

## MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 1:37 p.m. on March 8, 2004 in Room 123-S of the Capitol.

All members were present except:

Senator Anthony Hensley (excused)

Committee staff present:

Carolyn Rampey, Legislative Research  
Kathie Sparks, Legislative Research  
Theresa Kiernan, Office of the Revisor of Statutes  
Judy Steinlicht, Committee Secretary

Conferees appearing before the committee:

Rod Beiker, Kansas State Board of Education  
Theresa Kiernan, Revisor of Statutes  
Representative Willa DeCastro  
Representative Dan Timesch  
Terry Forsyth, Kansas National Education Association  
Mark Tallman, Kansas Association of School Boards

Others attending:

See Attached List

### **Sub HB 2558—Charter schools, procedures and reports**

Rod Beiker, Kansas State Department of Education, testified in favor of **Sub HB 2558**. The State Board requested this bill to accommodate its meeting schedule and change the deadline for State Board action from April 1 to April 15. The State Board has no opposition to the modifications made by the House. (Attachment 1)

Theresa Kiernan, Revisor of Statutes, gave an overview of the amendments to **Sub HB 2558**. The House amended the bill to require an estimate of the amount of federal funds to be expended and a description of how the school will operate after the federal funds are no longer available in the application for a charter; require the State Board of Education to specify in writing why a petition is denied and allow that within 30 days the petitioner can make the necessary correction and the State Board will provide reconsideration within 60 days; require that the appropriate local board specify in writing why a petition is denied and allow that within 30 days the petitioner can make the necessary corrections and the local board will provide consideration; allow for the renewal process to be held in five years instead of every three years; require a local board to file a statement with the State Board of Education of the reasons why a charter school was discontinued or did not seek renewal; and change the date from April 1 to April 15 by when the State Board of Education is required to notify approval or disapproval of a charter school application. (Attachment 2)

Representative Willa DeCastro came before the committee to give a report on the subcommittee findings on **Sub HB2558**. The subcommittee's assignment was primarily to answer four questions. First, they determined that the charter schools were required to do all the same testing as other schools, were required to meet all accountability and accreditation standards, meet state graduation requirements and hire highly qualified teachers, therefore, they would comply with No Child Left Behind. Second, the subcommittee did not believe that Kansas has a "weak" Charter School Act since charter schools are held to the same accountability, testing and standards as all other schools in Kansas. Third, the subcommittee reviewed all of the charter schools in Kansas and found that only a few had really distinct programs while the others had programs that were very much like any school district. Fourth, the subcommittee spent time on definition of charter and alternative schools and found that there was no clear definition. Representative DeCastro said that the subcommittee left it up to the legislature's discretion if they want to change the definition.

Representative DeCastro said that Kansas now has 32 charter schools, of which 23 are in their third year

CONTINUATION SHEET

MINUTES OF THE SENATE EDUCATION COMMITTEE at 1:37 p.m. on March 8, 2004 in Room 123-S of the Capitol.

of operation. Only 8 have applied for renewal, 12 were not eligible for renewal and it was unknown why the other 3 had not applied for renewal. The State Board has received 17 applications for new schools.

Representative DeCastro talked about the amendments recommended by the subcommittee which are the same as listed above in Theresa Kiernan's overview. (Attachment 3)

Representative Dan Timesch participated in subcommittees under previous education leadership and asked Representative DeCastro if he could sit in on their meetings. He has five charter schools in his district and applications for two new charter schools. The changed law would affect the renewed and new charter schools. Representative Timesch said he strongly supported the amended law and encouraged passage of **Sub HB2558**.

Terry Forsyth, KNEA, testified in favor of **Sub HB2558**. He said the bill maintains strict accountability that governs all public schools and a curriculum and methodology designed for a specific group of students. **Sub HB2558** allows charter schools more time to test and perfect their ideas. KNEA recommends passage of the bill. (Attachment 4)

Mark Tallman, KASB, believes the issues recommended by the subcommittee and included in **Sub HB2558** are acceptable. (Attachment 5)

**Sub HB 2592—Mediator in school territory transfer disputes**

Rod Beiker, Kansas State Board of Education, testified in favor of **Sub HB2592**. This bill will allow local boards of education to use mediation on their own when local boards are unable to agree on a proposed transfer of territory between their districts. Under the proposed law, the State Board would maintain a list of qualified mediators and appoint a mediator upon request to do so. The \$500 cost of the mediation would be paid by the school district that seeks the transfer. If an agreement is not reached through mediation, the option of filing a petition with the State Board will still exist. (Attachment 6)

Senator Teichman made a motion to amend **Sub HB2592** to be effective in the register and to recommend **Sub HB2592** as amended favorably for passage. Seconded by Senator Lee. Motion carried.

