

Approved: 2-7-06
Date

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on January 18, 2006 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Athena Andaya, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Connie Burns, Committee Secretary

Conferees appearing before the committee:

Senator Vicki Schmidt
Senator Wysong
Senator Mike Petersen
Ron Neugent
Margaret Bonicelli
Randy Julian, USA Swimming
Eric Nelson, Wichita Swim Club
Steve Weatherford, Parents Association Kansas City Blazers
Gabe Downing, KC Dive
Gary Musselman, KSHSAA Executive Director
Jeffrey Handley, Coach Washburn Rural High School
James Ungerer, Student/Swimmer Washburn Rural High School
Ron Hein, Prairie Band Powawatomi Nation
Bill Sneed, State Farm Insurance

Others attending:

See attached list.

SB 320 - Native American tribal law enforcement jurisdiction; liability insurance coverage; proof of

Chairman Brungardt opened the hearing on **SB 320**.

Ron Hein, legislative counsel for the Prairie Band Potawatomi Nation (PBPN), appeared before the committee in support of the bill. (Attachment 1) In 2005 SB 9 added Tribal law enforcement officers to the list of officers who are recognized as law enforcement officers pursuant to state law. KSA 22-2401a(3) (a)(I) provides that the insurance policy the Tribes are required to maintain "shall be subject to verification by the attorney general." An issue has come up on how to verify with the Attorney General and having met with the principals involved in the issue, concluded that the best way to protect the states' interest was the insurance company provide the notification to the Attorney General when the policy is obtained and if the policy is limited or suspended for any reason, including non-payment of premiums. The PBPN would strongly object to any other amendments that are not a result of an agreement between the Tribes and the state and urge the committee to approve the bill.

Bill Sneed, State Farm Insurance, appeared neutral on the bill. (Attachment 2) On page 2 line 4 - 10 of the bill, which would require the insurance carrier to notify the Attorney General's office if the coverage terminates or is no longer in compliance in the subsection, appears to be problematic. Although, State Farm does not write this type of insurance, they do feel that it would be difficult, if not impossible, for insurance companies to comply with requirement. Mr. Sneed did suggest that the committee might want to contact the insurers who predominantly write commercial insurance to determine if this notification would have an adverse effect.

Chairman Brungardt closed the hearing on **SB 320**.

SB 317 - Kansas state high school activities association; prohibiting limitation of student participation in certain sports

Chairman Brungardt opened the hearing on **SB 317**.

Staff provided a brief explanation of the bill and that the bill was for dual participation in swimming only.

Senator Vicki Schmidt, appeared in favor of the bill. ([Attachment 3](#)) The Kansas State High School Activities Association (KSHSAA) has a rule that prohibits an athlete from participation as a member of an outside team or an independent competitor in the same sport when they are on their school's team, it is referred to as "Rule 22, Outside Competition." This bill applies only to the sport of swimming and only to practices, not competition; it would allow a swimmer to register extra time in the water for practice.

Senator Wysong, spoke in favor of the bill. ([Attachment 4](#)) Senator Wysong stated that swimming is a year around commitment and those students are not able to reach their peak potential with only swimming in the "high school swim season." Passing this bill would enhance not limit high school swimming in the State of Kansas.

Senator Petersen, appeared as a co-sponsor of the bill. ([Attachment 5](#)) This bill attempts to give Kansas swimmers parity with more than 40 states that allow dual participation.

Ron Neugent, appeared as a proponent on the bill. ([Attachment 6](#)) This bill would allow students the opportunity to represent their high school and prepare for a fair shot at competing with students from other states.

Margaret Bonicelli, spoke in favor of the bill. ([Attachment 7](#)) Mrs. Bonicelli stated that her two sons are distance swimmers, and the longest event in high school swimming is 500 yards, consequently they were not able to get in the yardage they needed for their events in the 1650. Passage of this bill would allow them to practice with their club teams and meet that yardage.

Randy Julian, USA Swimming, appeared in favor of the bill. ([Attachment 8](#)) Passage of the bill will ensure the rights of student-athletes and their parents in the State of Kansas.

Eric Nelson, Wichita Swim Club, spoke in favor of the bill. ([Attachment 9](#)) Support of the bill includes freedom of choice, expanding opportunities, access to professional expertise and safety.

Steve Weatherford, spoke in favor of the bill. ([Attachment 10](#)) Dual participation will no longer make swimmers make the tough decision between training with their club team or competing for their high school.

Gabe Downey, Kansas City Dive Club, appeared in favor of the bill. ([Attachment 11](#)) Diving is greatly hampered due to lack of facilities, and evidence supports the vast majority of states that allow dual-participation, routinely outperform athletes without dual-participation.

Written testimony was provided in support of the bill by Mike Soderling, Head Coach Lawrence Aquahawks, ([Attachment 12](#)) John Dicus, Topeka Swim Association, ([Attachment 13](#)) Deborah Boyer, ([Attachment 14](#)) George Bruce, ([Attachment 15](#)) Carl Gallagher, ([Attachment 16](#)) Hank Krusen, ([Attachment 17](#)) Rosemary Albery, ([Attachment 18](#)) Richard Maxfield, ([Attachment 19](#)) Representative Eric Carter, ([Attachment 20](#)).

Gary Musselman, Executive Director, Kansas State High School Activities Association (KSHSAA), appeared as an opponent of the bill. ([Attachment 21](#)) Mr. Musselman provided the committee with 15 reasons why dual participation was not part of the KSHSAA rules, and several follow:

- The elimination of the outside competition rule would have major negative repercussions, not all families have the economic resources to participate in private club sports, and for every elite club swimmer who feels restricted by the rules, there are hundreds who feel protected and well served by their existence.
- Most Kansas schools are not located proximate to elite level club sport programs
- Based on experience of other state associations, elimination of state association rules does not

- eliminate the conflict between club and interscholastic programs.
- It would be reasonable to assume that students and parents will want their sport to be exempted in a similar fashion, if KSHSAA rules are eliminated in Swimming.

Jeff Handley, Teacher and Head Diving and Swimming Coach Washburn Rural High School, spoke in opposition to the bill. (Attachment 22) It is felt that if this bill passes, it would be the end of high school swim and dive programs all over the state. **SB 317** serves only the elite top 1% of swimmers in Kansas; current club programs, because of limited pool time and space, allow only the fastest swimmers will have the privilege to participate. All athletes are allowed to participate in Washburn Rural High School's program; there are no cuts.

James Ungerer, Student and Swimmer at Washburn Rural High School, spoke against the bill. (Attachment 23) As a student athlete he felt that swimming for the high school would give him lasting memories and that the team work and school spirit would build character that he would enjoy the rest of his life.

Chairman Brungardt closed the hearings on **SB 317**.

The meeting was adjourned at 11:56 am. The next scheduled meeting is January 19, 2006.

SENATE FEDERAL & STATE AFFAIRS COMMITTEE GUEST LIST

DATE Jan 18, 2006

Randy Julian	
Gabe Downey	
Bruce Woner	
Patty Handley	
Jeff Handley	
James Ungerer	
Jon Ungerer	
Gary Musselman	KSHSAA Ex. Director
Terri Roberts	
Julene Miller, AG	
Mark Desetti, KNEA	
Eric Nelson	
Ron Neugent	
John Meetz KID	
Bill Reardon	
Debbie Boyer	
Margaret Bonicelli	
Rosemary Albery	
Ron Hein	Prairie Band Potawatomi Nation
Bill Sneed	State Farm
Deek Hein	Hein Law Firm
Cheryl Cherry	
David Cherry	KSHSAA
Sue Gamble	KSHSAA
Rick Johnson	KSHSAA

①

HEIN LAW FIRM, CHARTERED

5845 SW 29th Street, Topeka, KS 66614-2462

Phone: (785) 273-1441

Fax: (785) 273-9243

Ronald R. Hein
Attorney-at-Law
Email: rhein@heinlaw.com

Testimony re: SB 320
Senate Federal and State Affairs
Presented by Ronald R. Hein
on behalf of
Prairie Band Potawatomi Nation
January 18, 2006

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for Prairie Band Potawatomi Nation (PBPB), one of the four Kansas Native American Indian Tribes.

As a brief history, 2005 SB 9 added Tribal law enforcement officers to the laundry list of officers who are recognized as law enforcement officers pursuant to state law. All Tribal law enforcement officers meet the same training and qualification standards applicable to all law enforcement officers. Most, if not all, of the PBPB Tribal law enforcement officers have experience as sheriff deputies or police officers prior to serving as Tribal law enforcement officers. Our Chief of Police Terry Scott formerly served the state of Kansas as Assistant Superintendent of the Kansas Highway Patrol.

Currently, K.S.A. 22-2401a(3)(a)(I) provides that the insurance policy that the Tribes are required to maintain "shall be subject to verification by the attorney general". The PBPB did obtain the insurance required by the statute, and the insurance was and is "subject to verification by the attorney general" at any time at our Tribal offices.

However, an individual who was arrested for embezzlement challenged his arrest on the basis that the tribe did not fulfill all of the terms of the statute. Although his assertions are incorrect, the issue was raised about how verification is made by the Attorney General. The Joint Committee on State-Tribal Relations addressed the issue, and concluded that the wording should be revised. After a meeting of many of the principals involved in the issue, we collectively concluded that the best way to protect the state's interest was to provide for the insurance company to notify the Attorney General when the policy is obtained and if the policy is limited or suspended for any reason, including non-payment of premiums.

The Joint Committee adopted the amendment, which was also approved by the PBPB Tribal Council. I believe there was no objection from any other tribe.

The current law was a result of a lot of compromises, and although the PBPB can support this change, we would strongly object to any other amendments that are NOT a result of an agreement between the Tribes and the state. We would urge the committee to approve SB 320 without further amendments with the recommendation that it be passed.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

Sen Fed & State Affairs

1-18-06

Attachment 1

Memorandum

TO: THE HONORABLE PETE BRUNGARDT, CHAIRMAN
SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

FROM: WILLIAM W. SNEED, LEGISLATIVE COUNSEL
THE STATE FARM INSURANCE COMPANIES

RE: S.B. 320

DATE: January 23, 2006

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I am Legislative Counsel for The State Farm Insurance Companies. State Farm is the largest insurer of homes and automobiles in Kansas. State Farm insures one out of every three cars and one out of every four homes in the United States. We appreciate the opportunity to present our thoughts regarding S.B. 320.

On January 18, 2006, you allowed me the opportunity to make comments regarding S.B. 317. First, I appreciate the Committee's allowing me to appear at the last minute on this bill. Second, as I stated in my remarks last week, I would like to apologize to all those individuals who have worked on S.B. 317 for not contacting them earlier regarding the concerns of my client, and more particularly, the industry in which my client operates, regarding this particular bill.

After discussing this bill with my client, please be advised that the State Farm Insurance Companies will take no position regarding S.B. 320. However, we feel it is important to point out that the new language found on page two, lines 4-10, may be of some issue to the industry as a whole.

