

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION.

The meeting was called to order by Chairperson Representative Ralph Tanner at 9:00 a.m. on January 26, 2000 in Room 313-S of the Capitol.

All members were present except: A quorum was present.

Committee staff present: Avis Swartzman, Revisor of Statutes
Ben Barrett, Legislative Research Department
Carolyn Rampey, Legislative Research Department
Renaë Jefferies, Revisor of Statutes
Linda Taylor, Committee Secretary

Conferees appearing before the committee: Representative Bill McCreary
Anne Massey
Matt Reiner
Richard Hamlin
Amy Kennedy
Jodi Podschun
Randy Tuxhorn
Stacey Farmer, KASB
Gary Musselman, KS State High School Activities Assoc.

Others attending: See Attached List

Representative Empson moved to place HB 2655 on the Consent Calendar. Representative Benlon seconded. The motion passed.

Representative Tanner introduced Colonel Hester of the Wichita Schools Junior ROTC, who in turn introduced the following JROTC members: Shelley Cooper, Diane Atkinson, Mark Wagner, and Matt Ramsey. Each student gave a brief statement about the JROTC and what it means to each of them.

Hearings on **HB 2388 - Private elementary or secondary schools, participation in extracurricular activities** were opened.

Representative Bill McCreary, sponsor of the bill, gave a brief explanation of what the bill would do. He then introduced proponents of the bill, who each gave testimony. The proponents were: Amy Massey, (Attachment 1), Matt Reiner, (Attachment 2), Richard Hamlin, (Attachment 3), Amy Kennedy, (Attachment 4), ~~Joni Podschun~~,* (Attachment 5), and Randy Tuxhorn (Attachment 6). Each of the proponents expressed their desire that the bill be passed out favorably, because it would allow them to participate in school activities that would enrich their education in home school situations.

Representative Tanner then introduced Gary Musselman, Executive Director of the Kansas State High Schools Activities Association. Mr. Musselman gave testimony opposing the bill. (Attachment 7). Mr. Musselman expressed the belief held by members of his association that allowing home school students to participate in extracurricular activities would be unfair to those students attending accredited schools who must meet certain eligibility requirements in order to participate. The association also has concerns that this bill would allow for 'school shopping' and recruitment.

The next opponent of the bill was Stacey Farmer, Kansas Association of School Boards. After giving her testimony, (Attachment 8). Ms Farmer also expressed concerns about the verification of minimum eligibility requirements among home schoolers, stating that public school students must meet weekly standards, while home school students are only required to take a nationally standardized test to be eligible to participate.

Hearings on **HB 2388** were closed.

* RANDY + SHELLY SHUMATE

The next meeting is scheduled for January 27, 2000.

The meeting was adjourned at 10:55 a.m.

HOUSE EDUCATION COMMITTEE

GUEST LIST

DATE: January 26

NAME	REPRESENTING
Sten Parsons	KGC
Janet Nitschke	Home Schooling
Bud Nitschke	Home Schooling
Dan & Massy	Private Home School
Anne Massey	Private Home School
Joni Podschun	"
Amy Kennedy	Home Schooling
David Barfield	CHE. CK
Wald Hancock	Private Home Schooling
Mark DeBetti	KNCA
Stacy Farmer	KASB
Mark Wagner	Jr ROTC
Jerry Burkis II	Southeast HS (Wichita) Army Jrotc
Amanda Pearson	East High
Diane Atkinson	Southeast H.S.
Stan Meier	Southeast H.S.
Jamie Deneau	Wichita South JROTC
Karl Nitz	Washburn
Jim Yonally	USD # 512

Testimony in favor of HB2388

Anne Massey
1306 N. Cherry
Wellington, KS 67152
316 - 326 - 7164

10 yrs. - have taught my five children in a private school in my home,
registered by the State of Kansas

9 yrs. - leader of support group in Sumner County

3 yrs - promoting equal access legislation

I favor the participation of students taught in private schools in their homes in activities sponsored by the Kansas State High School Athletics Association in their local public school. We can enroll in classes at public schools, but we are barred from participation in KSHSAA activities.