Senator Schodorf made a motion to approve the minutes for March 2 and March 3. Seconded by Senator Teichman. Motion carried.

Meeting adjourned at 2:30 p.m. The next meeting is scheduled March 9, 2004.

**SENATE EDUCATION COMMITTEE GUEST LIST**

DATE - 3-8-04

<u>NAME</u>	<u>REPRESENTING</u>
Bill Brady	SFFF
Rod Bieker	KSDE
Allen Shupen	item - Rep. Thunisch
Brady Kickhafer	Sen. Teichman
TERRY FORD QTH	KNEA
Dusti Haroldson	Little Government Relations
Kent Hufn	USA
Hemore Apt	U.S.D. #500
Mark Tallman	KATB
MARK DEBETTI	KNEA
Rep Willa DeCastro	House Ed.
Rep Daniel J Thunisch	House



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TO: Senate Education Committee

FROM: Rodney J. Bieker, KSDE General Counsel

RE: 2004 Substitute for House Bill 2558

DATE: March 8, 2004

I am here today to testify on behalf of the State Board of Education in favor of Substitute for House Bill 2558. This bill amends various provisions of the charter school law.

The State Board requested that this law be amended to accommodate its meeting schedule and change the deadline for State Board action from April 1 to April 15. This change was approved by the House along with several other modifications.

The State Board has no opposition to the various changes made by this bill, and the Board is granted the change it proposed. Therefore, the State Board appears in support of this bill.

h:fn-test--2004:Test--2558

*Senate Education  
3-8-04  
Attachment 1*

Theresa Kiernan  
Revisor of Statutes

Session of 2001

## Substitute for HOUSE BILL No. 2558

By Committee on Education

2-16

9 AN ACT relating to charter schools; amending K.S.A. 72-1906, 72-1907  
10 and 72-1910 and repealing the existing sections.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 72-1906 is hereby amended to read as follows: 72-

14 1906. (a) The state board of education shall design and prescribe the  
15 format of a petition for establishment of charter schools. The petition  
16 shall be designed in a manner that will provide for inclusion of a descrip-  
17 tion of the key elements of the charter under which the school will be  
18 operated. The board of education of a school district may adopt policies  
19 and procedures for receiving, reviewing and screening petitions.

20 (b) A petition for the establishment of a charter school may be pre-  
21 pared and submitted to the board of education of a school district by or  
22 on behalf of a school building or school district employees group, an  
23 educational services contractor, or any other person or entity. Any such  
24 petition shall be submitted by not later than December 1 of the school  
25 year preceding the school year in which the charter school is proposed  
26 to be established.

27 (c) The board of education of a school district shall receive and review  
28 each petition for establishment or continuation of a charter school and  
29 may grant or renew a charter for operation of the school. The charter  
30 must contain the following key elements:

31 (1) A description of the educational program of the school, including  
32 the facilities that will be used to house the program;

33 (2) a description of the level of interest and support on the part of  
34 school district employees, parents, and the community;

35 (3) specification of program goals and the measurable pupil outcomes  
36 consonant with achieving the goals;

37 (4) explanation of how pupil performance in achieving the specified  
38 outcomes will be measured, evaluated, and reported;

39 (5) the governance structure of the school, including the means of  
40 ensuring accountability to the board of education;

41 (6) a description of qualifications to be met by persons employed by  
42 the district for assignment to the charter school;

