is being made to not be a part of that school. The high school activities association deals with competition between a group of schools. If a person is not part of that school, he/she should not be allowed to compete for that school. We can see problems of monitoring eligibility, of recruiting private school students for certain competition, and the possibility of a student competing for a private school in one area and for a public school in another competition.

The system seems to be one which works-- a system of competition between one school and another school. Let's don't change this concept. We would ask that you report HB 2827 unfavorably.

House Education
2-18-98
Attachment 12

MEMBERS OF THE EDUCATION COMMITTEE;

Thank-you for allowing me the opportunity to testify today.

My name is Mark Hungerford and I come before you today representing the Little Apple Soccer Club in Manhattan Kansas and as a concerned parent.

I have included in my handout a copy of a letter sent to Representative O'Neill as well as copies of correspondence from USD 383 and the High School Activities Association last summer.

In order to give you some of our history I will summarize some events as they relate to the situation of soccer in Manhattan.

(1) Prior to rule changes at the Spring Meeting of the Activities Association in 1996 soccer players were allowed to play with club teams in the off season. During the school year.

In response to a lawsuit in Wichita the Association made several rule changes in the spring of 1996 to allow more open participation during summer months. At this time they made restrictions on soccer to bring it in conformity with restrictions on other sports, failing to realize that the traditional seasons for Club Soccer is the Spring & Fall.

At the time of the rule change there was no indication that the soccer activities occurring during the school year was causing any harm to the student athletes participating in these activities. This is a common theme voiced by the activities association as a reason not to allow outside activities during the school year.

(2) It has been the policy of the association to wait at least one year after rule changes which are more restrictive in nature to allow appeals of the rule changes to occur. This was not the case on this issue and the rule went into effect at the beginning of the next school year. This was prior to the Activities Association's next scheduled meeting in the fall of 1996.

(3) The Activities Association then asked our community to try to work with the rule and return after we had gathered data concerning our experience with the rule.

(4) the letter from USD 383 to the activities Association illustrates the thought process in requesting action on this issue in September 1997.

(5) the request was denied but a modification of the rule was made. In part because of a threat of a Gender Equity Lawsuit.

I realize that it is not the function of the Legislature to micromanage the Kansas High School Activities Association, but I hope you have some feeling of the frustration created on literally hundreds of students across the state each year. The frustration is not just about athletics but many other activities as well.

We hop you will begin the process to remove Rule 38 from the High School Activities Association either through direct Legislation or by prodding the Activities Association to take significant action by itself. This perhaps could be accomplished by an Executive Board to the Association which is appointed by the Governor, with the best interest of the students rather than the Association Coaches at heart.

I would hope this action happens very soon.

Testimony in Support of House Bill 2424

February 18, 19968

My name is Marie Steichen. I am testifying in support of HB 2424 on behalf of the Manhattan Parks and Recreation Board.

I appreciate the opportunity to speak to you about some of the problems Manhattan citizens are bringing to our Board about KSHSAA. As a representative of the Park Board, I made numerous formal presentations to KSHSAA in the last two years. USD383 and the Little Apple Soccer Club joined with the Park Board to bring to the attention of KSHSAA the negative impact of regulating the non-school, off-season time of high school athletes. The problem is greatest for smaller, single-high-school communities like Manhattan, and for sports that alternate by season and by gender.

The Parks and Recreation Board became involved with issues related to KSHSAA rules when a number of individuals and representatives of the Little Apple Soccer Club approached our Board. The Board voted unanimously to approach KSHSAA about issues that negatively impact Manhattan and the sport of soccer. The issues we have brought before KSHSAA related to Soccer Rule 38-1-1 include:

1. Differential treatment of smaller, one-high-school communities
2. Economic harm to the private sector sports clubs
3. Interference with school-community partnerships (McCormick-funded YES! after-school activities)
4. Gender discrimination
5. Differential treatment of sports (quasi sports such as golf and gymnastics are not regulated off season)
6. Decreased youth participation

Each time we proposed alternative, workable solutions. Each time our concerns were discounted. For example, on September 17, 1997, USD383, Manhattan Parks and Recreation, and the Little Apple Soccer Club submitted a written proposal asking KSHSAA to treat soccer like other sports that alternated by gender and by season (golf and tennis). We asked KSHSAA to "eliminate the rules that regulate off-season play for boys and girls soccer. The rule KSHSAA passed created a senior exemption for female soccer players, an inadequate and temporary solution for a long-term problem. One semester later, male athletes are claiming reverse discrimination.

