

Approved: _____

4/11

Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

The meeting was called to order by Chairperson Barbara Lawrence at 9:00 a.m. on March 20, 1998 in Room 123-S of the Capitol.

All members were present except: Senator Downey
Senator Oleen

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

Conferees appearing before the committee: Sue Chase, Kansas NEA
Mark Tallman, KASB
Karla Megisson, Kennedy Academy

Others attending: See attached list

The Chairperson called the meeting to order and stated she had asked the subcommittee on: special education for exceptional children, revision of act, to look through and study this bill. The subcommittee compared this proposal to the federal law and have come up with a balloon. The subcommittee chairperson, Senator Downey, had to be in Wichita so Senator Emert, a member of the subcommittee, explained the balloon.

The charge to the subcommittee was that there should not be more stringent requirements on Kansas public school special ed people than the federal government mandates. This is the view in which this was approached. What happened in the process is that there were a number of skeptics and a number of suggested changes in the bill as it come to the Committee. What was done was to give all those parties notice to make their comments in writing to the Kansas Department of Education as of last Friday. They were looked at over the weekend. As of Monday night they met with all the persons involved. There seems to be agreement on the balloon before the Committee. The balloon makes no policy changes to the bill. The intent of it is summed up on the first page of the balloon which states, "Notwithstanding anything to the contrary in this act, except for the provision of services to gifted children, is intended to create, nor shall it be construed to create, rights in addition to or in excess of those created by federal law." The one thing that is not in the balloon that the people asked to be put in the law is a requirement that is not a fiscal issue. In the federal law, prior written parental consent is required only when the school district proposes to evaluate, reevaluate or make initial placement of a child. That is the only requirement in the federal law. All persons involved asked that we retain present state law on this issue which directs more parental consent in more situations than the federal law does. There seems to be unanimity that the present state law is above the federal, but ought to be retained.

Mike Remus, Department of Education, added a few comments about parental consent.

The question was asked if the statute of limitations issue had been resolved.

Senator Emert replied that the subcommittee was informed that every suggestion made by the parties involved was either resolved by an explanation or worked into the balloon.

Senator Emert moved the balloon amendment plus the addition of the present parental consent law.

Senator Langworthy gave a second to the motion.

The motion carried.

Senator Emert moved to recommended SB 591 as amended favorably for passage.

Senator Jones gave a second to the motion.

The motion carried.

The Chairperson thanked the subcommittee for their work on the bill and directed the Committee's attention to **SB 160**--charter schools

Sue Chase, Kansas NEA, stated she was present to speak in support of the amendments to the bill. She stated that a charter is a contract granted to a group of people which allows them to receive funding for students to operate a school that is autonomous and largely free from the rules and regulations in place for other public

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION, ROOM 123-S-Statehouse, at 9:00 a.m. on March 20, 1998.

schools. (Attachment 1) She offered criteria for what KNEA believes are important elements in a charter school law and suggestions for improvements in the amendments. She had a balloon attached with the specific changes that she enumerated.

Ms. Chase stated that she feels the language is a little unclear about who is actually going to be doing the majority of the work. She feels it should be the advisory board. The state board has a large agenda and this will be a lot of work. If there is a problem, the advisory board could handle it. They are advocating that the Chairperson of the Education, instead of serving, could appoint a licensed practicing teacher as the head of the advisory board.

After answering several questions and listening to comments, Ms. Chase finished her testimony.

Mark Tallman, KASB, spoke in opposition to the bill. Mr. Tallman is a local school board member. His district received a charter school planning grant. His organization's opposition to the bill almost exclusively comes down to the fact that it allows these schools to be created by the state board, outside the control of the local board of education. His organization believes that the Kansas Constitution clearly states that local public schools, which charter schools would be, should be maintained, developed and operated through locally elected school boards. (Attachment 2)

Mr. Tallman listed several other concerns KASB has with the bill and ended by stating that they cannot support a bill which creates an unequal competition with state charter schools and local public schools or which allows the state to create schools over the objections of the people of any community as voiced by their elected officials.