43 (7) procedures that will be followed to ensure the health and safety

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- 1 of pupils and staff;
- 2 (8) criteria for admission of pupils, including a description of the lot-
- 3 tery method to be used if too many pupils seek enrollment in the school;
- 4 (9) manner in which annual financial and program audits will be
- 5 conducted;
- 6 (10) pupil suspension and expulsion policies, to the extent there is
- 7 deviation from districtwide policies;
- 8 (11) manner of pupil participation in the Kansas assessment program;
- 9 (12) terms and conditions of employment in the charter school;
- 10 (13) specification of the manner in which contracts of employment
- 11 and status of certificated employees of the district who participate in the
- 12 operation of the school will be dealt with upon nonrenewal or revocation
- 13 of the charter or upon a decision by any such employees to discontinue
- 14 participation in the operation of the school;
- 15 (14) identification of school district policies and state board of edu-
- 16 cation rules and regulations from which waiver is sought in order to fa-
- 17 cilitate operation of the school and explanation of the reasons such waivers
- 18 are being requested; ~~and~~
- 19 (15) the proposed school budget, *including an estimate of federal*
- 20 *funds therefor and how such funds will be utilized; and*
- 21 (16) *a description of how the budget will be funded after the federal*
- 22 *funds are expended.*
- 23 (d) In addition to satisfying a board of education with regard to the
- 24 key elements contained in the charter, a charter school must comply with
- 25 the following requirements in order to qualify for establishment or
- 26 continuation:
- 27 (1) The school must be focused on outcomes or results and must
- 28 participate in the quality performance accreditation process unless a spe-
- 29 cific request documenting the reasons for deviation from the process is
- 30 submitted to and approved by the board of education and the state board
- 31 of education;
- 32 (2) pupils in attendance at the school must be reasonably reflective
- 33 of the racial and socio-economic composition of the school district as a
- 34 whole;
- 35 (3) pupils may not be charged tuition; and
- 36 (4) compliance with applicable health, safety, and access laws must
- 37 be assured.
- 38 (e) If, upon receipt of a petition for establishment or continuation of
- 39 a charter school, a board of education finds the petition to be incomplete,
- 40 the board may request the necessary information from the petitioner.
- 41 After receiving a satisfactory petition, the board of education shall give
- 42 notice of the time, date and place for the holding of a public hearing on
- 43 the petition and shall rule on the petition within 30 days after the public



1 hearing is held.

2 (1) *If the board does not approve the petition, the board shall send a*  
3 *notification of denial to the petitioner and shall specify in writing the*  
4 *reasons therefor. A copy of such notification also shall be sent to the state*  
5 *board of education. Within 30 days from the date of the notification of*  
6 *denial, the petitioner may submit a request to the board of education for*  
7 *reconsideration of the petition and may submit an amended petition there-*  
8 *with. The board shall act on such request within 30 days of receipt of the*  
9 *request.*

10 (2) If the board of education approves the petition, the board shall  
11 notify the petitioner and the state board of education within 30 days after  
12 the approval or by February 1 of the school year preceding the school  
13 year in which the charter school is proposed to be established, whichever  
14 is earlier.

15 (f) After being notified by a board of education of the approval of a  
16 petition, the state board shall determine whether the charter school can  
17 reasonably be expected to accomplish the program goals such charter  
18 school established pursuant to subsection (c). If the state board finds such  
19 charter school is not likely to achieve such program goals, the state board  
20 shall deny the petition. *The state board shall send a notification of denial*  
21 *to the petitioner and the board of education and shall specify the reasons*  
22 *therefor. Within 30 days from the date of the notification of denial, the*  
23 *board of education may submit a request to the state board for reconsid-*  
24 *eration of the petition and the board of education may submit an amended*  
25 *petition therewith. The state board shall act on such request with 60 days*  
26 *of receipt of the request.*

27 (g) The state board shall notify boards of education and petitioners  
28 for the establishment of a charter school of the approval or disapproval  
29 thereof by not later than April 15 of the school year preceding the school  
30 year in which the charter school is proposed to be established.

31 (h) If a charter school that has been approved for establishment has  
32 sought waiver from any school district policy or state board of education  
33 rules and regulations, the board of education of the school district in  
34 which the charter school will be established may consider the reasons for  
35 which the waivers have been requested. If the board of education deter-  
36 mines that the reasons for seeking such waivers are meritorious and le-  
37 gitimately related to successful operation of the charter school, the board  
38 of education may grant waiver of school district policy and may make  
39 application, on behalf of the charter school, to the state board of education  
40 for waiver of state board rules and regulations. The state board may con-  
41 sider the application for waiver and approve, deny, or amend and approve  
42 the application. Upon approval or amendment and approval of the ap-  
43 plication, the charter school may operate under the terms and conditions

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1 of the waiver. The manner and method of exercising the rights and per-  
2 forming the responsibilities, duties and functions provided for under any  
3 school district policy or state board rules and regulations that are waived  
4 under authority of this subsection shall be prescribed in the charter and  
5 governed thereby.