We observed an emerging pattern as stories began to pour in from citizens around the state about their problems with KSHSAA. **The pattern begins when a statutorily created agency of the State, such as KSHSAA, increasingly encroaches upon the rights of citizens (in this case, parents).** Regulating **off-season, out-of school activities** for students is an example. The statute gives KSHSAA authority over school-related activities; however, KSHSAA has expanded their authority to include non-school activities. **A second example is KSHSAA's move in recent years to regulate middle school and non-school activities.**

Will the next step be regulation of elementary school and non-school activities? Where will it stop?

The agency (or association) then creates rationales to justify this encroachment. This is a second feature of the pattern. One example is the “Historic Rationale for Limiting Participation on Non-School Teams,” a document presented by Gary Musselman to the interim study committee last summer. (A copy is enclosed for your examination.) NOTE: the document says Historic Rationale, not Statutory Authority.

A third feature of the pattern is a cumbersome, unresponsive bureaucracy. Countless rules govern such things as: *who can come* before KSHSAA, *who must request* permission to be on an agenda, the *percentage of members present* who must agree to allow an item to be added to the agenda, *when* requests to be on the agenda can be made, and *what kind of requests can come before which group*. Perhaps the most frustrating rule is the one that precludes the speaker from having an open discussion about an issue. Unlike appearing before a school board, a city commission, or the legislature, the speaker at the KSHSAA Board of Directors meeting **is not permitted to respond to questions or correct misinformation or incorrect statements made by members of the governing body**. Instead, the staff responds to questions by the board members. **If the staff member misinterprets or in some other way provides incorrect information, the speaker has no recourse**. However, I have observed exceptions to this rule—when the speaker is a coach or an athletic director, they are allowed to interject comments.

Concerned groups like Manhattan Parks and Recreation, USD 383, and The Little Apple Soccer Club have been told by the KSHSAA staff that the Board of Directors represents the people of the state. However, groups other than the schools have no knowledge about nor input into rules which impact them directly. In some cases, the coaches are not apprised of rule changes until they are implemented. This was the case in Manhattan when Soccer Rule 38-1-1 was passed. The Manhattan representative initially voted to support Soccer Rule 38-1-1, the very rule whose harmful effects caused his own School Board, the Manhattan Parks and Recreation Board, and the Little Apple Soccer Club to protest through official channels for the last two years.

What we find instead is that parents, youth, school boards, and community organizations are forced to abide by off-school-time rules they had no voice in making. The “Historic Rationale” document justifies the right of KSHSAA to supercede parent-child decisions, community decisions, and community-school partnership decisions about participation in non-school activities on non-school time. In other words, KSHSAA’s actions suggest they believe they know better than the parents, the young athlete, the community, and the school what the appropriate combination of activities is for each child in the state in their non-school time.

I have described a pattern to you. This pattern emerged as individuals and groups related their personal experiences with KSHSAA. The pattern perpetuates because the Board of Directors is made up of people (mostly principals and superintendents) who are very busy people. They have little time to meaningfully investigate each issue; therefore, they rely on the KSHSAA staff. **This places KSHSAA in a powerful position to expand unchecked as their recent activities demonstrate.** While the Manhattan Parks and Recreation Board supports the regulation of high school activities, we believe KSHSAA has gone too far in regulating the out-of-school activities of youth. **It would appear from the enabling legislation and the articles of incorporation that flow from that legislation that the Kansas Legislature agrees with this position.** The first article establishes the name of the association The Kansas State High School Activities Association, Inc. No where is it referred to as **The Kansas State High School and Non-High School Activities Association.**

Basically, and most importantly, this is an issue about who should decide which out-of-school activities high school students should be involved in—the state or the parent?