The Chairperson mentioned the word "competition" and stated that this is one thing that public schools have not had in any number that people could afford. Does he see this as a negative.

Mr. Tallman responded that part of the concern is, as this bill is now seen, creates unfair competition because it would allow the state board to create schools that would be different and, possibly have advantages that public schools do not have.

The Chairperson commented that many of the restrictions that are most onerous are coming from the local boards. It would seem that there could be a school within the school district that would want to charter out and then show the local district what it is that is constraining the rest of their schools. It isn't the state laws that are found to be more binding, but maybe the rules that come down from the local boards.

Mr. Tallman stated that the political process can and does change. If the people want change, they have the ability to elect a school board that does that. He cited the city of Wichita, where there are many types of schools other than public schools.

The Chairperson commented that she was disappointed in the way the fifteen charter slots were apportioned because all of them were conversion schools. The people did not have enough time to put together a charter. It takes time and knowledge. Also it was not generally known throughout the state. She mentioned the three schools in Wichita that are called Edison schools. These schools would prefer a charter.

The Revisor stated that this bill was drafted like Arizona's charter law. Arizona has three chartering agencies, the state board on charter schools, a regular state board of education and, a law similar to ours, boards of education. They are the approving authority in Arizona. A school who wants to start a charter school has the choice of going to any of three approval entities. The chartering agency is the governing agency; it acts as the board of education for that charter school.

Mr. Tallman introduced Karla Meggison, owner of Kennedy Academy, a private non-sectarian school in Topeka. Ms. Meggison chose to participate with the his district in a study group that the district set up to look at a charter school with possibly trying to convert her school into a charter school through the district.

Ms. Meggison added a few words, stating that she agrees with the chairpersons amendments, but not KNEAs amendments because she thinks all schools should be able to keep the good teachers and get rid of the bad. She also is not in favor of tenure and that parents and teachers should be the ones to make the decisions.

The Chairperson explained what the advisory committee was set up to do. It would have many duties, mainly, the advisor to the State Board on the charter schools.

She asked Ms. Meggison to return to give formal testimony and stated the hearing on **SB 160** would continue on Monday.

The meeting was adjourned. The next meeting is scheduled for March 23, 1998.

SENATE EDUCATION COMMITTEE GUEST LIST

DATE: March 20, 1998

NAME	REPRESENTING
Karla Meggison	Kennedy Academy
Melanie Sotocchallo	Kennedy Academy
Elsa Booker	Kennedy Academy
Rodney Bieker	KS Dept of Educ.
Mark Tallman	KASB
Marvin Burris	Board of Regents
Bob Vancouver	Blue Valley USD 229
Sue Chase	KNEA
Jacquie Oakes	SEF
Dorothy Keckfeller	LOWU
Oran Burns	USD 501#
Michael J. Linn	KSDE
Ken Bahr	USD #489
Debbie Apt	USA
Diane Gjerstad	USD 259



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

Susan Chase Testimony Before
Senate Education Committee
Wednesday, March 18, 1998

Thank you Madam Chair and members of the committee. I am Susan Chase and I represent the Kansas National Education Association. I am here to speak in support of the amendments to SB 160.

I would like to step back for a minute and begin by giving you some information and background I hope will help you understand our positions and recommendations. To begin with, I would like to offer a definition of Charter Schools.

A charter is a contract granted to a group of people which allows them to receive funding for students to operate a school that is autonomous and largely free from the rules and regulations in place for other public schools. The charter is granted in exchange for fulfilling state educational outcomes. The schools are given latitude about how they are developed, who creates them, their level of autonomy and their accountability across a wide spectrum of organizational and educational possibilities. For many, charter laws are seen less as a catalyst to create new schools than to be a tool to create dynamics for change within public education.