6 Sec. 2. K.S.A. 72-1907 is hereby amended to read as follows: 72-  
7 1907. (a) Whenever a charter school has been approved for establishment  
8 or continuation by the board of education of a school district and the state  
9 board of education ~~after July 1, 2007~~, no other approval shall be required  
10 for a period of ~~three~~ *five* school years. The board of education may con-  
11 sider renewal of the operational status of the charter school at the con-  
12 clusion of such ~~[(1) A three-year period and, if the charter was approved~~  
13 ~~or renewed prior to July 1, 2007, or (2) a five-year period if the charter~~  
14 ~~was approved or renewed after July 1, 2007].~~ The board of education may  
15 either renew the charter and continue operation of the school, subject to  
16 approval by the state board of education, or nonrenew the charter and  
17 discontinue operation of the school.

18 (b) Renewal of the operational status of the charter school shall be  
19 approved only if the charter school has demonstrated progress in achiev-  
20 ing the program goals it established pursuant to K.S.A. 72-1906, and  
21 amendments thereto. The board of education of a school district shall  
22 first determine whether the charter school is demonstrating such pro-  
23 gress. If approved by the board of education, the state board shall review  
24 such progress and approve or nonrenew the charter or discontinue op-  
25 eration of the school.

26 (c) The board of education shall revoke the charter of a school if the  
27 school:

- 28 (1) Materially violates provisions contained in the charter;
- 29 (2) fails to make progress in achieving the program goals contained
- 30 in the charter;
- 31 (3) fails to comply with fiscal accountability procedures as specified
- 32 in the charter; or
- 33 (4) violates rules and regulations of the state board of education that
- 34 have not been waived by the state board.

35 (d) Prior to nonrenewing or revoking a charter, a board of education  
36 shall hold a hearing on the issues in controversy. Spokespersons for the  
37 charter school shall be provided the opportunity to present information  
38 refuting the basis upon which the nonrenewal or revocation is premised.  
39 At least 30 days notice must be provided to representatives of the charter  
40 school prior to the hearing. Within 60 days after the hearing, the board  
41 of education shall announce its decision on the nonrenewal or revocation  
42 issue. The board may abandon the proposed nonrenewal or revocation,  
43 nonrenew or revoke the charter, or continue recognition of the charter

(i) The provisions of this section shall apply to any charter school whether the establishment, or renewal of the operational status, of such school was approved on or after March 1, 2001.

such five-year period



2.5

1 contingent upon compliance with specified conditions. The decision of a  
 2 board of education to nonrenew or revoke a charter *shall be in writing*  
 3 *to the charter school and shall specify the reasons for the nonrenewal or*  
 4 *revocation. The decision* is not subject to appeal; however, the charter  
 5 school authorities may renew procedures for authority to operate a char-  
 6 ter school, *or within 30 days of the decision, the charter school authorities*  
 7 *may submit a request to the board of education for the reconsideration of*  
 8 *its decision and may submit an amended petition therewith. The board*  
 9 *shall act on such request within 30 days of the request.*

10 <sup>^</sup>Sec. 3. K.S.A. 72-1910 is hereby amended to read as follows: 72-  
 11 1910. (a) The state board of education shall provide, upon request, any  
 12 school building or school district employees group, any educational serv-  
 13 ices contractor, and any other person or entity with technical advice and  
 14 assistance regarding the establishment and operation of a charter school  
 15 or the preparation of a petition requesting authorization of a board of  
 16 education for the establishment and operation of such a school.