We have no general problem with insurance companies being required to issue certificates of insurance at the time the insurance is procured. However, the language found on lines 7-10, which would require a carrier to notify the Attorney General if for any reason such coverage is terminated or no longer complies with the requirements of the subsection, appears to be problematic. Although we do not write this type of insurance, we believe it would be difficult, if not impossible, for insurance companies to comply with this requirement. Thus, the idea of assuring more insurance for these particular coverages may actually be hampered by this

One AmVestors Place
555 Kansas Avenue, Suite 301

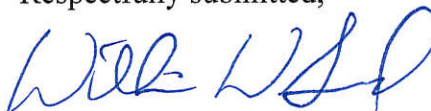
Telephc
F Sen Fed & State Affairs

1-18-06
Attachment 2

requirement. However, we do sell this particular line of insurance, and as such we are not taking a specific position. We do believe, however, that the Committee may wish to contact insurers who predominantly write commercial insurance to determine if this particular bill would have an adverse effect.

Again, thank you for the opportunity of allowing us to present this information, and if you have any questions, please feel free to contact me.

Respectfully submitted,



William W. Sneed

WWS:kjb

019646 / 032884
WWSNE 1277863

VICKI SCHMIDT
SENATOR, 20TH DISTRICT
(785) 296-7374



SENATE CHAMBER

COMMITTEE ASSIGNMENTS
VICE-CHAIR: PUBLIC HEALTH AND WELFARE
MEMBER: ARTS AND CULTURAL RESOURCES
FINANCIAL INSTITUTIONS AND INSURANCE
HEALTH CARE STRATEGIES
TRANSPORTATION
WAYS AND MEANS

January 18, 2006

TESTIMONY IN SUPPORT OF SB 317

Chairman Brungardt and Members of the Committee:

Thank you for the opportunity to testify in support of SB 317. The Kansas State High School Activities Association (KSHSAA) has a rule that prohibits an athlete from participation as a member of an outside team or as an independent competitor in the same sport when they are on their school's team. It is referred to as "Rule 22, Outside Competition". While this rule applies to all sports, scholars' bowl and debate competitors, SB 317 only applies to the sport of swimming, and ONLY to practices, not competition. Senate Bill 317 does NOT allow a swimmer to miss a scheduled high school practice. It only allows a swimmer to register extra time in the water for practice. By doing this, the swimmer would also maintain some contact with their year round swim coach. This bill will not affect classroom performance since the student athlete is merely continuing the regimen of practice that he/she is accustomed to. The student athlete would still be required to meet the minimum number of hours in a classroom that is required for competition.

The longest distance event in a high school meet is 500 yards. USA Swimming competition includes the 1000 yard and 1650 yard freestyle events. These swimmers require certain practice yardages and time in the water to maintain conditioning and the quality of swimming they aspire to. A college swimmer, for instance, could not maintain their level of training by being in the pool for 20 minutes/day or by splashing around in a pool for 2 hours/day.

The necessary practice level required for a club swimmer is approximately eleven (11) practices per week. Many high school swim teams can not offer this practice schedule due to is a limited amount of "water time" or coaching availability. It seems logical and only fair to allow a swimmer the extra practice time to achieve their goals.

USA swimming coaches are selected often times by a board based on their swim coaching experience and expertise. They also receive designations of various levels based on their swimmer's performances, knowledge, and understanding of the sport. USA Swimming sanctions both the coach and the club teams.

It is notable to mention that our neighboring states of Missouri, Oklahoma and Colorado allow dual training AND competition. These states have recognized the disadvantage to the competitive, year round swimmers that occur when dual training is not allowed. SB 317 ONLY addresses the training component and only the sport of swimming. The scope of this bill is very limited despite the fact that the wave of the future is dual participation.

The underlying issue regarding this bill relates to potential harm to other swimmers on a high school team that do not chose to participate in extra practices. High school teams, whether academic or athletic, are composed of students with a variety of abilities, whether learned or developed. Having a star math student on the math team or a polished debater on a debate team would not be considered harmful. Why is a quality swimmer that trains year round not an asset to his or her team?

Thank you for your consideration of SB 317.

Rule 22

OUTSIDE COMPETITION

Violation of this rule shall make a student ineligible for the remainder of that sport or scholars' bowl or debate season, unless he or she is reinstated by the Executive Board.

Section 1: General Regulations (apply to grades 7-12)

Art. 1: A student who is a member of a school athletic, scholars' bowl or debate squad effective Tuesday following Labor Day through Friday preceding Memorial Day may not participate as a member of an outside team or as an independent competitor in the same sport, scholars' bowl or debate activity. *(Exception: See Rule 4, United States Olympic Committee-Sponsored National Trials and Competitions.)*

NOTE: Informal participation on the part of the student athlete, such as that experienced on the black top (concrete), in the park, local "Y", etc., is not considered a violation of this rule, provided it was not formally called or organized, no coaching takes place, where no official score is kept, time kept, officials used, etc.

Intra non-school youth group athletic participation is not considered a violation of this rule. Inter non-school youth group athletic participation is a violation.

Art. 2: A student shall not be prohibited from competing on a special team within his or her own school such as an FFA team, etc. All members of such teams must be bona fide students, however, and eligible under the rules of the Association.

Art. 3: A student becomes a member of a school's athletic squad, scholars' bowl or debate team when he or she first participates in a practice session.

A student ceases to be a squad member after his or her last contest for the school's athletic squad, scholars' bowl or debate team or when the membership on a squad is terminated. *(See Rule 14-1-1, Bona Fide Student and Rule 30-2-2, Seasons of Activities.)*

[Back](#)

A Matter of Common Sense

Parents article archive

For nearly a century, state high school activities associations have been placing limits on coaches and athletes. But what about limits on the associations? More specifically, should they be directing how people spend their free time?

By Tom Slear, Special Splash Correspondent

Splash Magazine: Nov-Dec, 2003

At first glance it seems so intrusive, so blatantly unfair. Rachael Waller, who swims for the Kansas City Blazers, would also like to swim for the girl's team at her high school. But the rules of the Missouri State High School Activities Association (MSHSAA) force her to make a choice: high school or club, but not both. Come the first day of high school practice, which for girl swimmers in Missouri is in the spring, Waller must sever all ties to the Kansas City Blazers until after the state championship at the end of May. For roughly 12 weeks she can't train or compete with the Blazers.

Though Missouri is arguably the most limiting, it's hardly unique. To one degree or another, many other states restrict training and competition. (Unlike colleges and the NCAA, high school sports have no national regulation.) Some permit practice outside what the high school offers, but say no to competitions. Others divide sports into categories of team and individual and allow "dual participation" in one or the other. A few preclude club practices, but have inserted a convenient loophole in the form of "individualized instruction."

The tether to coaches is even more pronounced. The vast majority of states prohibit high school coaches from training their athletes out of season, which, as a practical matter, rules out club coaching for high school coaches and vice versa. (This assumes, of course, that the rules are enforced. Some states – Missouri, Illinois, and Massachusetts, for example – are strict. Others are less so.)

"In some states, the rules are enforced," says Randy Julian, USA Swimming's sport development coordinator for the Central Zone. "In other states, it's a shell game."

ARBITRARY AND UN-AMERICAN

Waller, now a junior, elected to pass on high school swimming and stay with the Blazers. Her mother, Kathy, was baffled, though not by her daughter's decision. Kathy Waller failed to see the need for any sort of decision at all. What right did MSHSAA have to regulate her daughter's free time? Rachael planned to attend all of the high school practices and meets. How could anyone find fault if she wanted to do more than was required? The dual participation rule was not only arbitrary, Waller believes, but also, well, downright un-American.

"If the athletes are getting good grades and trying to improve themselves, why, in the United States, can't they train extra?" she asks, summarizing her motivation for getting involved in the long-standing administrative, legal and legislative efforts to

bring about a change. "I don't think anyone has the right to tell kids how they can spend their free time, especially if they are meeting all of the coach's requirements."

A solution seems so simple: Remove the rule, or at least modify it. Waller suggests something along the lines of allowing athletes to train with whomever they would like, provided they meet all of the demands of the school team.

If only it were that easy. Despite what their mission statements say, state athletic associations, many of which have been around in one form or another for nearly a century, exist primarily to run championships and to regulate athletes. Most of these regulations help to ensure something akin to a level playing field and are widely accepted. For example, not many parents want their high-school-age children lining up on the basketball court against 25-year-olds (the age limit in most states is 18), and even fewer want professionals competing no matter what their ages.

Other rules get general support, though they also generate a fair amount of discussion and a good number of appeals, such as those specifying academic minimums or prohibiting athletically motivated transfers.

A MODICUM OF SENSE

Then there are the rules that cause parents and athletes to shake their heads in wonder. In isolation, perhaps, these rules defy reason, but in context, they make at least a modicum of sense. The limits on coaches interacting with their high school athletes out of season might seem needlessly constraining, yet they keep year-round programs at arm's length. School administrators see an inevitable progression from high school coaches setting up club teams to the requirement for high school athletes to train out of season.

Some athletes would thrive in that environment, but many "just need a break, both from the coach and the sport," says Tom Shafranski, assistant director of the Wisconsin Interscholastic Athletic Association.

"Developing the elite, blue-chip athlete is not part of our mission," says Paul Wetzel, spokesperson for the Massachusetts Interscholastic Athletic Association (MIAA). "Our mission is to have the high school (athletic) program within the educational context. Training Olympic athletics is not what we are about."

What parents and athletes often miss, Wetzel adds, is that state athletic associations don't create requirements. Rather, they reflect the wishes of principals, athletic directors and coaches speaking for many different sports. Achieving consensus is rarely a smooth process. Some illogical outcomes are inevitable. But in general, Wetzel says, the associations give back to the schools what they want.

Until eight years ago, high school athletes in Massachusetts could arrange with the coaches how much they would train and compete for school teams. With the better club swimmers, these negotiations were mostly one-sided affairs. "See you at the state championships," they would tell the coaches, introducing themselves to their teammates the day of the meet.

"There were two seasons," says Wetzel, "one with the swimmers who regularly went to practices and dual meets, and the other with the club all-stars who would win most of the races at the championships."

The rule still permits swimmers, or athletes in any sport, for that matter, to stay aligned with their club teams during the high school season as long as it doesn't cause them to miss any school practices or meets. This is basically what Waller is after, with one important distinction. She would have the coach or the school determine what an athlete can miss. In Massachusetts, that decision rests with the MIAA, which, according to Wetzel, is the way coaches and athletic directors want it.

"They would much rather have the MIAA say no," he says. "Then they aren't the ones who have to live with the parents."

INTRINSIC VALUE

Kevin Fober, the athletic director and swimming coach at DeSmet Jesuit High School in Missouri, has mixed feelings over Waller's proposal. He sympathizes with swimmers torn between representing their high schools and missing the training routines with their club teams. But he also sees intrinsic value to high school swimming – the camaraderie, the head-to-head competition, the ethos of team over self – and wonders if three months away from a club team is that much of a price to pay. Perhaps something else is in play.

"I hear from the club perspective that if a kid does swim high school, it holds him back," Fober says. "There is the perception that in some way high school swimming is second class, and I dispute that."

With scarce pool time and swim coaches appointed as afterthoughts, the plain fact is that swimming is second-class at many high schools. As Lauren Duenke, a finalist in last spring's Missouri state championships who now swims for the University of Missouri, observes, "It's a situation they would never allow if it were football or basketball."

Chris Murphy, the coach at the school Rachael Waller attends, has to squeeze as many as 50 swimmers into four lanes at a 25-yard community pool. To compensate, he puts those who can handle faster intervals into the outer edges of the two lanes reserved for diving; or if he is lucky enough to find them unoccupied, into the lanes set aside for recreational swimmers.