It is with this in mind that KNEA believes that any charter school law should be less focused on quantity and more focused on quality. This is where we part terms with the individual who began the strong vs. weak law debate. Since the characterization of strong vs. weak relies solely on the number of schools created and not the quality of those schools, we would like to offer some criteria for what we believe are important elements in a charter school law and suggestions for improvements in the amendment to SB 160.

KNEA believes:

- The law must contain a mechanism for a stringent review of initial proposals and means to deny the charter.
- The law must contain appropriate oversight of fiscal and educational outcomes of the charter school.

*Senate Education
Attachment 1
3-20-98*

- The law must assure student participation in charter schools is voluntary, and admission to the school is free from discrimination and open to all.
- The law must ensure the charter school is focused on improvement of student outcomes and employs highly qualified and trained staff.
- The law must assure health and safety standards for students and employees.
- The law must assure that the regular public school program is not impacted negatively.

We therefore have the following suggestions on the amendment to SB 160:

- When the petition is submitted to the local board of education, prior to submission to the state board, the local board should be asked to support, oppose, or offer comments on the petition.
- The advisory board should contain a majority of licensed teachers practicing in the public schools. We suggest the following composition: the commissioner of education or his/her designee; a licensed teacher practicing in the public schools appointed by the Senate education chair; licensed teacher practicing in the public schools appointed by the House education chair; two licensed teachers practicing in the public schools appointed by the governor; and two members of the general public appointed by the governor.
- The advisory board should have the authority to monitor the establishment and operation of state charter schools, review petitions, and hold hearings on non-renewal or revocation, and should make recommendations to the state board for their action similar to the way most other advisory committees function.

I have attached the amendment with the specific changes that I just enumerated. We hope this committee will take a serious look at the ideas presented in the bill and the changes we have suggested. We believe that a well-thought-out plan for implementation of charter schools could be a valuable tool for encouraging creativity and innovation in education for all children in Kansas. To do that we must pay deliberate attention to details and assure equity and fairness for all students and educators.

KNEA hopes this committee will work carefully to provide that assurance and will forward this bill for further consideration. Thank you for allowing me to speak.



To: Senate Committee on Education
From: Mark Tallman, Director of Governmental Relations
Date: March 18, 1998

RE: Testimony on S.B. 160 - Charter Schools

Madam Chairman, Members of the Committee:

Thank you for the opportunity to speak to you today about the important issue of charter schools. I want to begin by observing that school board members tend to be rather perplexed about the enthusiasm for charter schools. For many decades Congress, state legislatures and state education agencies have systematically imposed an ever-growing number of laws, mandates and regulations on public schools, often abetted by the courts. School boards opposed many of those regulations. School boards have consistently asked for less regulation, for more freedom and flexibility. Those requests have been largely ignored, although this committee has certainly been more responsive than most.

Yet Congress and many state legislatures and state boards have now embraced a concept based on the idea that public education can be improved by exempting only certain schools - often a highly limited number - from many regulations and mandates, in many cases allowing those schools to operate with a freedom denied public schools under the control of elected local board members. In fact, those boards are the ones struggling to educate all children under the full weight of regulations.

KASB supported the enactment of the current charter school law in 1994; in fact, we supported a "stronger" law. Assisted by federally-funded planning grants, all 15 charter schools authorized by the 1994 charter school law are in operation. It is true that each of these schools could be operating without being charter schools? Yes, for the simple reason that the current law does not **allow** anything more. The attorney general has opined that the State Board cannot grant waivers of state law. The State Board could waive its own regulations without a charter school law. Kansas school districts are using this law to the full extent you, the Legislature, have permitted. 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.

*Senate Education
Attachment 2
3-20-98*

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 **S.B. 160** because it would allow the State Board to charter schools directly, without the approval of the local school board. The proposed amendment to the bill would allow local boards to comment on the proposed charter, but the State Board would not be required to act upon those comments. We do not believe that the State Board should be allowed to create schools within a public school district over which the people of that district have no control. While this is our single greatest concern about this bill, we have several others.