17 (b) At the conclusion of each school year in which a charter school is  
 18 operated in a school district, the board of education of the school district  
 19 shall evaluate the impact the charter school has had on the educational  
 20 system of the district and shall submit the evaluation to the state board  
 21 of education. *If applicable, the evaluation shall include a statement re-*  
 22 *garding the reasons why a charter school was discontinued or did not*  
 23 *seek renewal and whether the program will continue as a non-charter*  
 24 *school. The state board shall review, assess and compile the evaluations*  
 25 *of charter schools submitted by boards of education and shall submit the*  
 26 *compilation of evaluations and other relevant material, including speci-*  
 27 *fication of school district and state board waivers granted with respect to*  
 28 *the operation of each charter school, to the governor and the legislature.*

29 ~~Sec. 4. K.S.A. 72-1906, 72-1907 and 72-1910 are hereby repealed.~~

30 Sec. 5. This act shall take effect and be in force from and after its  
 31 publication in the statute book.

(d) The provisions of this section shall apply to any charter school whether the establishment, or renewal of the operational status, of such school was approved on or after March 1, 2001.

(c) The provisions of this section shall apply to any charter school whether the establishment, or renewal of the operational status, of such school was approved on or after March 1, 2001.

**Subcommittee Report  
on  
Charter Schools  
to  
The House Education Committee**

February 11, 2004

**Brief History**

The 1994 Legislative Session, enacted Senate Bill 803, the Charter School Act. However, no application for the establishment of a Charter School was submitted to the State Board of Education until 1996 when federal funding became available for Charter Schools. The Act was amended in 2000 to increase the maximum number of Charter Schools from 15 to 30. Amendments were also enacted during the 2002 Session in Senate Bill 402 which removed the cap on the number of Charter Schools and required that a Charter School be a separate and distinct school. Prior to the 2002 change, programs within a school could be deemed a Charter School.

**Charter Schools Today**

Under Kansas law a Charter School is formed to bring a different kind of curriculum or instruction to a specific community and group of students and are designed specifically to meet the needs of a particular group of students within a specific district. A Charter School is a "nonsectarian, outcomes-oriented educational program" operated within a school district structure, but independently from other school programs of the district. (K.S.A. 72-1904, K.S.A. 72-1903)

A school district employees group(s), educational services contractors, and other persons or entities may request permission to establish and maintain a Charter School within a local school district. The local board of education finds the application satisfactory, a public hearing must be noticed and held. After this process, a local board may approve the application for a Charter School. However, a local board must approve or deny the petition within 30 days after the public hearing is held. If the petition is denied, the process may end. Once, the local board has approved the application, it is forwarded to the State Board of Education who must determine whether the Charter School is in compliance with applicable state and federal laws, and rules and regulations. If it is found to be in compliance, the State Board must approve the application. If the application is not in compliance, the school cannot be established until it is brought into compliance. The State Board must notify the local board and the petitioner of its approval or disapproval of the petition no later than April 1. Once the petition is approved, the school is approved for operation for three years, at which time an application for renewal is required to continue operations.

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Special funding for Charter Schools is provided by federal legislation subject to federal appropriations. The Department of Education, has informed the Subcommittee that for the next three years, federal Charter School funding will be approximately \$8.0 million. In addition, the federal funding requirements state that only the first three years of operation may a Charter School receive federal operating funds. During the fourth year of operation the Charter School may receive dissemination funding, which is equal to 10 percent of the total award for the period. The schools wishing to participate in dissemination of information about their program may request these funds from the State Board of Education. However, the funding cannot be used for operations of the school nor to pay teachers, administrators, etc. The funds can only be used for dispersing information about the school in documents, training sessions, etc. If the dissemination funds are not requested, they are used for new Charter School operations.

Currently, in Kansas there are 32 Charter Schools, of which 23 are at the end of their third year of operation. According to the Department of Education representative, 8 have applied for renewal; 12 were programs not eligible for renewal; and the reason for the remaining three schools not seeking renewal is unknown. Finally, the State Board has received 17 applications for new schools as of February 6, 2004.

### **Subcommittee Findings**

The Subcommittee had information presented to them from representatives of USD 501, USD 512, KNEA, KASB, the Kansas Department of Education, and other lobbyists. Charter Schools in Kansas are required to meet all accountability and accreditation standards including participation in state and national assessments, adherence to the state established standards for student achievement, meeting the state and regents' graduation requirements, and ensuring the hiring of highly qualified teachers and school administrators. Therefore, Charter Schools are working within the framework of No Child Left Behind just like the rest of the K-12 school system.