Nick Rudich, head national and national prep coach at Parkway Swim Club in St. Louis, had of one of his swimmers, a freshman, make the commitment to swim for her high school only to have the coach show up for practice the first day a half hour late and tell the team, "I'm new at this, so you and I will learn together." The swimmer was back with Rudich that evening.

Becca Dawson, a former Missouri state record-holder who now attends the University of Missouri on a swimming scholarship, considers herself fortunate to have had a good high school coach.

"There were only a handful of them in the state, and we all knew who they were," she says. "My decision to swim high school would have been a lot more tricky if the coach wasn't so good."

Fober is one among that handful. He coached 10 years at the University of Chicago before following his wife's career move to St. Louis. He is endorsed by Travis Beckerle, a distance swimmer at the University of Minnesota who was seventh in the Big Ten in the 1,650 last year as a freshman and qualified for the NCAA

championships.

Beckerle did it both ways in high school – swimming for Fober his freshman and junior years and for his club team his sophomore and senior years. On the surface, he's irrefutable evidence supporting less restrictive rules regarding practices and competitions beyond the high school program. Though he thought Fober trained the swimmers well, the longest high school race is the 500y freestyle (there are no 200-yard stroke races and no 400-yard individual medley, either). Beckerle felt he needed the practices with his club that focused more on distance. When he didn't get them his junior year, his 1,650 swims suffered. Under a different set of rules, he's confident he and Fober could have accommodated one another, with Beckerle attending four out of the eight high school practices and training the rest of the time with his club team.

Though Fober recognized Beckerle's special situation, he never would have gone along with such an arrangement.

"I want full participation," Fober says. "If someone wants to double up and go to club team practices in addition to the high school practices, I don't have a problem with that. But I don't see the purpose of being on a team if a kid just shows up a minimum number of times."

Even with a less restrictive rule, Beckerle would have faced a difficult decision, and not only concerning whether to cut back on club training to attend all of the high school practices. What would he have done when Fober tapered the practices in anticipation of the state championships and his club coach kept the yardage up to maintain conditioning for Nationals a couple of months later?

This type of conflict is hardly limited to swimming. The Virginia High School League had a rule as restrictive as MSHSAA's until parents of soccer players lobbied the legislature in the early 1990s. Now there are few limits to outside participation, and it's the coaches who are upset.

"You might have someone pitch five innings on Sunday for a traveling team," says Larry Johnson, an assistant director for the VHSL. "Then the high school coach can't use him on Monday or Tuesday as planned."

AGE-OLD PROBLEM

While he was building a national power at Illinois' New Trier High School in the late 1950s and early 1960s, Ray Essick, the former executive director of USA Swimming, riled over state association rules. He suspected that a few were motivated by jealousy of New Trier's success. He saw the state association as dictatorial, its actions dominated by the wishes of football coaches. The approach was one-size-fits-all with no allowances for the differences between swimming and football, or track and basketball.

"It's an age-old problem, nothing new," Essick says. "With no rules there's a mess. With too many rules, it's a mess of another sort. But you can't argue the point that the state associations have every right to make rules. And you have to remember that it's a privilege to play a high school sport, not a right."

State courts, citing reasoning remarkably similar to Essick's, have time and again sided with the athletic associations. In a recent case brought by a swimmer in

Missouri over the dual participation rule, the state appeals court concluded that while the justices might not agree with the rule, MSHSAA had the right to make it.

Being legal, however, doesn't necessarily equate to making sense. As Waller points out, what high school principal in the country would discourage a student from taking extra math classes at night? What activities director would say no when the editor of the school newspaper asks to freelance for the local weekly?

"It's a family decision, not a school decision," she says. "It should be up to the parents, ultimately, as to what their sons and daughters want to take on outside of school time."

In a rough sense the same applies to the coaches. If they want to get involved with club teams, some members of which might also swim for them at their high schools, what gives state associations the right to say no, especially if that means money out of the coaches' pockets?

Shouldn't the overriding question be what's best for the swimmers? And wouldn't that be high schools populated by experienced, knowledgeable coaches and rules that don't impede development to the highest level?

Parents article archive

[Back](#)

STATE OF KANSAS

DAVID WYSONG

SENATOR, 7TH DISTRICT
6630 INDIAN LANE
MISSION HILLS, KS 66208-1745
(913) 530-1608

STATE CAPITOL, ROOM 143-N
TOPEKA, KANSAS 66612-1504
(785) 296-7369
WYSONG@SENATE.STATE.KS.US



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
VICE-CHAIR: FINANCIAL INSTITUTIONS
AND INSURANCE
MEMBER: COMMERCE
WAYS AND MEANS

**Testimony in Support of Senate Bill 317
Presented to the Senate Federal and State Affairs Committee
from Susan Edwards Miller as
Presented by Senator David Wysong**

January 18, 2006

Sen Fed & State Affairs

1-18-06

Attachment 4

I want to thank the members of the Kansas Senate for giving me this opportunity to voice my support of SB 317. I have two daughters, Paige and Cami that each swam with our club team, The Kansas City Blazers, for twelve plus years. This commitment included getting up at 4:15 a.m , 5 days a week, to train in the pool or to lift weights. This was followed by attending school and then being back in the pool by 4 o'clock for another 3 hours. Their ultimate goal was to receive a college scholarship in a Division I school. Both girls accomplished this. Paige swam for the University of New Mexico and Cami swam at The University of Kentucky and The American University in Washington, DC.

Swimming is an extremely rigorous and unique sport. It requires that those striving to reach the top practice two times a day and to lift weights. It also requires a year-round commitment. There is no "swimming season". At most, my daughters took off two weeks per year. This is the nature of the sport and a regiment that needs to be followed if one wants to meet his peak potential.

Both my girls attended Shawnee Mission East in Prairie Village, Kansas. East has had a good reputation with its swimming program. Both of our girls, from the time they were small, were looking forward to representing their school swim team. Since they spent so much of their time training and traveling with their Club Team, they were not able to participate in "normal" school activities. Paige decided to swim for Shawnee Mission East in her freshman year, even though this would jeopardize her long-course swimming season since she would be missing valuable training time. She desperately wanted to represent East, but after attending a week of afternoon practices, she realized that she was compromising everything that she had accomplished. She was being allowed in the pool only a minimal number of hours with no weight training or morning swims. Here was an elite athlete that wanted to compete, but was being told that she should strive to do LESS instead of MORE! As a parent, that reasoning is hard to justify to your 14 year-old child. She asked if she could continue to swim with her Club Team and swim with East too. She was told that the Kansas State High School Activities Association, not Shawnee Mission East prevented her from doing both. Essentially, she was precluded from attaining excellence were she to have swum for her high school team.

Paige needed to continue swimming with the Blazers, but at the same time she longed to be a part of her high school team. She truly wanted to represent SM East and be a part of its team. During November of her senior year she signed with The University of New Mexico. Since her ultimate goal of signing with a Division I school with a full scholarship had been met, she decided that it would not "hurt" her to swim in her last year at East. Paige did represent the school well, earning All State and All Metro honors, but, unfortunately, her training was limited and her swimming suffered during the summer that followed. And that summer was important for her preparation for college swimming. Again, she was not allowed to do "extra".

Our daughter Cami did not swim with East for any of her four years. She had badly wanted to represent East since her sister had enjoyed her experience as a high school swimmer. After thoroughly researching the idea and after observing the effects upon her sister's performance, she came to the conclusion that her swimming would also suffer.

She, too, signed with a Division I School in November of her senior year, but because of her goal of trying to make an Olympic Time Trial cut in the summer of 2001, she knew that she would likely jeopardize that goal if she could not swim with her club team.

Our girls are not the only ones that were affected by this rule. A high percentage of high school age swimmers are not representing their schools, because they are being told that they must LIMIT their practice times and cannot expend the EXTRA effort by practicing on their own. I equate this to a student being told to address academics only during school hours and that any extra classes, reading, etc. that is done after school would be forbidden. Another example would be a pianist that plays in the school band and is told that he/she can't play in a recital because that would affect her high school eligibility. Are we to limit our children's potential and to teach them that you are restricted from doing everything possible to excel? As a parent, I feel like my children should have the right to participate in any activity after school so long as it doesn't interfere with their academic progress. The decision to participate should be made jointly with the student's parents and not be limited by the KSHSAA.

The time is right to make this change as many other states have recently legislated these changes. Give the power to the schools to decide how they want to handle a swimmer that wants to swim both for their school and their Club Team. If this bill is passed it is a win/win for both the high school and the children of Kansas. By passing this bill you **enhance** not limit high school swimming in the State of Kansas. Our children will be better for it.

Thank you,

A handwritten signature in cursive script that reads "Susan Edwards Miller". The signature is written in dark ink and is positioned above the printed name.

Susan Edwards Miller

STATE OF KANSAS

2608 S.E. DRIVE
WICHITA, KANSAS 67216
(316) 264-1817

STATE CAPITOL, ROOM 242-E
TOPEKA, KANSAS 66612
(785) 296-7355
petersen@senate.state.ks.us



COMMITTEES
ELECTIONS & LOCAL GOVERNMENT
TRANSPORTATION
UTILITIES

JT. COMMITTEE ON
INFORMATION TECHNOLOGY

SENATOR MIKE PETERSEN

Federal and State Affairs Committee
January 18, 2006

Mr. Chairman and members of the committee. I am co-sponsoring this bill on behalf of students who have chosen swimming as a sport in which they want to excel. Competitive swimmers spend several hours each week training to become the best that they can. SB 317 is an attempt to give Kansas swimmers parity with more than 40 states that allow dual participation.

Competitive swimmers who choose to participate with their high school often find themselves at a disadvantage when they return to their club competitions. Having not been allowed to train with their club during the high school season, swimmers learn early the benefits that hard work, discipline and determination payoff in quantifiable terms by seeing the reduced times in their events. These are life skill qualities that stay with them for life. Kansas benefits from these students participating in national, international events and even the Olympics. When Kansas swimmers excel they are ambassadors for the great work ethic many Kansans possess, not to mention the positive publicity that we enjoy from their successes.

Kansas should encourage these students to keep up the good work and to pursue their dreams. Many of these swimmers practice early in the morning so they can be with friends at other activities. Let's let them be ambassadors to their fellow students and show that hard work, discipline and determination have rewards, not restrictions. I ask for your support of SB 317.

Senator Mike Petersen

Sen Fed & State Affairs

1-18-06

Attachment 5

SENATE BILL No. 317

I ask that you support Senate Bill 317.

Our current Kansas high school rules do not permit our high school athletes the opportunities afforded to high school student-athletes in other states. This puts Kansas students at a disadvantage in trying to achieve individual and team goals, earn a college scholarship, or represent Kansas on the United States Olympic swimming or diving team.

Some Kansas high school swimmers must train and compete in 20 yard pools, while others have the advantage of training and competing in 25 yard pools, the same distance that is competed in the state high school championships. I would compare this to a football team trying to train on a field that is eighty yards long instead of one hundred yards long, or a basketball team trying to workout on a court that is ten to fifteen feet shorter than the courts that the games are played on. Plain and simple, it is not fair to the student-athlete. It is impossible for these students to effectively prepare to compete in an environment that is different from the environment in which they train.

It is even more of a disadvantage to Kansas high school swimmers when they try to compete in a 50 meter pool, the distance at which the Olympic Trials, the Olympic Games, and other international competitions are held. We should be working to provide Kansas children every opportunity to learn from achieving goals and representing our state in national and international competitions. The experience is good for the student and the representation is good for our state.