A. Private home-based education is the best bargain in Kansas.

1. Parental involvement improves the academic performance and character development of children.
2. 1994-95 study shows students K-12 taught at home averaged 87% on standardized achievement tests. *
3. No cost to state for quality education.
4. Ks. should do all it can to encourage home-based private education.

B. It's possible to establish the academic eligibility of home-taught private school students without increased government regulation.

1. According to a nation-wide study, increasing government regulation does not improve the academic achievement of home-school students.*
2. Parents can verify that their students have passed five subject areas, for the KSHSAA and their local district. They are very aware of their students academic progress. Some feel parents would abuse this responsibility. That is possible, but unlikely, although it has sometimes been abused by the public school.

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Attachment 1

3. The bill states KSHSAA can require achievement testing not required of the public school student as a back-up to verify academic achievement. Those who are wanting to participate in KSHSAA activities are willing to submit scores from a nationally standardized test.

C. 1/6 funding saves money.

1. Giving schools a portion of public funding for students using public services is fair. Schools can already count part-time students, even if they are only enrolled in one class. If a student is not enrolled in a class, they receive no funding. Whatever fraction it is, it saves the state money to encourage parents to teach their children at home. If I enroll one student in high school, that costs the state \$3770. If I enroll one student in an extracurricular activity only, it costs only \$624. That's a savings of \$3142.

As small private schools, we can provide quality education, and be involved in community activities. Some of these are only available at the public school. We invest in the community through educating our children, paying our taxes, and voluntary public service. Do our children deserve the same opportunities as the rest of the community?

*Studies by the National Home Education Research Institute , Dr. Brian Ray, President, P.O. Box 13939, Salem, Oregon 97309

Dear Committee Members:

I am writing from Pratt, Kansas, where my wife and I are currently homeschooling four of our seven children. Our oldest is a son, a freshman in college. We have a seventeen year old daughter, a senior; and a fifteen year old son enrolled in Pratt High School.

In twenty years of married life we have developed many good friendships in Pratt. We have built a lot of bridges. We are known here as a large family, thoroughly Christian, who drive old cars and enjoy success in athletics.

As Christians we are committed to passing our own historical Christian values and disciplines to our children. In our setting, homeschooling has emerged as the best educational vehicle for this process.

Few folks would disagree that our Public School's worldview shift from Christianity to Humanistic Materialism is complete. This religious perspective is not compatible with our convictions. Were it not for the courageous teachers who in good conscience work to minimize its effects, Public School would not be an option for us.

As I mentioned before our children have athletic and artistic talents. We think these are often best developed and expressed through teamwork and in a larger community setting. For us and a great number of Kansans, that avenue is the local Public School. In rural communities the Public School is a central cog in the social machinery. The athletic and artistic groups representing them are usually a focal point of community identity, pride and unity. Our family enjoys and benefits from our participation with others in these events. I'm told and I believe that our community is likewise strengthened by our involvement.

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Attachment 2

I want to tell you now about our oldest son, Cullen. He was selected first Team All State in Class 4A Football. As the quarterback he led the Kansas Shrine Bowl West All Star Team to a 27-20 victory last August in Wichita, Ks. Highlighting his effort was a 35-yard touchdown pass with no time left to give the west squad the lead at half time.

He was selected first team All State, All Classes in baseball and pitched for the Kansas All Star team in a losing effort against the Nebraska All Stars.

I've told this for two reasons. First, so I can brag about my son's athletic prowess in a joint committee hearing. Secondly and more importantly, to illustrate this point. Students and families are being forced to make unfortunate and unnecessary sacrifices of opportunity, talent, dreams, and goals.

Had we homeschooled Cullen as we desired. He probably would not have developed into a great high school athlete and certainly would have had no opportunity for an athletic scholarship for college. He would have forfeited the experiences of teamwork and camaraderie forged through mutual dedication and sacrifice. Conversely in sending Cullen to public high school we believe many good formative and instructive educational opportunities were either lost or replaced with secular humanistic indoctrination. In addition, the risks of a broad range of peer induced temptations and problems would have been avoided.

A family paying taxes to support public education and its activities should not be denied access to those activities. Especially so, when they are homeschooling, providing a quality, often superior, education at no expense to the government.