References that Kansas has a "weak" Charter School Act is not necessarily the finding of the Subcommittee, as it depends on the definition of "weak." Since charter schools are held to the same accountability, testing and standards as all other schools in Kansas, some would suggest that this makes Kansas charter schools very strong. However, if "weak" is defined as only the local boards can approve a charter, then the Charter School Act is limiting.

In addition, the Subcommittee has found that in some cases, charter schools do look a lot different from other schools in Kansas. Clearly, Cornerstone Alternative High School (USD 499), Electronic Charter School (USD 218), The Learning Center (USD 262), The Learning Center of Harper (USD 361), Mid-Kansas Independent Academy (USD 423) and Yoder Charter School (USD 312) are excellent examples of what a charter school should provide to the students. However, the majority of charter schools based on the information provided by the State Board indicates to the Subcommittee that these programs could be offered within the framework of any local school district without the Charter School designation.

This leads to the difference between an alternative school and a Charter School. The Subcommittee was informed that this is clearly a community designation and in fact some communities do not want to use the alternative school label because of the belief that only discipline problem students attended these schools. However, other communities believe that these schools provide innovative teaching methods, flexible hours of instruction, and custom support services that address the needs of a subgroup of the school age population. The Subcommittee found that the major difference between a Charter School and an alternative school is the application process and federal funding.

Finally, the Subcommittee explored extending the funding over a five-year period instead of the current three years. Federal law currently allows for charter school awards to be not more than three years. In addition, it should be pointed out that the only additional funding above general and supplement aid a district receives for charter schools in Kansas is the federal funding for three years. The federal law does allow for a maximum 10 percent of the total state award to be used for dissemination of information about the individual school during the fourth year. The dissemination funds may not be used for salaries or operations of the school only dissemination of the information in brochures or professional development seminars. The Department of Education believes that they will receive approximately \$8.0 million in total for the next three-year period.

### **Conclusions and Recommendations**

After the Subcommittee was briefed and held a round table meeting with interested parties on K.S.A. 72-1903 thru K.S.A. 72-1910 and K.S.A. 72-964, they make the following recommendations to amended current law.

- K.S.A. 72-1906, the application process is amended by adding a requirement that the application include the estimated amount of federal funding expenditures and a description of how the school will operate after the federal funds are no longer available.
- K.S.A. 72-1906, is amended to require the State Board of Education in writing specify why a petition is denied and allow that within 30 days the petitioner can make the necessary correction and the State Board will provide reconsideration within 60 days.
- K.S.A. 72-1906 and K.S.A. 72-1907 is amended to require a local board in writing specify why a petition is denied and allow that within 30 days the petitioner can make the necessary corrections and have a second consideration by the board.
- K.S.A. 72-1907, is amended to allow for the renewal process to be held in five years instead of every three years.
- K.S.A. 72-1910 is amended to require a local board to file a statement with the State Board of Education the reasons why a charter school was discontinued or did not seek renewal.

- K.S.A. 72-1906 is amended to change the date from April 1 to April 15 by when the State Board is required to notify approval or disapproval of a charter school application. (Original HB 2558)

The final item the Subcommittee wish to bring to the full Committee's attention is charter schools being exempted from state statutes. Some support allowing charter schools to be established that would be exempt from tenure and negotiations with district wide bargaining unit, and allowing the possibility of merit pay as long as no teacher is required to transfer to such a school. The Subcommittee takes no position on these items.

Rep. Willa DeCastro  
Representative Willa DeCastro, Chair

Rep. Becky Hutchins  
Representative Becky Hutchins

Rep. Tom Holland  
Representative Tom Holland





Terry Forsyth, Testimony  
Senate Education Committee  
March 8, 2004  
**House Bill 2558**

Mr. Chairman, members of the committee, thank you for the opportunity to address the committee regarding **House Bill 2558**. This is a good bill. The bill maintains strict accountability for charter schools while adding an appeals procedure during the application process. The bill was produced as a result of a number of meetings of a sub-committee with ample input from the interested parties.

Under Kansas law a charter school is formed to bring a different kind of curriculum or instruction to a specific community and group of students. Since each charter school is under the control of the local school board, we are ensured that decisions are made by the local community. But even though these schools are under the control of the local school board they are designed specifically to meet the needs of a particular group of students within that district. They are also governed by the same accountability that applies to all schools in Kansas.