Kansas high school competitions do not offer some of the distance events that are competed in collegiate meets and the Olympic Games. How can we expect Kansas high school student-athletes to have a fair shot at earning a college scholarship or a chance to make an Olympic team if they are competing against students from other states that allow them to practice and compete at those distances? Approving Senate Bill 317 allows students the opportunity to represent their high school and prepare for a fair shot at competing with students from other states.

I urge you to support Senate Bill 317. It is good for the student-athlete and it is good for Kansas.

Thank you for the opportunity to present this testimony.



Ronald K. Neugent

②

Testimony for Senate Bill 317
Presented by Margaret Bonicelli
January 18, 2006

Chairman Brungardt and Committee Members, thank you for allowing me to testify today in support of Senate Bill 317. My name is Margaret Bonicelli and I have two sons, ages 13 and 16, who love to swim. They both swim for the Kansas City Blazers and have been swimming competitively since age 5. To them swimming is not just a sport, it is a passion. **Swimming is what they choose to do in their spare time.** They are both distance swimmers, whose best event is the mile, 1650 yards.

Last year, my oldest son, Eric, was a freshman at Blue Valley Northwest High School. He made the decision to swim with his high school team and he loved it. It was a positive experience in so many ways... he got to swim for his school and support the Huskies, he made many new friends, and he just plain had fun. However, there was one major negative: he wasn't allowed to practice with his club team while he swam high school. Since the longest event in high school swimming is 500 yards, and there was usually just one practice each day, Eric wasn't able to put in as much yardage every day as he would have done with the Blazers.

Once the high school season ended and Eric went back to swimming with the Blazers, he found out that he had actually gotten slower! Not a good thing for a kid who has lofty goals of a college swim scholarship and perhaps the Olympic Trials. Eric was, in his own words, bummed. It has taken him nine months to get back to where he was prior to swimming high school. This year when high school season came around, Eric struggled to decide what to do. Ultimately he chose not to swim for the Huskies... a very difficult decision for him and one that he was sad to make. Eric took grief from his high school teammates as well as other students, but he stuck with his decision.

My question for you today is: Why can't kids choose to do what they want to do with their free time... especially when it's something worthwhile like participating in a sport such as swimming? Children, along with their parents, should be the ones who decide how they spend their free time. This should **NOT** be the responsibility of the Kansas State High School Activities Association! Why are they allowed to penalize children who want to keep busy, be productive, and excel at a sport? I ask you to please pass Senate Bill 317 for the kids of Kansas, and allow these kids to make us all proud of their successes. Thank you!



TESTIMONY IN SUPPORT OF SENATE BILL NO. 317
KANSAS SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
JANUARY 18, 2006

Distinguished members of the Kansas Senate Federal and State Affairs Committee, thank you for the opportunity to testify in support of Senate Bill No. 317. My name is Randy Julian and I am the Sport Development Consultant for USA Swimming, the USOC-designated national governing body for competitive swimming. In the conduct of my duties I interact with coaches, clubs and local organizations throughout all 50 states as I oversee an initiative to strengthen and support the club system in this country. Prior to joining the USA Swimming staff in 2002, I was a fulltime swimming coach for 28 years. I served as a coach within our Club System for 13 years in the state of Texas and Coached at the University Division 1 level for 15 years at Southern Illinois University – Carbondale, and The University of Notre Dame, both as an Assistant with the Men’s and Women’s program and at Bowling Green State University as the Head Coach of both Men and Women’s team.

Based on my experience and perspective, I want to address the committee on two points:

First, I will provide a brief overview of the 1978 Olympic and Amateur Sports Act and note the spirit of cooperation envisioned by that legislation between the United States Olympic Committee, the National Governing Bodies for sport, and other amateur sports organizations such as the NCAA and state high school athletic associations.

Second, I would like to quickly recount from my own personal coaching experience that dual participation in high school and club sport does in fact work very successfully.

Sen Fed & State Affairs

1-18-06

Attachment 8

The 1978 Olympic and Amateur Sports Act is the federal act that created and, as amended, governs the United States Olympic Committee. The Act states 14 purposes, two of which, I would like to specifically note:

- To coordinate and develop amateur athletic activity in the United States directly related to international amateur athletic competition so as to foster productive working relationships among sports-related organizations;
- To provide for swift resolution of conflicts and disputes involving amateur athletes, national governing bodies, and amateur sports organizations, and to protect the opportunity of any amateur athlete, coach, trainer, manager, administrator, or official to participate in amateur athletic competition.

The Sports Act provides that the United States Olympic Committee will recognize a national governing body “for any sport which is included on the program of the Olympic Games, the Paralympics Games or the Pan-American Games ...” USA Swimming is the organization so designated by the USOC for the sport of Swimming.

The Act also states that a national governing body has among its authorities to “serve as the coordinating body for athletic activity in that sport in the United States” and, among its general duties, to “minimize, through coordination with other amateur sports organizations, conflicts in the scheduling of all practices and competitions.” Thus, USA Swimming is simply fulfilling its legal mandate by participating in this effort.

Very simply athletes must have the opportunity to participate in both their high school and USOC recognized programs. As envisioned by the Amateur Sports Act, there is a burden on both the high school associations and the national governing bodies to work cooperatively to ensure that schedules for training and competitions are coordinated to provide the athletes the best opportunity to participate and to excel.

Let me now address my second point. Despite claims to the contrary by opponents of this legislation, dual participation in the same high school and club sport does work. I have not only witnessed this fact in many states during my professional career, I have lived it in my own personal experience.

First, let's review the national landscape on this issue. Several recent surveys of state high school scholastic athletic associations have shown that:

- Approximately 38 states allow for dual participation in high school and club athletic training and competition.
- 7 states forbid dual participation, and
- 5 states do not offer swimming as an interscholastic sport

One state, Oregon, has a very specific law that ensures the athletes' right to dual participation. In the past couple of years, the states of Missouri and Minnesota, whose eligibility rules were among the most restrictive in the country, voted to modify their rules to allow for dual participation.

In other words, the vast majority of the states allows for dual participation in one way or another and is fulfilling the spirit of the Amateur Sports Act by working cooperatively to ensure that the athletes can make their choices and participate in both high school and Olympic programs. Senate Bill 317 will ensure that Kansas joins those states that recognize that our fine young athletes and their parents can and do make the right decision for them.

Opponents of this legislation will give you a variety of reasons why dual participation may not work. They will tell you that high school coaches and administrators will lose their authority over club athletes; they will tell you that the team concept will be diminished; they will suggest that grades will deteriorate; they will voice concerns about overtraining and injury; they will talk about conflicting coaching philosophies and a host of other concerns. I will tell you honestly that the potential for these concerns exist in any

situation where one is responsible for student-athletes; they are certainly not inherent or limited to the dynamics of dual participation.

In reality, these challenges are successfully addressed. In those states where dual participation is permitted, high school coaches do establish and enforce the requirements that athletes must meet to participate in the high school program. The high school and club coach work together to devise a training program that meets the needs of the athletes without negative impact to either their schoolwork or their health. I believe that we would all agree that good teachers and good coaches make those choices everyday for the students and athletes under their care. Dual participation can and does work!

In conclusion, passage of Senate Bill 317 will ensure that athletes have the right to decide what they do after they have met the training and competition requirements of their school. It absolutely is not intended to relieve the athlete from their responsibilities to their high school team and teammates. But once those obligations are met, the athlete and their parents must have the opportunity to make their own decisions on how they spend their free time! In my role as a representative a national governing body of sport, I strongly urge you to support Senate Bill 317 to ensure the rights of student-athletes and their parents in the State of Kansas. Thank you, again, for the opportunity to speak on behalf of USA Swimming.

Submitted by:

Randy Julian
Sport Development Consultant
USA Swimming
1 Olympic Plaza
Colorado Springs CO 80909
(O) 719-866-3578
(M) 719-440-2421
(F) 719-866-4669



WICHITA SWIM CLUB

Est. 1954

Senate Committee on Federal and State Affairs

Members of the committee: Thank you for allowing me the opportunity to speak to you concerning Senate Bill No. 317. My name is Eric Nelson and I am testifying before this committee in support of this bill and strongly recommend your support.

I am the Head Coach and General Manager for the Wichita Swim Club. I am also the Director for the Central Zone of USA Swimming and a member of the USA Swimming Board of Directors.

The points I would like to address that favor a passage of this bill include freedom of choice, expanding opportunities, access to professional expertise and safety.

Freedom of Choice: If a student chooses to be part of a High School team, it makes sense that there is a practice schedule, a meeting schedule and a competition schedule. It also makes sense that a Coach and Administration expect the swimmer to attend these functions as a condition of your membership or participation with that team. Where Kansas differs from 42 other States is that our rules say that not only does the High School tell you to be at a team practice from 3-5, but the High School (via the authority of the KSHAA) will tell you where you can't be from say 6:00-7:30 that morning or what you can't be doing on Saturday morning or what you can't do over your school's winter holiday. This is the crux of the argument for those of us who support the bill's intent. We aren't seeking special treatment for student's participation but rather allowing the swimmers the CHOICE to do with their free time as all other Americans enjoy.


Opportunity: There are many high schools in this state that do not own their own pools. Practice time and space must be obtained by renting from civic recreation centers, other high schools, colleges or private clubs. The amount of time and space that is available varies widely throughout the state. If my passion is to be the best High School swimmer I can be, why should the State prohibit me from seeking additional training opportunities of my choosing? Similarly, if a student-athlete has ambitions and goals that won't be fully accommodated solely within a High School training program, why should we, in effect, place rules and restrictions barring achievement through practice?

Access: This State has many fine High School coaches and administrators. It also has many outstanding full-time professional swimming coaches not employed by school districts. You might be surprised to find out there have been 6 swimmers from our state who earned Olympic berths and several others who have competed for the United States in prestigious international competitions such as the World Championships, Pan American Games, Pan Pacific Games, Goodwill Games and World University Games. A greater number have been successful NCAA Division I, II, III and NAIA student-athletes. An even greater number of athletes have been motivated to pursue their dreams and tried to become as great as they could possibly could. What motivation does the state have in preventing these people from accessing some of the best people in our sport and achieving these dreams? A student in Johnson County should have the right to seek expert instruction from nationally renowned coach Pete Malone just as a student in an underserved part of our state (whose

coach may admittedly have little to no knowledge of his sport) have the right to seek the pool time, structure and expertise of his local swim club.

Safety: While we should applaud the life skill of students taking initiative, I worry when swimmers are forced to take their training into their own hands. Currently, I know several swimmers who will swim on their own on days when their high school team does not have a scheduled practice. They practice on their own with their own workouts, often with no supervision. I don't think this is this is what's best for athletes.

You may encounter some opposition to this bill. Some will say it is bad to upset the system. Others will tell you it will destroy a system that is working and working well. They might present some scenarios of abuse that will happen should Kansas embrace this bill. I am not advocating any encroachments on a school's authority to make rules for its sports teams. However, I am advocating eliminating school's authority on a student's time and choice of activity once those requirements have been met. I thank you for your time and strongly encourage you to pass this bill.

A handwritten signature in black ink, consisting of the letters 'E', 'E', and 'N' in a stylized, cursive font, followed by a long horizontal line extending to the right.