As the rules now stand our homeschooled students will suffer the loss of athletic, debate, art, or other scholarships they might have otherwise have had, thus hindering their prospects of a college education or participation in these events in college. My wife and I struggle with this dilemma every year and we are not alone. In the Pratt area we have many friends who are similarly frustrated.

We need a bill like HB 2388. It will open a door of opportunity to homeschoolers. Many other states have similar legislation, including Colorado.

This bill would strengthen both private and public education. It would help end the discrimination of the Kansas State High School Activities Association against us.

Thank you for your time and your service. May God bless your faithful efforts.

Sincerely,

Matthew W. Riner

Matthew W. Riner

Pratt, Ks.

January 25, 2000

Members of the Education Committee:

I am here giving testimony on behalf of HB 2388.

As a veteran school board member, I can see academic advantages to home-schooled students being able to compete in extracurricular interscholastic activities. I believe that the KSHSAA could adapt their policies to allow home-schooled students to participate in these extracurricular activities without compromising their policies on eligibility.

As a member of the Board of Education, it is our responsibility to provide every student with the same opportunity regardless of being home or public schooled within our school districts.

I also believe, it is our responsibility to make sure that every effort and avenue has been explored. The school districts should be able to count these students as part of their enrollment totals and proper funding from the State should be allocated for these students.

In closing, I do believe there is a stigma between home-schooled and public schooled students. We can open the door for both public education and home-schooling to work together for one purpose by giving every student the resources for the best education possible. This should be the only concern that we all have.

Sincerely,



Richard Hamlin
Vice-President Board of Education
At-Large Position
USD #353
Wellington, Ks. 67152

House Education
1-26-00
Attachment 3

TESTIMONY IN FAVOR OF HB2388

AMY KENNEDY
10487 V4 ROAD
HOYT, KANSAS 66440

I, Amy Kennody, am a lifelong resident of Kansas and was myself educated in public schools. I am the mother of three children currently in the public school system.

I whole heartedly support House Bill 2388, Equal Access Legislation, because I believe all tax-paying residents of Kansas should be entitled to benefit from public education programs and facilities whether or not they have chosen the public school system as the best vehicle of learning for their own child.

Many home school families make huge sacrifices in terms of personal commitment and second incomes in order to provide what they feel is the very best educational environment that they can afford for their child. They cannot begin to provide by their own resources the facilities or extra-curricular programs enjoyed by public school students and provided by the state funded system to which they have also contributed. Home schoolers deserve equal access to those programs and facilities that they feel would benefit their child and must not be excluded or discriminated against because of the education choices they have made.

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Attachment 4

Fax 316-885-4898
Home Phone 316-885-4731

January 25, 2000

RE: H.B. 2388

Dear Committee Member:

Randy and I have a personal interest in seeing the H.B. 2388 passed. We are homeschooling our children. We have 4 of our 7 children currently school age and in homeschool. Randy and I both were raised here in Minneola and attended the local public school. Minneola has an excellent school system. Our decision to homeschool was a personal one and certainly not a reflection of the public school system.

We believe that our children could be a benefit to the local school system as well as being benefitted by it. The school system has funding , including our tax dollars, and established and scheduled activities with the numbers to participate. We can not offer that to our children through our home school.

Our children would enjoy a wide range of activities offered in the local school system . Please pass H.B. 2388.

Sincerely,

Randy and Shelly Shumate

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Attachment # 5

HB 2388

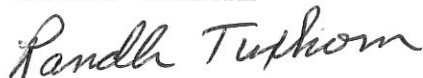
The Education Committee;

As a taxpayer and a registered voter, I feel that having paid the price for my children to participate in public schools that I should be allowed to pick the part I want my children to use.

It is important to make sure that every child has a chance to receive an education, which my wife and I provide at home. We have wanted the opportunity to choose the sporting and band events for our children. At a time that parents participation in their children's lives has grown rare to restrict the choices of home school parents is unfair and a move in the wrong direction.

I strongly ask you to move forward on HB 2388 to bring it to law so all children are eligible for public competition.

Randle Tuxhorn



1803 McArtor

Dodge City, Kansas 67801

tuxhorn@webtv.net

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1-26-00
Attachment 6

January 26, 2000

To: Kansas House of Representatives - Education Committee

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

RE: House Bill #2388

I wish to thank Chairman, Tanner and the Committee for the opportunity to testify.