House Bill 2558 maintains the two great strengths of the Kansas Charter School Law which are the same strict accountability that governs all public schools and a curriculum and methodology designed for a specific group of students.

The charter schools concept originated with the idea that some regulations might be getting in the way of advancing student achievement. Charter schools were created as schools in which one could be freed from certain regulations in order to determine if such regulations were hindering improved student achievement. It was intended that, if a charter school showed significant improvement in student achievement, what was learned from the charter "experiment" might be replicated in other schools.

**HB 2558** allows charter schools more time to test and perfect their ideas. They will be able to share these successes with other schools who then can benefit from their work. We urge you to pass **HB 2558** out favorably.



KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS

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785-273-3600

Testimony on **HB 2558**  
before the  
**Senate Education Committee**

by

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

**March 8, 2004**

Chairman Umbarger and members of the Committee:

Thank you for the opportunity to comment on **HB 2558**, which would make a number of changes in the Kansas Charter School Act. When the bill was originally introduced, KASB considered the change in the date for action by the Kansas State Board of Education on charter school applications to really be a technical amendment. We certainly had no objection to this change.

When this bill was assigned to a subcommittee, Rep. DeCastro, as chair, allowed extensive input and discussion by various organizations and individuals. We very much appreciated that opportunity. I have attached the two statements we submitted. While our members have not adopted specific positions on the issues recommended by the subcommittee and included in the substitute bill, we believe they are all acceptable.

KASB's most important position on charter schools is this: because the Kansas Constitution requires that public schools be maintained, developed and operated by locally-elected boards, we believe that all public schools, including charter schools, must operate with the approval and oversight of its local school board. **HB 2558** would require local boards, as well as the State Board, to give written reasons if they reject a charter school application, and allow for a reconsideration of that action. However, the final decision requires both the local board and State Board of Education to approve a charter school application. Therefore, we can support this change.

Finally, we would call your attention to the provision in this bill that lengthens the renewal process for a charter school from three to five years. Again, KASB does not have a specific position on this proposal. It is reasonable to assume that a longer renewal period would allow the charter school to develop a longer "track record" of accomplishment. However, the longer time period could also discourage school boards from wanting to make a financial commitment for that period of time. We would leave that issue up to the wisdom of the committee.

Thank you for your consideration.

*Senate Education  
3-8-04  
Attachment 5*

TO: House Education Subcommittee on Charter Schools  
FROM: Mark Tallman, Assistant Executive Director/Advocacy  
DATE: February 2, 2004

**RE: Comments on Charter School Issues**

First, it is important to remember that under current state law, being a charter school does not make it any different from any other public school. Kansas charter schools must follow every law that applies to other schools, and they must comply with additional laws. It takes extra effort (time, paperwork, etc.) to establish and maintain a charter school.

Therefore, there are only two reasons to develop a charter school. First, to receive federal funding (there is no additional state funding). Second, because going through the charter development process may provide additional attention, focus or prestige on the school. Once federal funding ends, there is often no real benefit to continue being a charter school, especially since it requires extra effort. Therefore, it is hardly surprising that the major motive for setting up charter schools is to get additional funding to try new programs; and that many schools “give up” their charter status even if they continue those programs or innovations.

When the charter school act was first proposed, it exempted charter schools from certain state laws, such as teacher tenure and negotiations. That provision was quite controversial. In conference committee, the bill was amended to allow those seeking a charter to petition the Kansas State Board of Education for a waiver of state laws. That was quickly found to be an unconstitutional delegation of legislative authority and stricken from the current act.

We believe that feature is one of the main reasons why most charter proposals come from school districts themselves, and why there are very few “independent” proposals to set up charter schools. Since a charter school must operate just like a regular or traditional public school, there is no reason for someone who wants to operate differently from traditional schools to apply. When I served on my local school board, we established a committee to examine developing a charter school. An individual who operates a private school in Shawnee County was very interested – until she realized the school would have to follow these same rules as the public school system. She made it clear she had no interest in that.

KASB would support changes in the Kansas charter school law that would allow school districts to experiment with schools that are exempt from state statutes. We have developed proposed legislation that would accomplish this. It would allow local charter schools to be established that would be exempt from such requirements as tenure, negotiations with the district-wide bargaining unit, state standards for a minimum school terms, etc. However, any such proposal would have to be approved by the State Board. No teacher could be required to transfer to such a school.