Eric E Nelson

10

Senator Pete Brungardt, Chairman
Senate Federal and State Affairs Committee

Re: SB No. 317
Dual Participation Bill

Mr. Chairman and Respected Members of the Committee

I am the Chairman of the Kansas City Blazers Swim Team Parents Association. I am here to express support for Senate Bill No.317 for the 463 swimmers from 392 families which comprise our swim club. These swimmers range from beginning six year olds to elite high school swimmers. Our families reside primarily in Johnson County but we also have swimmers from Miami, Wyandotte, Douglas and Leavenworth counties. Our Parents Association is one of sixty-nine (69) teams and six thousand five hundred fifty five (6555) swimmers making up the Missouri Valley LSC. Nearly seventy percent of the swimmers registered in the Missouri Valley LCS are residents of Kansas.

As parents we support SB 317 because it allows our swimmers to pursue their passion for the sport of swimming and enjoy a complete high school experience. When SB 317 is signed into law our swimmers will no longer have to make the tough decision between training with their club team or competing for their high school. For the elite athlete this will mean they can pursue or maintain their high level of training while representing their high school, but for the majority of swimmers SB 317 will open the door for the average swimmer who with that extra practice may be able to make the State High School Swimming Championships and represent their high school with pride.

As parents we support SB 317 because it will allow our swimmers to pursue additional conditioning in a controlled, supervised and safe environment. Once a swimmer has met the requirements of the high school team both academically and athletically we believe the additional practice time in a pool is best obtained through the swim club. With coaches' supervision the parents are assured of the safety of their swimmer. In many cases the swim club offers the most convenient and economical access to a pool. Additional conditioning through a swim club is similar to the long distance runner getting up early and running three miles before school or a basketball player shooting baskets in the driveway before going to bed. These activities are no different than accessing additional swim time through a swim club. Unlike the basketball player shooting hoops in the driveway and the runner putting in some additional road miles the swimmer is confronted with limited pool space, expense and the danger of swimming alone. All of these issues are mitigated by allowing the swimmer to obtain additional conditioning through an organized swim club.

We fully support the idea expressed in the bill that the high school coach will "establish the requirements for participation" for the high school swim team. We also support the idea that with the right time management on the part of the swimmer that the extra conditioning through an organized swim team is preferable to time spent in front of a television or surfing on the internet. Most swimmers are highly motivated and have learned the skill of time management and are learning to make life choices. Pursuing extra conditioning in the pool outside of the high school practice is the type of choices we want our children to have.

Thank you for your support of SB 317.

Steve Weatherford

Sen Fed & State Affairs

1-18-06

Attachment 10

(11)

ORAL TESTIMONY IN SUPPORT OF SB 317 FOR THE SENATE FEDERAL AND
STATE AFFAIRS COMMITTEE

The idea of dual-participation is awash in nuance, however, I believe that the ultimate issue is what ideal we wish to instill in these children. We encourage excellence in their endeavors, we hire tutors for math classes, music teachers to help them make first chair, drama classes to help prepare for the school play. Yet, inexplicably, we have separated the athletic field, discouraging excellence; discouraging dedication; discouraging the drive to be the very best that these youngsters can be.

I approach this issue from an admittedly skewed perspective. I am a club coach, I have chosen to make working with young athletes my profession, and I feel strongly that they should have the opportunity to choose to participate for both high school and club programs. I feel that the preponderance of evidence supports my position: the vast majority of states allow dual-participation; athletes in states with dual-participation routinely outperform athletes without dual-participation; club athletes have an overwhelmingly higher aggregate grade point average than their classmates; club athletes have better opportunities for college scholarships. There are any number of reasons to accept dual-participation. But again, I come back to one reason; we must encourage these youths to strive to be the best that they can be.

A few years ago I had another perspective. As a four-time Kansas high school state champion and former Kansas state record holder, I know the difficulties that Kansas's swimmers and divers currently face. In the summer after my freshman year of high school, I finaled on two boards at the Junior National Championships, the one-meter springboard and the platform, however, due to Kansas's archaic rule structure, while my opponents trained on all three diving levels, I was forced to spend three months on just the one-meter springboard. Additionally, I appreciate the intense dedication and work ethic consistently given to me by my high school coach. He is a good man, and a good diving coach. But, I was fortunate to have had a knowledgeable diving coach. All too often these athletes are left with swimming coaches or whoever is willing to attend the practices; in some cases the divers have no coach at all, and are left to fend for themselves. Regardless, even the best high school coaches cannot realistically compete with a club program and club coaches. I state this not to disparage high school coaches, or to assert superiority, but it's simply a matter of time, dedication, and resources. As a professional diving coach, I have many levels of athletes on a daily basis for the past seven years. I have had the opportunity to attend workshops with Olympic coaches. I have three separate training facilities with unique equipment designed specifically for my athletes' needs. In short, the high school rules greatly restricted my ability to reach my highest potential and to be the best that I could be.

Yet another perspective, one with which I am far less familiar is that of divers in smaller communities. A few years ago, I began a club diving program in Kansas City because no significant program existed in my hometown. I felt that it was a travesty that a metropolitan area of almost two million people did not have diving as a true option. Bearing that in mind, imagine the plight of young divers in Manhattan, Junction City, Salina, Derby, Garden City, and so forth. It is my hope that you will receive testimony

from Al Days, a fine man, and the high school coach in Manhattan. Mr. Days could more accurately depict his perspective, but I would like to briefly address his circumstance.

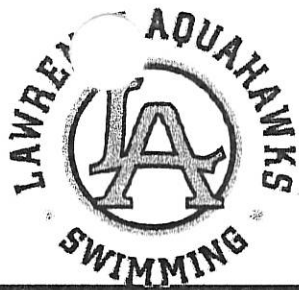
Al Days is a schoolteacher with a passion for the sport of diving. He has coached many fine divers over the years. He has developed a small club diving program and works with his high school athletes during their seasons and over the summer in accordance with the existing rules. Unfortunately, Mr. Days is effectively alone in Manhattan. He has tried for years to find qualified, willing individuals to dedicate their precious time to helping these athletes as he does, but in a highly specialized sport, competent help is hard to come by. So in lieu of additional coaches, Mr. Days is relegated to watching his athletes coach one another, deprived of his expert analysis, not only during their season, as they would be on another club, but throughout the entire school year. The current rules, which are in place to seemingly level the playing field greatly, hinder divers in smaller communities, and beyond a reason of a doubt eliminate their opportunity to be the best that they can be.

I truly appreciate the high school experience, all of the wonderful experiences that it has provided both my athletes and myself. From the beginning I have felt that the legislation must include language that requires an athlete to meet all of his/her high school team's requirements first before participating in club activities. But I believe that we are sending a horrible message to these children when we tell them not to pursue their dreams, not to reach for the stars, not to be the best that they can be.

I thank you for your time and consideration and urge you to support this legislation.

Sincerely,

Gabriel G. Downey
Head Diving Coach, Kansas City Dive Club



TESTIMONY OF LAWRENCE AQUAHAWK COACH MIKE SODERLING IN SUPPORT OF S.B. 317

My name is Mike Soderling, and I am the head coach for the Lawrence Aquahawks, a year-round competitive swim team. We have 150+ swimmers on our team from ages 6 through 18. Each year most of our high school seniors go on to swim in college, many with scholarships. I strongly urge your support of S.B. 317 for the mutual benefit of high school swimming, club swimming and, most importantly, our young athletes.

Passage of this bill would allow a cooperative, collaborative effort between the high school coach, the year-round coach and the swimmer in devising a training schedule that best meets the swimmer's short-term needs and long term goals:

- High school coaches would retain full discretion to manage each high school team as they determine is best during the high school season.
- The swimmer, through the joint efforts of both coaches, could gain additional pool time and individualized training, as needed.
- The swimmer would not be penalized by being forced to choose between the high school team and their club program where many of these athletes have been swimming since age 8.
- Additional club swimmers would participate in high school swimming while they are training for National and International competitions, and high school teams in Kansas will have better swimmers and results.

The passage of S.B. 317 would allow these swimmers to train with both teams concurrently, under the guidance of both coaches, without sacrificing the enjoyment and recognition of participating in school sports or the continuity of their training and long term goals.

During the high school season, the current rule prohibits club coaches from training the swimmers they coach for 10 months of the year. I am firmly convinced that with enactment of this bill, the high school teams would have **more** swimmers and **better** swimmers – both the quality and numbers of swimmers would be improved. Our young athletes would experience the best of both formats, and would gain the benefit of both coaches' perspectives and experience in learning sportsmanship, discipline, training methods, swimming techniques and other lifetime skills.

For these reasons, and in the best interest of our hard-working young athletes, please support S.B. 317.

Senate Federal and State Affairs Committee
Senate Bill 317
Written Testimony
John B. Dicus, President, Topeka Swim Association

I am John Dicus, Topeka, Kansas, President of Topeka Swim Association, an organization of 140 swimmers, and father of 2 young swimmers. I am submitting testimony in support of Senate Bill 317, which specifically addresses the allowance of high school age swimmers to “train” with a non-school swim club while participating for their high school swim team in KSHSAA sponsored meets.

Kids in high school today who participate in the sport of swimming on a year around basis have to choose between their club training routine and their high school swim team. At this age, there is a significant difference in a training program for a club team and for a high school swim team. The difference we are talking about is approximately 18 hours a week at a club versus approximately 8 hours for a high school team. In a sport where conditioning and endurance is a major aspect, 10 hours is significant.

High school swimming allows kids of all abilities to practice and compete; why then force a kid, who has chosen swimming as a sport, to make a choice between their club and high school team. All these kids are asking for is the ability to train more – how many kids ask that in today’s society?

I have volunteered at both regular season high school meets and state championship meets sponsored by KSHSAA. These meets are very exciting events to be a part of. To feel that excitement and swim for your school is every kid’s dream. This bill will allow kids who pursue swimming on a very competitive level and have even high goals, the opportunity to live that dream.

14

Deborah A. Boyer
1626 Bobwhite Dr.
Lawrence, Ks.,
785-865-2683
debbie.boyer@sbcglobal.net

WRITTEN TESTIMONY IN SUPPORT OF SB 317 FOR THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

Honorable Chairman and Committee members,

I write to you today because I feel that I have a unique perspective as a parent and club president on this issue of dual participation in the sport of swimming.

Originally, I got involved in this legislative process because I had inadvertently ended up in the middle of a high school/ club argument. At the time, I was aware of the rule changes in Missouri and the possibility of Kansas making the same change. It wasn't until I got a call from one of the local High School Athletic Directors, accusing my local club team of preventing swimmers from swimming high school, that I realized the extent of the problem. Several of our swimmers swam their freshman year and decided that they lost too much training to continue their sophomore year. The athletes themselves decided not to swim the next year, but the club was blamed for the decision of the athletes. As Board President of a local club I can definitely say that the club is very supportive of swimming in all venues, even high school, and we encourage the swimmers to participate. What we do recognize, that the KSHSAA seems to forget, is that these athletes are very committed to their sport and are smart enough to make a decision that is right for them. If dual participation were allowed the little fires that I spent time putting out, would not have been an issue.

My son has chosen to swim for his high school team both freshman and sophomore year. He happens to be a distance swimmer and many of his best events are not offered in high school. These events are also not frequently offered in many meets during the club season. This puts him in a position to make all qualifying times before the high school season starts and to somehow continue the very different, aggressive training required to be able to compete at the same level after the high school season is over. Dual participation would allow him to continue to train at the level he is accustomed to and to swim some of the non high school events, after his obligations to the high school is completed. It is his free time and a matter of personal choice, but KSHSAA feels that they have the right to regulate this during the high school swimming season.