My testimony is in opposition to House Bill #2388

1. In October 1998, the KSHSAA polled its' member schools on permitting home schooled student eligibility. Yes 2 No 330

2. In September 1999, the KSHSAA accepted the Wichita Home School as an approved school, thereby creating the opportunity for their athletic teams to compete with Association member schools.

Per state statutes, the schools of Kansas have created **the KSHSAA as a private, voluntary association of accredited schools, both public and private.**

The Association exists to provide a structure to enable schools to **promote and govern interscholastic activities for their students effectively, economically and fairly**, while keeping those activities in the **proper educational perspective.**

Accredited schools join voluntarily and participate in a democratic, self governance process to attain the Association's purposes.

Fundamental among all rules of the member schools are those establishing eligibility of students, through enrollment, age, academic qualification and residency/transfer status.

***The eligibility of young people who attend private or home schools contradicts the purposes and equitable application of these rules.**

Historically, schools and the educational program existed before co-curricular programs

When school activity programs began, they were to supplement the educational experience for the school's students. They were not intended to extend into the community as town or recreational teams. Rules such as the enrollment and bona fide student rule are based upon that premise.

Educators have long realized that **a number of other athletic and fine arts opportunities exist outside the school and KSHSAA programs.** That is even more true today with an ever increasing number of non-school athletic events and programs being available.

Post secondary educational programs require the same enrollment status as does the KSHSAA. **Every Kansas college, public or private, requires full time enrollment status of any student participating in sports or other intercollegiate activities.**

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FINANCIAL ISSUES and SOCIAL POLICY CONCERNS

Given the current status of state funds and the difficult decisions legislators face on budgets and school finance, **the potential fiscal note of this particular bill is of concern.**

Some are of the opinion that allowing private/home school students into the school activities program will attract them to re-enroll at the public school. Most public school superintendents and board of education members are of the opposite view.

Allowing eligibility would create an incentive for students to opt out of accredited schools and their attendance and academic eligibility requirements.

Oversight and accountability of academic achievement have always been and must continue to be **the basis for the privilege of interscholastic activity participation.**

It is not good social policy to undermine the state's commitment to a strong educational system and an established curriculum.

The potential exodus of students and loss of state aid to school districts should be of great concern to anyone committed to supporting the institution of public education.

The Kansas Legislature has created an educational system for all school age children on an equal, non-discriminatory basis. Those who elect to obtain education elsewhere cannot say the system is not open to them.

CONCERNS FOR VERIFICATION of ELIGIBILITY

The Kansas statutes define minimum hours and days of **attendance** for state accredited public and private schools. **Teacher certification** requirements and accreditation processes ensure consistent standards. **Eligibility for school activities is based on this foundation.**

Non-accredited private schools offer no assurance such standards are in place.

Private/home schools have been reluctant to allow oversight and verification necessary to grant eligibility on a standard consistent with students in accredited schools. **Without verification** of instruction and academic requirements, how will schools ascertain whether essential elements of the curriculum have been mastered? **How can eligibility be awarded on an equitable basis?**

By what standard or measure would academic success be defined? **If a standardized test is the only criteria**, how can that be considered the equivalent of the existing academic eligibility standard? If a testing battery is used, when, how and by whom will it be administered? Many factors impact standardized test performance. There will be concerns that tests are often biased for selected portions of the population. **Standardized testing is not an appropriate basis for awarding eligibility.**

Eligibility in member schools is often checked and awarded on a weekly, biweekly basis. It **takes into account conduct, citizenship and many other factors** that would not be possible for school administrators to verify.

SCHOOL SHOPPING & RECRUITMENT

This bill addresses eligibility for home schooled students only at public schools. Since the **KSHSAA has both public and private school members**, it creates inequality among schools.

There are implications in this legislation which will allow and possibly encourage a **mentality of "free agency."** **School shopping for activity purposes** is a verifiable concern among Kansas schools and is expressly prevented by rule. The **potential for abuse is very real.** Additionally, the **recruitment of students** to change schools, drop out and re-enroll at a different school is very real. Legitimate concerns exist for the **creation of select all star teams** with little or no regard for attendance at the school of residence or an accredited school.