We believe this proposal would allow Kansas school districts, on a limited basis, to experiment with new ways of operating, while still remaining accountable to both the local school board and the State Board. We are also, of course, aware that there is considerable opposition to this approach.

Questions have been asked about whether the “money follows the child” to a charter school. The budget of a charter school is part of the agreement between the local district and the charter school. In regular schools, funding does not necessarily follow the student. A district receives the same amount of base budget per pupil for every student from first through twelfth grade, even though it is quite possible that the district spends more at the high school level than the elementary level, or that one elementary school may cost more to operate than another. One concern we have heard from other states where the “money follows the child” is that independent charter school operators set up schools designed to serve the cheapest to educate children, receive the “average” amount per pupil and make a profit, leaving the traditional public school to educate the more expensive students.

Another issue that has been raised is the possibility of using the charter schools to keep open schools that have been slated to close. We suggest that if the Legislature has any interest in consolidation or closing schools that are becoming inefficient – however you define that – you cannot allow patrons to reverse that decision by opening a charter school. The only way to save meaningful money in school district organization is to close schools. That is always a terribly painful process. If a local school board goes through that process in order to free up resources for the benefit of the entire district – and perhaps the state as well – it cannot be circumvented by the charter school process. The exception, of course, is when a school board and the community it serves believes a charter school can operate in a more effective manner or draw new students into the building, as is the case of the Yoder Charter School.

Our final comment is our strong belief that under the Kansas Constitution, public schools are to be maintained, developed and operated by locally elected school boards. We do not believe it is constitutional, or desirable, to allow charter schools to be established in local communities against the wishes of those public officials elected by that community to manage public education.

Thank you for your consideration.

TO: House Education Subcommittee on Charter Schools  
FROM: Mark Tallman, Assistant Executive Director/Advocacy  
DATE: February 3, 2004

**RE: Comments on Charter School Appeals**

We appreciate the subcommittee's interest in charter schools. I want to stress our strong belief that under the Kansas Constitution, public schools are to be maintained, developed and operated by locally elected school boards. We not believe it is constitutional, or desirable, to allow charter schools to be established in local communities against the wishes of those public officials elected by that community to manage public education.

In some states, charter school applications that are rejected by a local school board, or other decisions of a local board regarding these schools, can be appealed to some other body. We would oppose such a change in Kansas law. Local public schools are elected by the people of each school district to oversee the interests of public education. No state appeal process can have a better understanding of, or more accountability to, the people of that district.

Legislators often express frustration when the federal government makes decisions that override state and local interests. Everyone believes in "local control" in principle. The question is whether you are willing to support local control even if decisions are sometimes made that you disagree with.

In addition, no evidence has been presented that local school boards are turning down or terminating charter applications for inappropriate reasons. There is no problem that needs to be fixed.

Thank you for your consideration.





TO: Senate Education Committee

FROM: Rodney J. Bieker, KSDE General Counsel

RE: 2004 Substitute for House Bill 2592

DATE: March 8, 2004

I am here today to testify on behalf of the State Board of Education in favor of Substitute for House Bill 2592. What is proposed here is the use of mediation when local boards of education are unable to agree, on their own, to a proposed transfer of territory between their school districts.

By way of background, current law provides that a transfer of territory from one school district to another can occur only if:

- (1) there is a written agreement to the transfer by the local boards of education and approval by the State Board; or
- (2) the State Board grants a petition by one board to take territory from another district.

The State Board believes the law should provide for an intermediate step between these two methods of land transfer. Specifically, the State Board proposes that, if a land transfer is sought but the local boards cannot agree, on their own, to the transfer, then the State Board would appoint a mediator to meet with the parties and see if an agreement could be reached through mediation. The districts would be required to participate in at least one mediation session. This procedure would allow the local boards an opportunity to meet with a trained mediator to consider an agreement. If an agreement was not reached through mediation, the option of filing a petition with the State Board would still exist.

Under the proposed law, the State Board would maintain a list of qualified mediators and appoint a mediator upon request to do so. The costs of mediation would be paid by the school district that seeks the transfer of territory.

The State Board of Education believes the enactment of these provisions would be a positive step in regard to land transfer matters. It asks for your favorable consideration of this bill.