During the last year I have listened to the testimony of KSHSAA and have had discussions with several executives at the organization. Their arguments against changing the rules boil down to four points: 1. Preventing conflicts with parents, club coaches, and High School coaches; 2. Preventing overuse injuries and burn-out; 3. Fairness; and 4. Academics. In all of these arguments they take the parents and the athlete themselves out of the equation as being unable to make solid decisions on their own. KSHSAA knows best.

Sen Fed & State Affairs

1-18-06

Attachment 14

1. Preventing conflicts with parents, club coaches, and High School coaches;

The argument is based on preventing the athlete from being in the middle of their parents and coaches. The underlying meaning of this is to protect the high school coaches' jobs. They don't want the high school coaches vying for time between the parents and the club coach. Heaven forbid everyone works together for the betterment of the student athlete. Cooperation only insures that the athlete can keep up year round training to the **benefit** of the high school team. The rule should not be there to protect the High School coaches' job. Their job should be protected by doing their best and earning the respect of their athletes.

2. Preventing overuse injuries and burn-out:

As the rules states now an athlete can participate in any sport they choose, but they cannot participate in the same sport during the same season. The continued conditioning during same season sports only reduces injuries and creates less conflict than two different sports in the same season. For example: high school swimming and high school wrestling schedules conflict more with conditioning and attendance, but if the athlete chooses to do this, it is okay. However, continued conditioning in the same sport during the same season is not okay.

KSHSAA says that if they are allowed to practice with the club team it will be too much for the athletes. What they don't understand is that the high school conditioning is so much less than what these swimmers are used to on a yearly basis. All we are asking by repealing this rule is, that after all obligations to the High School team are fulfilled, the athlete should be allowed to get extra practice, conditioning, and compete in non high school events in their free time, if they so choose, to keep up with their yearly schedule.

3. Fairness:

They want to create fairness by downgrading the "elite" athlete. KSHSAA thinks that the only way the athlete becomes "elite" is through pushy parents. By the time these athletes are in high school they drive themselves to practice at 5 in the morning. No amount of pushing from a parent will make this happen unless the athlete is committed. KSHSAA says that it is good for students to make decisions at this age and choose their sports. These "elite" athletes have made that decision and are rewarded for their hard work by having to show up late to the season to avoid losing 8 months of conditioning. This is not the kind of decision that should be forced on an athlete when they are succeeding and have decided to make a commitment to a sport they love. This commitment can only benefit the high school team by setting an example.

4. Academics:

Academics have also been a big factor in their reasoning for Rule 22. In my experience with both club and high school sports, my son missed more classes swimming for high school than he ever did for his club team. It is also a fact that in Lawrence about 90% of the club team swimmers are on the honor rolls at their respective schools. These kids have proven that they can keep up with more training and academics throughout the year. Why does KSHSAA think they need to regulate this? It works just fine without them.

My desire is for all kids to be able to participate in high school sports and for high school swimming to become a great competitive sport for Kansas. KSHSAA stated that all of this legislation would mean that swimming in high school will disappear, that the high school coaches will lose their jobs, and that KSHSAA will cease to exist. I disagree and don't respect open threats. I think allowing dual participation will only strengthen the sport. In the 43 other states that allow dual participation the High School Athletic Associations and coaches are surviving just fine.

Thank you for your time and consideration of SB 317.



Kansas Senate Bill No. 317

Testimony of George C. Bruce
January 17, 2006

I am testifying in support of Senate Bill 317.

I have been actively engaged in the sport of swimming since 1990, as a parent of four swimmers, as a high school coach and official, as an active parent member and former president of the Wichita Swim Club, as a National Championship USA-Swimming Referee and as the General Chair of Missouri Valley Swimming, Inc.

My children have participated in KSHSAA swimming for the past 7 years, winning 19 individual Kansas State Championships. My three oldest children are 18 times NCAA Division-1 swimming All Americans and my daughter, Caroline was a member of the 2004 USA Olympic Swim Team.

I support Senate Bill 317 because in my mind it is more consistent with the goals of the U.S. Olympic and Amateur Sports Act than the current KSHSAA rules governing swimming. This Act in summary, "requires high schools to allow athletes to participate in USA-Swimming certified club and developmental programs, and it requires clubs to place no impediment on athletes wishing to participate in interscholastic competition."¹

The primary objective of both high school swimming and USA-Swimming should be the cooperative development of individual student athletes. My experience and observation of adolescent swimmers at all levels at which my children have participated, supports the idea that schools and USA-Swimming can and must work together to provide young aspiring swimmers with the tools to best chase their dreams and achieve their goals.

A very large percentage of high school swimmers begin their swimming careers, prior to attending high school in seasonal and year-around club programs. Many club teams in Kansas are dependant upon local high schools to provide indoor pools in their communities for their practices, and a growing number of high school teams are dependant upon club teams to obtain pool time for their athletes. High schools provide unequaled opportunities for team participation and peer acceptance, for high school aged swimmers at all levels. Club swimming programs provide swimmers the opportunity to hone their skills to be the best they can be. There is no doubt that my children have received tremendous benefits from their opportunities to swim in both USA-Swimming and KSHSAA programs.

Cooperation between high school and USA-Swimming programs is essential for training as well as for competition. Gary Musselman, David Cherry and the staff of KSHSAA have been very accommodating and cooperative in applying the current KSHSAA rules for competition consistent with the Olympic and Amateur Sports Act. It is in the area of training that I think we can improve.

Current KSHSAA practice rules prohibit non-high school coaches from instructing a swimmer in

¹ Pat Hogan, the Director of USA-Swimming Club Development,
<http://www.usaswimming.org/USASWeb/ViewNewsArticle.aspx?TabId=1&Alias=Rainbow&Lang=en&mid=45&ItemID=361>

a group during the time she has come out for her school team. This rule presents unnecessary problems in frequent cases where high schools share pool facilities with club teams. To avoid even the appearance that a club coach might say something that might be "coaching" to his club swimmers after the swimmers have gone out for their high school teams, the practice has developed that the club coach and his club swimmers completely ignore each other should they meet at a pool after the swimmers go out for high school swimming. Seldom do high school coaches and club coaches have comparable experiences and personal knowledge about their athletes. In some cases the high school coach is the more experienced and knowledgeable coach and in others it is the club coach. Wouldn't it be in the best interest of the athlete to have both coaches accessible to the athlete for training instruction and advice? SB 317 would give high school athletes this opportunity.

A fair number of high schools in Kansas that participate in KSHSAA swimming do not have pools of their own. This makes it even more difficult for athletes at such schools to obtain adequate, let alone equitable training time, creating a significant disadvantage for the athletes in these schools. In Wichita, there are at least six high school swim teams without pools of their own that are dependant upon the Wichita Swim Club to obtain pool time. The pool time the schools are able to get has to be scheduled around the requirements of the club, leaving the high school swimmers with pool time in the very early mornings and late evenings. Some high schools I have been told are not able to practice daily, as other schools do, due to lack of pool availability. With the present restraints upon school financing in Kansas, and pressure on funding school activities, it is doubtful these schools will spend hard fought dollars on new aquatic facilities. This lack of equitable facilities, presents another reason why the training rules should be amended as contemplated in SB 317 to give student athletes the ability to seek out additional training opportunities should their high school have inadequate swimming facilities.

If a basketball coach wants his player to work on his free throws, it is likely the player will be able to find an available goal in a park, his neighborhood, or in most cases in his own yard to practice, outside of his high school practice. High school singers, musicians, debaters and thespians can likewise practice their activity virtually anywhere, at anytime outside of school. If a student struggles with algebra, would anyone suggest that he can only obtain assistance from his high school math teacher? However, current KSHSAA training rules together with the inherent limited availability of facilities required to swim, make it more difficult for high school swimmers to practice their skills than with any other activity offered by the KSHSAA.

If an athlete does everything her high school coach reasonably requires in the way of training and competition to participate on her high school team, why should a high school coach be able to restrict her from training on her own time outside of her school's requirements? The passage of Senate Bill 317 would cure this disparity.

Thank your for your time and consideration of this measure.

JOHN J. JURCYK, JR.*
 CHARLES A. GETTO*
 FREDERICK J. GREENBAUM*+
 LAWRENCE D. GREENBAUM*+
 JOHN DAVID JURCYK*+
 DOUGLAS M. GREENWALD*+
 DANIEL F. CHURCH*+
 ANTON C. ANDERSEN*+
 ROSEMARY PODREBARAC*+
 GREGORY D. WORTH*
 DERYL W. WYNN*
 CLIFFORD K. STUBBS*+
 CARL A. GALLAGHER*
 ERIC T. LANHAM*+
 STEPHEN A. MCMANUS*+□
 GREGORY P. GOHEEN*
 BYRON A. BOWLES, JR*+
 DAVID F. MENGHINI*+
 JOSEPH W. HEMBERGER*+
 RYAN B. DENK*+

MCANANY, VAN CLEAVE & PHILLIPS, P.A.

Attorneys at Law Since 1901

**Admitted in Kansas □ Admitted in Illinois + Admitted in Missouri*

JOHN R. EMERSON*+
 CHRISTOPHER E. PATT+□
 REID S. HIGHLANDER+
 GEORGE D. HALPER*+
 PATRICIA L. MUSICK+□
 THOMAS J. WALSH*+
 ELIZABETH REID DOTSON*+
 ROBERT J. WONELL*+
 JAMES P. WOLF*+
 RACHEL R. BROWN+□
 SHELLEY A. WILSON+□
 SAMANTHA N. BENJAMIN*+
 JASON J. MONTGOMERY+
 BRIAN J. ZICKEFOOSE+
 TIMOTHY C. GAARDER+
 COUNSEL:
 FRANK D. MENGHINI*
 ROBERT D. BENHAM*+
 WALTER J. KENNEDY*+

*JAMES R. GOHEEN 1942-1994
 DANIEL B. DENK 1943-2003*

TESTIMONY OF CARL GALLAGHER

My name is Carl Gallagher. I practice law with the firm of McAnany, Van Cleave & Phillips in Kansas City. Prior to joining McAnany, I served as an Assistant Attorney General for the State of Kansas for almost ten years.

My daughter is a tenth grader in the Lawrence public schools. She has been swimming for the Lawrence Aquahawks since she was in second grade. This year she is eligible to swim with the Free State High School team. However, she qualified for both the Region VII Sectional meet which is taking place in Oklahoma City as well as the Junior National meet to be held in Orlando, Florida during March. Because of current KSHSAA rules, she will not be able to swim for the high school team.

My daughter's long term goal is to obtain a college swimming scholarship. She knows that in order to obtain such a scholarship, she must attract attention of college coaches through her performance. Because college swimming is not revenue producing, college coaches must recruit as cost effectively as possible. Thus, they attend Sectional and national meets, such as Junior Nationals, rather than high school meets. Coaches are able to see more of the top swimmers in the country at these meets in the most cost effective way to decide who to recruit for their programs. The swimmers also are exposed to more schools which broadens their potential opportunities to swim in college.