**KSHSAA - HISTORIC RATIONALE FOR LIMITING PARTICIPATION
On Non-School Teams**

1. Schools have wanted to avoid perpetuation of a single sport, year-round. This avoids pressure for one community to keep up with another who might provide year-round opportunities.
2. Overly aggressive coaches might dominate student athletes time in the off season and summer months. This increases specialization in a single sport and reduces the number of students enjoying the benefits of a diverse student activities program. Pressure or perceived pressure by coaches to participate in the summer intrudes on vacations, summer jobs and family time. Students would feel obligated to play in order to make the school squad the following season.
3. Economically disadvantaged students aren't able to afford participation on non-school traveling teams and subsequently feel their opportunity to make the school squad is negatively affected.
4. School team coaches feel obligated to remain in their communities during the summer in lieu of taking jobs, attending summer school, in order to ensure a successful interscholastic season the following year.
5. Transfer students and athletes who are physical "late bloomers" are accommodated by a rule limiting outside team membership. This reduces the likelihood of entire school teams staying intact over the summer which would reduce the opportunity for transfers and younger players to develop skills and make their school squad next season.
6. Allows students to participate with students from other teams and communities.

The rule is not designed to prevent student athletes from playing on teams and improving their skills. It's purpose is to encourage maximum participation in a setting that promotes equal opportunities for success by the greatest number of schools.

February 18, 1998

To: Kansas House of Representatives - Education Committee

From: Gary Musselman, Executive Director - Kansas State High School Activities Association

Re: House Bill #2424

I wish to thank Chairman, O'Neal and the members of the committee for this opportunity to testify on the bill.

My testimony is in opposition to the bill.

Origin of House Bill #2424

In May of 1996, the Kansas Supreme Court held unanimously that the KSHSAA, as a voluntary, non-profit organization of member schools, was operating within its' statutory authority. As such, its' seventy-six member legislative body (Board of Directors) was revising rules and policies in accordance with the wishes of the membership. Plaintiff's counsel was unsuccessful in having the Outside Competition rule overturned, and subsequently House Bills #2256 and #2533 were filed and given hearings last session by the House Education and Federal and State Affairs Committees respectively. House Bill #2424 was filed last session but was not given a hearing.

**How does the KSHSAA assemble its' legislative body? (See Bylaw IV)
(KSHSAA Handbook 1997-98)**

All member schools are represented through their league affiliation on the Board of Directors. Independent schools, combine to elect a representative. Leagues serving more than four thousand students receive a second representative who must be a female or minority. These governance bylaws were modified and adopted in 1993 by the KSHSAA Board of Directors, the Kansas State Board of Education and the Kansas Legislature. Local boards of education are represented with two members from each of the four congressional districts. Additionally, the State Board of Education has two members who serve on the KSHSAA Board of Directors and appoints four additional at large members to increase representation for under represented groups. Finally, five affiliate organizations representing music, speech & debate, scholars' bowl, athletic directors and athletic coaches have voting membership on the Board.

House Education
2-18-98
Attachment 15

How does the KSHSAA change rules and policies?

(Attachments: Synopsis of Change 1996-97 & Regional Meetings agenda and votes)

As is true in legislative affairs, the rules of the KSHSAA member schools are in a constant state of change. The attached Synopsis of Changes 1996-97 contains four pages of rule and policy changes adopted in a single year. This is the norm. **Each October, the Association conducts six regional meetings** to facilitate discussion and gather grass roots input and advisory votes on significant issues either on board agendas or under consideration for placement there. **The issues pertaining to student participation on non-school teams and coaching outside the season have appeared on these regional meeting and Board of Director agendas frequently in recent years.**

Our feeling is that to effectively administer the Association in a responsible way, these meetings and **the ability for any member school to place a proposed rule change on the Board's agenda** are vital. The rule making process of the KSHSAA is from the bottom up. We work hard with our member schools to facilitate their active involvement in the rule writing process. This is not a spectator sport. Our member schools support what they help create.

How can administrators know what is in the best interest of students?

Kansas law requires teaching experience before one may become certified as a school administrator. Superintendents, principals and activity/athletic directors have all been classroom teachers prior to assuming their present duties. In many cases, many serve in dual capacities as teachers/administrators. In many smaller KSHSAA member schools, it is not uncommon for administrators to not only teach, but coach as well.

"More than just an Executive Director's perspective."