First, what exactly is the legal status of state charter schools under this bill? The proposed amendment removes the "blanket exemption" from state school laws in the original bill (page 1, lines 42-43; page 2, line 1). But the bill does not state that state charter schools are therefore **bound** by state school laws. Are state charter schools required to follow the Professional Negotiations Act and the Teacher Due Process Act? Must they employ certified teachers? Must they meet the minimum school term requirements? Are they bound by state curriculum requirements? Are they required to have site councils? Do they have to provide free textbooks to low income students, conduct health screenings, provide breakfast programs, follow the suspension and expulsion laws, etc.?

If state charter schools are bound by all these laws, then it seems to us that this law would simply create the equivalent of up to 30 new school districts without elected board, geographic territory or taxing authority. If, on the other hand, state charter schools are exempt from all these laws, then our worst fear is realized: school districts would be required to "compete" with charter schools chartered by and funded by the State Board, which can do things local public schools cannot do, and stop doing things local public schools are still required to do. If the Legislature believes that public charter schools should be exempt from these laws, why should local public schools be bound by them? In fact, the proposed amendment to this bill would specifically prohibit local school boards - elected by their community - from sponsoring charter schools, while anyone else - including persons who do not even reside in the district - would be eligible to start a charter school.

Second, the bill requires that a petition to begin a state charter school contain a number of elements, but it does not clearly state to what degree the State Board can, or should, evaluate those elements. For example, the petition must specify "program goals and measurable pupil outcomes consonant with achieving those goals," but does not say whether those goals are to be higher, equal to, or lower than the expectations of regular public schools. It requires a description of the qualifications of school employees, but does not say what those qualifications must be, or if the State Board can impose qualification? Again, will state charter school requirements be different from local public school requirements, and if so, why?

Third, the amendment to the bill creates an advisory board on state charter schools. There is no requirement that school board members be represented on this board. If the charter school experiment is in part designed to test applications that can be replicated in local public school, shouldn't local public schools be part of such an advisory board? Including school board members and other educators would probably create greater support for the idea.

Fourth, the bill would require that local school boards grant a leave of absence to any employee who wants to participate in a charter school, and allows the leave to be extended up to five years. That

means state charter schools could recruit the best teachers from public schools at will. The school district would have to fill the vacancy knowing the teacher on leave can return. That means any replacement teacher could be out of a job. Furthermore, unless the board would be willing to tenure the replacement teacher, the board would have to nonrenew the replacement teacher every two or three years.

Fifth, the amendment to the bill repeals the current charter school law, which means local school boards would be shut out of the charter school movement completely.

Among the reasons the Kansas charter school law is considered "weak" are the following: there is only one chartering entity (effectively the local school board), there is a limit on the number of charter schools allowed (15) and there is no blanket or automatic waiver. As amended, **S.B. 160** would continue to have only one chartering entity (the State Board), continue to limit the number of such schools, and does not clearly provide an automatic waiver.

KASB respectfully suggests there is a better way to promote charter schools in Kansas: **S.B. 511**, which this committee introduced at our request. It would continue to make local schools districts the "chartering entity," consistent with the Kansas constitution. It would remove limits on the number of such schools. It would provide an automatic exemption from state statutes. It would simplify and streamline the current process of creating charter schools.

S.B. 511 could be amended to give a greater role in approving local charter schools to the State Board of Education. KASB would not object to the creation of a new advisory board to promote and evaluate the charter school movement in Kansas, provided school board members were represented on such a board. KASB is willing to assist in the development of charter schools under the supervision of locally elected school boards. But we cannot support a bill which creates an unequal competition between state charter schools and local public schools, or allows the state to create schools over the objection of the people in any community as voiced by their elected officials.

Thank you for your consideration.