In order to qualify for these meets, high school aged swimmers must engage in training for most of the year. Some periods of training are more rigorous than others, but all are focused on achieving qualifying times for the regional and national meets and then performing well in those meets. Current KSHSAA restrictions on practice time and working with club coaches prohibit swimmers, such as my daughter, from participating in the high school program. This is because she will be unable to reach either her short term goals - qualifying for regional and national meets - or her long term goal - a college scholarship - if she loses the practice time with her club team and the guidance of her club coach.

I ask your support for SB 317 so that all of our high school athletes in Olympic type sports, such as swimming, have the opportunity to participate in high school athletics without penalty.

{Ko256559.DOC; 1}

January 15, 2006

Dear Mr. Chairman Brungardt and Committee Members:

I am writing this letter of testimony in support of Senate Bill #317. I have been involved in swimming for the past 35 years in the capacities shown below:

- As a parent of a past swimmer on the Elite Team of the Kansas City Blazers Swimming Team
- As an assistant coach of the Kansas City Blazers swimming team
- As a swimming coach for both girls and boys in a Kansas high school (presently at Olathe Northwest High School)

As a parent and coach, I am in favor of dual participation in high school and United States Swimming (USS). My daughter, Lindsey, swam for the Kansas City Blazers, a national caliber USS team, for twelve years. She was forced to choose between high school swimming and USS because of the Kansas State High School Activities Association's rules. Some of the events she was training for were not offered in high school competition. This is the same decision faced by many USS swimmers. These swimmers can benefit from Senate Bill #317.

Without dual participation, USS swimmers cannot contribute to their high school teams. They cannot take part in tradition and ultimately lose the opportunity to be a part of the high school athletics atmosphere.

As a USS coach, it is upsetting to see high school athletes choosing between representing their school and achieving their USS goals. It is difficult to train an athlete for both the sprint-oriented high school events and the distance events exclusive to USS competitions. Throughout my coaching career, I have trained swimmers active in both high school swimming and USS. The high school swimming experience is important to the athlete's personal development, but the high school training and event format is limiting to USS swimmers.

Elite USS swimmers compete on a national level. To swim at this level, they practice twice a day multiple times a week. Because high school teams have a different focus, most teams practice once a day. It is unfair to make athletes choose between swimming for their schools and getting proper training.

Many states in the country allow dual participation. The swimmers in these states have shown it is possible to excel in both high school swimming and USS. They experience the benefits from both programs. Passing Senate Bill #317 will serve the best interest of all athletes.

Sincerely,
Hank Krusen
Parent
Olathe Northwest Swimming Coach
Kansas City Blazer Coach

Sen Fed & State Affairs

1-18-06
Attachment 17

Testimony in favor of S.B. 317
January 18, 2006

By

Rosemary Albery
12536 Nieman Rd
Overland Park, KS 66213
913-851-3704
rosealbery@everestkc.net

Dear Mr. Chairman and Committee Members,

I am a parent of a swimmer from Blue Valley Northwest High School and I am in favor of Senate Bill 317. This bill will allow my daughter to choose to swim for her high school team while continuing to train with her club team which is the Kansas City Blazers. The training she gets with her high school team is much less than the training she is accustomed to with her club team. If my daughter is not allowed to continue training with her club team while swimming for her high school, she will be unable to maintain the rigorous training she needs to excel as a year-round competitive swimmer.

I have heard KSHSAA is concerned that allowing a student to train with a club team while swimming high school may result in an injury due to 'overuse'. My daughter is used to a very heavy training schedule with the club team averaging roughly 25 hours per week. Allowing her to train with the club will enable her to supplement her high school practices with club training and thus maintain her current training regimen.

My daughter spends much of her time training and the balance studying and visiting with friends. She has had little time for other school activities because of her swimming commitment and high school swimming gives her the opportunity to be a part of her school. Not allowing swimmers to train with their club and swim high school at the same time is forcing kids to make a choice with many competitive swimmers choosing to forgo the high school experience so that they can maintain their competitive training regimen. This is not fair to either the swimmers or the high school programs that would benefit from their participation.

In closing, my daughter and other swimmers should be given the opportunity to both pursue their dreams as competitive swimmers and participate in the wonderful high school experience. Please don't continue to make kids choose between the two. I strongly urge you, the committee members, to pass this bill.

Rosemary Albery

Testimony for Senate Bill 317

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to present testimony on Senate Bill 317. I am Richard B. Maxfield. I am a licensed psychologist in independent practice in Topeka, Kansas. I have been for the past four years the President of the Topeka Swim Association and have been a member of the Board of Directors of Missouri Valley Swimming. It is in that final capacity that I come before you.

Missouri Valley Swimming is the official affiliate of U.S.A. Swimming. Missouri Valley Swimming is comprised of over 50 independent swim teams and represents over 3600 year-round athletes and a similar number of seasonal athletes who reside in Western Missouri or Kansas. Missouri Valley Swimming serves an oversight and organizational role for both swimming competition and Olympic development. We provide swim meets in which the athletes may participate. We provide oversight for professional coaches and club development. We provide safety curricula for coaches and we train officials to run swim meets.

Missouri Valley Swimming has produced Olympic team members for each of the past six or seven Olympics. This past year we had one young woman from Wichita represent us and the state of Kansas on the U.S. Olympic team. In addition, the Wichita Swim Club coach was the only swim coach in America to produce members of both the Olympic team and the Para-Olympic team.

The measure before you simply allows elite athletes to participate fully in their sport. Swimming is a demanding sport, which requires year-round training in order for an athlete to succeed to his or her fullest potential. Current high school rules prevent swimmers from continuing with their club team and professional coach while at the same time swimming for their high school.

Elite swimmers are now put in the unfortunate position of choosing whether to continue with their club team or participate with their high school program. Senate Bill 317 would allow these athletes to participate fully in both offerings. The current compromise, which elite swimmers frequently arrive at with the blessing of both their club and high school coach, is to begin the season late, swim as few meets for their high school as is allowable in order to qualify for the state high school championships. This is an unhappy compromise as swimmers are not fully members of their high school team from the beginning of the season. Enacting this legislation would allow them to participate fully.

Most states allow swimmers to participate in their U.S.A. Swimming affiliated clubs as well as their high school teams. Obviously, swimmers who train more and more effectively will increase their chances of athletic success. Depriving student athletes in Kansas of the opportunity for the best training and opportunities for competition puts them at a competitive disadvantage when compared to athletes from other jurisdictions. Not only are our swimmers competing for berths on national teams, often they are competing for college acceptance and/or scholarships. Putting them at a competitive disadvantage with swimmers born and raised in other states seems simply unfair to me.

I have heard some concerns that this legislation would put the student athlete in difficult conflicts between the high school coach and the Missouri Valley Swim Club coach. I believe that is actually a symptom of the current regulations of the High School Activities Association rather than an inherent problem in having two teams within which to participate. I believe that coaches from Missouri Valley Swim Clubs and high school educators who also happen to be swim coaches will be mature enough to work out any potential conflicts to the benefit of the student athlete. Information from other states, which allow dual participation, suggests that my analysis of this situation is correct.

Missouri Valley Swimming is firmly in support of the concept of allowing for dual participation for our student athletes. Senate Bill 317 accomplishes that goal and we are therefore in support of this measure.

Sen Fed & State Affairs

1-18-06

Attachment 19

Rep. Eric Carter

Wednesday, January 18, 2006

TESTIMONY IN SUPPORT OF SB 317

Dear Mr. Chairman and Members of the Senate Federal and State Affairs Committee:

Thank you all for hearing SB 317 and giving it your studied consideration. Presently, the Kansas High School Activities Association (the "KHSAA") has a rule, *Rule 22* (attached) prohibiting student participation in outside, non-school activities while they are on their school's team. I have witnessed numerous unfortunate circumstances where fine young men and women are forced to choose between participation on their high school's swim team, for example, and on their elite club team. This is particularly problematic for those student athletes who wish to devote themselves towards excelling in their favorite sport or activity only to find that the State of Kansas effectively makes them less competitive than their peers in surrounding states if they elect to participate on their high school's team instead of continuing their year-round training with their elite club teams.

SB 317 seeks to solve this problem in a manner somewhat similar to HB 2345, which I sponsored in the House last year. To achieve the similar goals of SB 317, HB 2345 would prohibit the Association from adopting any rules and regulations infringing on the right of student athletes to compete in or train for any athletic event sanctioned by the national governing body for that sport as recognized by the U.S. Olympic Committee. The KHSAA would also be prohibited from imposing any form of punishment against any student athlete for competing in or training for these athletic events. SB 317 is a more narrowly-tailored effort than HB 2345. While SB 317 is different in some regards, I believe it to be well conceived and worthy of your support.

Behind your Committee you will see numerous proponents of this bill. They are business and community leaders, they are parents, they are student athletes, they coaches. In support of the House corollary to this bill, HB 2345, we even had gentlemen who have traveled from the Olympic Training Center in Colorado Springs, Colorado to alert us to the fact that our Kansas youth are disadvantaged by Rule 22 to the extent they wish to train for and ultimately represent the United States of America in the Olympics.

In a nutshell, Rule 22 is problematic for the following reasons:

- At a time when our nation is recognizing the phenomenal social and economic costs associated with obesity, Rule 22 prevents student-athletes from participation in their chosen activities at high levels. The exercise patterns we set for ourselves as youth, as well as our own

Sen Fed & State Affairs

1-18-06

Attachment 20

personal expectations for our health and appearance, serve as strong predictors for our long-term health and well-being.

- Rule 22 makes Kansas children less competitive than their peers in other states in terms of qualifying for the Olympics and, more commonly, admission to select colleges and universities and access to college scholarships therefore. As of last year, only seven states – Alabama, Illinois, Indiana, Nebraska, North Dakota, Utah ... and *Kansas* – prohibit high school students from participation in outside activities during their related high school's team season.
- Kids in high school have many choices to make, including what to do with their free time. Sex, drugs and alcohol, and the temptation to succumb to the relentless ache of teen angst are ever-present. Some kids, however, wish to devote themselves to something else, something better. Some kids choose to spend hours and hours of their own free time in the pursuit of a personal goal. Rule 22 is an inappropriate and unwise obstacle for these fine young men and women.
- Rule 22 is premised on the underlying assumption that the State of Kansas, rather than parents, should decide what level of participation is best for children.

On a parting note, I wish to make clear to this Committee, as well as to the opponents to SB 317 and HB 2345, that no animosity towards the KHSAA is intended. One new friend I have made leading up to this hearing described the KHSAA as comprised of and led by “children advocates”, and I believe that description to be fair and accurate. Nonetheless, I do *not* feel it is appropriate or wise for the State to impose a “one-size fits all” bureaucratic prohibition on Kansas youth in contravention of the beliefs and wishes of those who know those children best – their parents.

Thank you for your anticipated support of SB 317.

Best regards,

Rep. Eric Carter

P.S.: The two eldest of my four young children are active participants on the Kansas City Blazers swim team, which may explain my interest in this issue. As parents who are constantly attentive to our children's physical, academic, and character development, I sincerely hope they will have the opportunity to continue in this extremely positive extracurricular activity throughout their high school years.

Rule 22

OUTSIDE COMPETITION

Violation of this rule shall make a student ineligible for the remainder of that sport or scholars' bowl or debate season, unless he or she is reinstated by the Executive Board.