On a personal level, I understand the many different views of KSHSAA rules as I have served as a teacher/coach and principal in Kansas schools for thirteen years before joining the KSHSAA staff ten years ago. With sons in the ninth and sixth grades, who are involved in athletics and activities twelve months a year, I live the parent perspective on a daily basis. As a coach of many youth league athletic teams, and with a wife who not only teaches elementary students but also serves as a Webelo scout den leader, I guess you could say that the Musselman family is *"involved!"* I empathize with all the implications of the rules adopted by the KSHSAA as they touch the lives of children, families and educators. I respect and appreciate the need for structure, order and a buffer against unceasing demands for the family to sacrifice more time to sports and children's activities. In our attempt to teach our sons time management and handling their responsibilities, we must not forget to protect some of their time to simply be children so they may learn and grow the way children always have.

Recent KSHSAA Actions:

Conducted twelve Area Forum meetings.

Private Instruction Rule was modified in September of 1997.

Summer coaching by school employed coaches was approved in April of 1997.

Appointment of a special Summer Coaching Study Committee for football, volleyball & basketball

The Student Advisory Team has been formed and activated with survey results directly related to this issue.

Legislative Interim Study Committee hearing August 1997

What do current KSHSAA rules allow?

For Students:

During the school year in the season of activity, students may not be members of a non-school squad **in the same sport**. They may participate on a non-school team in a different sport/activity.

During the school year, before or after the season, a student may be on a non-school team with a limited number of his/her school teammates from the previous season's school squad. This rule applies in team activities only and teammate numbers are equivalent to approximately 50% of a team (e.g. 3 basketball, 4 volleyball, 6 soccer, 6 football 11-man, 5 baseball & softball etc.)

During the summer (Friday before Memorial Day to Tuesday after Labor Day), a student may be on a non-school team **with an unlimited number of teammates** from his/her school squad from the previous school season.

For School Employed Coaches:

During the school year, a school employed coach may only coach his/her athletes during the school season of sport/activity.

During the summer, a school employed coach may have a one week athletic camp for his/her team members, provided it occurs between June 1 and the first Sunday of August. A coach may serve on staff or serve as a clinician at a summer camp where his or her athletes comprise 10% or less of the camp enrollment.

A coach may coach his/her squad in a team setting in summer camps. Athletes may attend as teams or groups in an unlimited number. A coach may coach, organize or administer a team or league where his/her athletes from the school squad are involved.

A coach may always coach his/her own child one to one or in a team setting provided the child's teammates are not from the coach's school program (*in football, basketball and volleyball only*).

Football, Volleyball and Basketball Coaches have restrictions which are **scheduled for a vote in April 1997 by the KSHSAA Board of Directors.**

Is Kansas alone in having rules of this type?

No. Nearly all state Associations have them in some form. Court cases in Ohio (1989), Colorado (1987), New York (1985), and Texas (1976) have all resulted in rulings supporting the right of state activity/athletic associations to adopt rules governing the involvement of student participants in non-school activities. **Commonly known as "outside competition rules"**, the courts in each of these cases cited the same rationale as KSHSAA member schools have used in formulating similar rules for their students.

The primary purposes of such rules throughout the nation include:

1. **Participation in school activities is a privilege not a constitutionally protected right.**
2. **Students are free to associate** with school teams or non-school teams, as they choose.
3. Great importance is attached to the concern **that students not physically and emotionally overextend themselves.**
4. Educators have long emphasized **moderation in activities involvements to minimize the loss of school time by students and time available for homework preparation.** This concern relates to students as well as the teachers who also coach.
5. Educators have long opposed policies which **force students to specialize in a single activity** and forgo the variety of opportunities a comprehensive activities program is designed to offer.
6. **Development of "select" "power squads"** is contrary to the best interest of the greatest number of students and creates inequality of competition among schools.
7. All communities do not have the resources or **economic means to offer equitable programs** if limits are not imposed.
8. Economic concerns for **students who lack the financial resources to participate** in non-school programs. School programs are often the only available program. Without participating on the non-school teams, students perceive they won't make the school squad. Result is **less participation among lower socio-economic groups.**
9. **Concerns for coaches include:**
 - Increased parental and community expectations** to coach off season and year around
 - Burnout factor among coaches** is greatly increased (coaching longevity is already a concern)
 - Conflicts** with family responsibilities, continuing education/professional development, other employment opportunities and need for a break in the constant contact with athletes
 - Schools experience a high turnover rate among coaches/directors and find themselves unable to staff programs with certified educators.

What have we learned from the experiences of other states?