Throughout the nation, there have been numerous legal challenges to enrollment and other eligibility rules. The courts have ruled consistently ruled that **14th amendment, equal protection rights are not violated by eligibility rules, as they serve to further a legitimate state interest (i.e. To support public education.)**

The courts have also held that school **eligibility and enrollment rules do not violate the right of free exercise of religion or liberty interests of students or parents.** Such rules exist to assure consistency and fairness of opportunities for students attending accredited schools.

SUMMARY

School activities are not a requirement for graduation from school.

The right to an education is a fundamental, property right. Throughout the nation, the **courts have held school activities participation a privilege, not a right.**

Parents and students alike have a legitimate concern that unenrolled children will compete and take the place of their child on the school team. As budgets become tighter and programs are cut back, competition for the limited number of participation opportunities should be available to the students enrolled in the school who chose to provide them.

There is a concern that **this action would send a message that athletics and activities are more important than academics.** This contradicts the most fundamental principle of the Association and its' member schools.

The concern that ineligibility for KSHSAA programs prevents students from being eligible for college scholarships is not valid. The NCAA Clearinghouse has established a process to evaluate portfolios of home schooled students to determine eligibility. The NCAA process is described as, "*very laborious and time consuming.*" It requires a significant amount of information on the student's academic program. **It does not rely on a single indicator.** It is important to note that **the process is the most difficult eligibility procedure to administer and requires significant time and adequate staffing.** These are the very concerns Kansas educators have on this issue.

Principals, athletic directors and coaches are placed in the difficult position of having to supervise, instruct, coach and verify eligibility of young people over whom they have no oversight nor contact.

Students who have no daily interaction with non-school teammates, are not gaining the value of the program. The interaction in the classroom, hallways and other times throughout the day, are what give the sense of representing your school when one participates in school activities.

As an association of more than seven-hundred fifty public and private accredited schools, rules are developed through a representative process by the Board of Directors. **Why has neither a local board of education nor a member school proposed this modification of eligibility rules?**

Private schools and even home schools, have the opportunity to gain status as a KSHSAA Approved School. This allows them to participate with other member senior high schools. Middle and junior member schools may participate against non member schools. Approved senior high schools may, and do, allow home schooled students to participate in their activity programs. **It is common for private schools to form associations and compete on a league level, state wide basis and even on an interstate basis.**

In the final analysis, there is **the fundamental issue of fairness to students fully enrolled and meeting their responsibilities to earn their privilege of eligibility.**

No one can argue that the **selection of an educational program is a choice.** When making that choice, parents do so with the realization that with different programs come different opportunities. **With the free exercise of choice comes the ramifications of one's choice. This proposal seems to suggest that one can have it both ways.**

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS



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

To: House Committee on Education
From: Stacey Farmer
Governmental Relations Specialist
Kansas Association of School Boards
(Also representing United School Administrators)

RE: Testimony on H.B. 2388

Mr. Chairman, Members of the Committee,

Thank you for this opportunity to testify on H.B. 2388. KASB has adopted the following policy regarding non-public school student participation:

Boards of education should determine the extent to which students who are attending non-public schools are allowed to participate in public school programs. The cost of participation by such students should be fully funded through the school finance formula.

We oppose this bill for several reasons. First, it represents yet another mandate for public schools by requiring that non-public school students be allowed to participate in interscholastic extracurricular activities. KASB believes that this responsibility is best left to the locally elected and locally accountable members of the board of education. It is important to note that currently the decision whether to allow participation in academic courses by non-public school students rests with the local board of education and, in fact, several districts do allow non-public students to take courses and participate in programs that are not governed by the KSHSAA.

Public school students are required to meet minimum requirements to participate in extra curricular activities such as, attendance, grade point average and code of conduct. They are not offered the option of simply taking a nationally standardized test to be eligible to participate. To lower the standard and offer this option to non-public school students, would be unfair to public school students who are held to more rigorous standards.

The issues that are addressed in this bill are important but we believe that they should be addressed by locally elected officials that are closest to the issues and not by passing a state law.

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1-26-00
Attachment 8