Texas, Senate Bill #1 passed in June, 1995. From information received from the University Interscholastic League, *"school programs have suffered."* Coaches are feeling very frustrated by a **12 - 7 - 4 syndrome**. *"Twelve months a year, seven days a week and four hours a day."* Even if coaches are restricted from coaching, they feel parental pressure to be present to watch and evaluate their athletes.

Loyalty to school teams and community pride is negatively affected. Players and parents are developing a *"free agent mentality."* Significant increases in class time missed by students are being reported. Disruption of the school team morale and teamwork are cited as concerns by numerous coaches. **School teams are giving way to select all star teams** which no focus on a balanced activity experience as a supplement to the primary purpose, to obtain an education.

Classroom time lost is a major concern for families and educators. Schools have no ability and parents lack the will to regulate the number of competitions per week in which children participate.

Summary

The language of House Bill #2424 is so broad as to render numerous KSHSAA rules meaningless.

If this bill becomes law, the following KSHSAA rules would be significantly altered. In some cases, the rules would be rendered meaningless.

- Outside Competition
- Olympic Development Programs
- Seasons of Activities
- Undue Influence/Recruitment
- Amateur Status
- Awards for non-school participation
- All Star Contests
- Anti-Tryout & Private Instruction

A special effort has been made to address this issue through a special study committee. *(Please see results of surveys and committee reports)*

A democratic process is in place for the member schools to effect changes when a majority supports doing so. Significant modifications to several concerns this bill seeks to address have been implemented in the last twelve months. Other proposed modifications have been through the most extensive evaluation process in KSHSAA history. **It is not good policy for the legislature to sweep aside this process at the very moment it is ready to give final consideration to the recommendations of the special *Summer Coaching Study Committee*.**

Removing this authority from the member schools of the KSHSAA, will result in many undesirable outcomes and is not prudent educational policy. Local boards of education will be forced to develop similar policies and to defend them at considerable cost of time and money. The difficulty they will face is that there will no longer be a consistent, state wide policy.

I would strongly encourage you to seek the opinions of educators and parents in your districts and not report this bill out of committee.

Thank you.

The Manhattan Soccer Issue Historical Review

April 1994 - Executive Board proposal to limit to six players on a non school soccer team in off season and summer was defeated 7 - 59.

April 1995 - Executive Board proposal to eliminate player limits during summer in basketball, football and volleyball was defeated 20 - 37.

September 1995 - Board of Directors voted 63 - 6 baseball and soccer were not approved for inclusion in the non school team player limit rule. This allows unrestricted play by students in the summer and during the off season during the school year.

April 1996 - Football, softball, baseball and soccer were included in the player limit rule for non school teams, during the school year only. In the summer, all non school team player limits were removed in all sports by a vote of the BOD 37 - 27.

June 1996 - A delegation from the Manhattan community met with the Executive Board to voice objection to adoption of the six player limit on non school soccer teams. They were advised that BOD action would be required to change the rule. They asked that the rule be rescinded or implementation be delayed for one year.

September 1996 - Proposal submitted by USD #383, Manhattan, to create exempt periods of time within the school year in which the six player soccer team limit would not apply to non school teams. The BOD defeated the proposal 26 - 41 citing concerns for treating soccer in a significantly different manner than all other team sports.

April 1997 - No written proposal was received by the forty day deadline specified in the Bylaws. A motion was made from the floor at the BOD meeting by Principal, Sylvester Benson, to add an agenda item regarding a change to the soccer rule. The motion failed the necessary three-fourths requirement by a vote of 35 - 29. (49 votes necessary)

June 1997 - USD #383 delegation met with the Executive Board to review their concerns and discuss possible options **which would not include elimination of the player limit rule, specifically noting, its' importance for consistency with other sports.**

September 1997 - USD #383 proposed elimination of the six player limit on non-school soccer teams. BOD defeated the proposal 56 - 13. An amended proposal was offered which would exempt seniors from counting in the six player limit while playing on non school teams during the school year off season. It was passed 50 - 19.

The current KSHSAA Soccer Rule 38 reads:

From the first Tuesday following Labor Day through the last Friday preceding Memorial Day, no more than six players (excluding seniors) from the same school squad may practice or participate together on the same outside team. Participation by more than six squad members (excluding seniors) shall make them ineligible for the remainder of the school year and any further middle/junior or senior high soccer, unless reinstated by the Executive Board.