Section 1: General Regulations (apply to grades 7-12)

Art. 1: A student who is a member of a school athletic, scholars' bowl or debate squad effective Tuesday following Labor Day through Friday preceding Memorial Day may not participate as a member of an outside team or as an independent competitor in the same sport, scholars' bowl or debate activity. (*Exception: See Rule 4, United States Olympic Committee-Sponsored National Trials and Competitions.*)

NOTE: Informal participation on the part of the student athlete, such as that experienced on the black top (concrete), in the park, local "Y", etc., is not considered a violation of this rule, provided it was not formally called or organized, no coaching takes place, where no official score is kept, time kept, officials used, etc.

Intra non-school youth group athletic participation is not considered a violation of this rule. Inter non-school youth group athletic participation is a violation.

Art. 2: A student shall not be prohibited from competing on a special team within his or her own school such as an FFA team, etc. All members of such teams must be bona fide students, however, and eligible under the rules of the Association.

Art. 3: A student becomes a member of a school's athletic squad, scholars' bowl or debate team when he or she first participates in a practice session.

A student ceases to be a squad member after his or her last contest for the school's athletic squad, scholars' bowl or debate team or when the membership on a squad is terminated. (*See Rule 14-1-1, Bona Fide Student and Rule 30-2-2, Seasons of Activities.*)

January 18, 2006

Senate Committee on Federal and State Affairs

RE: Senate Bill #317

Chairman Brungardt and members of the Committee:

I appear today on behalf of seven hundred ninety member schools of the Kansas State High School Activities Association, who oppose Senate Bill #317.

1. The KSHSAA has a well established structure and process for initiating and adopting rules governing member schools and student eligibility. **Every member school has authority to propose rules changes. Rules are promulgated by educators who work with students every day in all types of educational circumstances and with input from teachers, coaches and students.**
2. **Revision of Outside Competition Rule 22 was discussed** at seven fall regional meetings, the spring Board of Directors and Executive Board meetings, at the Kansas Interscholastic Athletic Administrators convention, and by the Kansas Coaches Association. In all of those forums, there has been no support for eliminating or modifying the *"dual participation"* rule governing swimming or for any other sport under KSHSAA jurisdiction in grades 7 – 12.
3. Seven years ago, Kansas was the **second state association in the nation to develop a Student Advisory Team (SAT)** comprised of twelve high school student representatives. **The SAT has compiled survey responses of 2,648 Kansas high school athletes on the following:**

"Should a student/athlete be able to participate on an outside club team during the high school season, in the same sport, at the same time they are a member of their high school team?" YES = 39% NO = 61 % Comments included: *"Too much, you wear yourself out. When would they do schoolwork? It gives them an unfair advantage over those that can't afford club programs."*

4. **There are important fundamental differences between interscholastic, educationally based sports programs, and the USOC and private, elite club sport programs.** The two systems have uniquely different roles. Interscholastic sports offered by Kansas schools are based on rules grounded in decades of sound educational policy and practice. To the overwhelming majority of Kansas children and families, schools offer the best sports and activity program available. **Kansas schools established KSHSAA rules to offer a balanced, well rounded program and encourage participation by the maximum number of students possible, regardless of ability.** More important than focusing on winning or individual accomplishment, interscholastic programs **focus on life experience by teaching dedication, selflessness, teamwork, commitment, sportsmanship and citizenship.** No other youth sport programs are based on the premise of earning the privilege of participation, by virtue of being successful academically and remaining a student in good standing.
5. **Last year, in a hearing on House Bill #2345 officials from United States Swimming testified, "Kansas is one of only eight states to have an outside competition/team loyalty rule." That is not true.** I have surveyed all fifty-one state associations in the National Federation of State High School Associations. With 43 of 51 state associations responding, **17 have such a rule, another 12 have a similar rule** with some modifications. Only 14 state associations report having no such rule.

6. What KSHSAA rules effect students participating on both school and club teams?

- a. Rule 30-2-2 Seasons of Activities
- b. Rule 22-1-1, 3 Outside Competition
- c. Rule 4-1-1 United States Olympic Committee-Sponsored National Trials & Competitions
- d. Rule 26-1 Anti-Tryout and Private Instruction

Rule 30-2-2 was established based on the negative experience of club swimmers and divers not participating on school teams until the final two weeks of the school season. As better swimmers, they displaced teammates who had participated since the beginning of the school season. Since the final two weeks of the season included league and state meets, there were hard feelings and schools felt individual students were placing their desires over the best interests of their school teammates. Other schools in statewide competition, felt disadvantaged.

How relevant KSHSAA rules are applied to dual participation athletes?

- a. There are no restrictions on athletes in the three summer months or during the school year prior to or following the school season of sport.
 - b. During the school season (14 weeks - from first practice to final competition) athletes may not practice or compete with other organized teams while a member of their school team. The option exists for students to join their team late, with the season in progress.
 - c. Under Rule 4, exceptions are granted to athletes to compete individually or on a club team if the event is a USOC sanctioned Olympic Development event. Unlike many states, no limits are placed on how many ODP events an athlete may participate in. Athletes and school administrators and coaches self monitor to ensure post season eligibility per Rule 30.
 - d. Private lessons are always permitted, even during the school season. Private lessons may be with the athlete's private or club coach.
 - e. Parents may work with their own child at any time of year with no restrictions.
 - f. There is no KSHSAA rule limiting the opportunity or amount of time a school team athlete may practice on their own, outside of his/her school practice sessions and competitions. Understandably, school coaches have a keen interest in the training schedule and regimen their athletes are following. **This is also why medical professionals and the National Association of State Boards of Education Commission on High School Sports have expressed concerns about overuse injuries.*
7. The recent *Report of the National Association of State Boards of Education Commission on High School Athletics in an Era of Reform*, **cautions against sport specialization, over scheduling of adolescent athletes and commercialization of youth sports.** State association rules that buffer against these excesses are given the Commission's strong support.
8. **Elimination of the Outside Competition rule would have major negative repercussions.** Its absence would create a very real **danger of have vs. have not among schools and individual students.** Not all families have the economic resources to participate in private club sports. Children who don't are at a distinct disadvantage in making their school team and competing for state championships. For every elite club swimmer who feels restricted by the rules, there are hundreds who feel protected and well served by their existence. The next group of unhappy parents you will hear from will be a much larger group who feel the competitive arena will have changed dramatically and in a negative way for their children.

9. **Most Kansas schools are not located proximate to elite level club sport programs.** Facilities and additional coaching available through club programs gives select schools a distinct competitive edge. Removal of the Outside Competition Rule would exacerbate that situation.
10. In recent articles from the *New York Times* and the *Arizona Republic* which address several issues relevant to the unfettered expansion of club sports in America, increasing rates and severity of injuries in adolescent athletes is described as a national epidemic. Overscheduled and over trained children are burning out, dropping out of sports and experiencing alarming numbers of serious injuries. In part, outside competition rules are an attempt to protect the school athlete from these factors, if only during the school sport season.
11. To preempt the Association's self governance process raises very real concerns. If a precedent for legislative intervention on specific Association rules is established, one can only imagine the number and variety of specific rules the Kansas legislature will be asked to change in the future. **Does the Kansas Legislature really want the role and responsibility of writing rules for interscholastic activities and student eligibility?**
12. If KSHSAA rules are eliminated in not just swimming, it is reasonable to assume other students and parents will want their sport to be exempted in a similar fashion? Enacting legislation of this nature opens *Pandora's Box* as it relates to scholastic sports eligibility.
13. **Based on experience of other state associations, elimination of state association rules does not eliminate the conflict between club and interscholastic programs.** In several states, school and club coaches have adopted rules requiring athletes to pick one program or the other and essentially the student is worse off than under previous rules.
14. **History clearly demonstrates willingness and a record of the KSHSAA being responsive to member school needs and proposals.** As one would expect in a self governing membership organization, the democratic process determines the level of support for policy changes and ultimately whether they become adopted. The KSHSAA asks for continued legislative support for what has proven to be an outstanding governance system. It is one which many other state associations have seen fit to borrow from and emulate.
15. **We respectfully ask that you not advance Senate Bill #317 out of committee.**

Respectfully,
Gary Musselman
KSHSAA Executive Director



The Kansas State High School Activities Association

Serving Kansas' Schools and Students



What is the KSHSAA?

A private/non-profit association of accredited member schools, whose purpose is to administer a program of interscholastic activities, festivals, clinics and contests among member schools. The KSHSAA offers state championships in ten boys and girls' sports, and ten additional championships in music activities, debate, speech and drama, and scholars bowl. Of particular importance are efforts to elevate standards of good sportsmanship and to encourage growth of good citizenship among students and spectators.

Who makes up the KSHSAA?

The Association is comprised of 371 senior high and 424 middle/junior high member schools. Member schools must be accredited and are both public and private schools.

What is the history of the KSHSAA?

The Kansas State High School Activities Association was formed in 1937 and incorporated in 1956. As early as 1910, Kansas schools organized the statewide Debate League and Athletic Association governed by high school principals. The Athletic Association started as a small voluntary group of fewer than 50 schools and grew to more than 500 schools by the 1920s. Out of necessity, member schools adopted eligibility and participation rules and established authority for a Board of Control to assess penalties against schools for violations. In 1927 the Board of Control employed the first full time Executive Secretary. To date, six



individuals have served as Executive Director.

What are Classifications?

Each September, the KSHSAA collects student enrollment data from member high schools for students in their sophomore, junior and senior classes. This number is listed in a descending list of all high schools. The largest 32 schools become 6A, the next largest 32 become 5A, the next 64 become 4A, 3A, and 2A respectively and the remaining schools become class 1A. New classifications are established each school year in all activities except for football, which uses a two-year cycle and a different counting method.

How is the KSHSAA structured?

The Association has a three-branch system of governance. The Executive Board (9 - 14 members) meets six times annually and is charged with making policy, conducting hearings and managing the affairs of the organization. Legislative authority to make rules and bylaws changes is vested in

the seventy plus member Board of Directors. Members are school administrators, educators and local board of education members from throughout the state. Two members of the Kansas State Board of Education also serve. The Appeal Board acts as an impartial hearing panel in matters pertaining to rule interpretations.

How does the KSHSAA keep schools and communities informed?

A monthly magazine, the KSHSAA Activities Journal, is published August through May. Circulation is to all member schools, local boards of education, and the news media of the state. A website is also maintained at www.kshsaa.org.

Is Kansas different than other states?

Yes and No. Every state has an athletic or activities association. Kansas is unique in the range of activities offered. The KSHSAA oversees Student Council programs and has a service/leadership program unlike any other in the nation. The Kansas Association for Youth (KAY) is active in more than one hundred seventy-five schools. The KSHSAA is only the second state association in the country to establish a student advisory team, comprised of a boy and girl from two schools in each of the six classes. This group gives direct student input to the staff and Executive Board. Through summer leadership camps in KAY, Student Council, and spirit and dance activities, the KSHSAA has more direct contact with students than any other state association in the nation.



KSHSAA

Kansas State High School Activities Association
 601 Commerce Place, PO Box 495, Topeka, Kansas 66601-0495
 PH 785-273-5329



KSHSAA PURPOSE

To contribute to the education of the high school boys and girls of Kansas by:
 Administering a program of interscholastic activities, festivals, clinics and contests among member schools; elevating the standards of good sportsmanship and encouraging the growth of good citizenship, not only for high school boys and girls, but also of adults and all others who come into contact with school activities; protecting member schools from exploitation by special interest groups; encouraging pride in scholastic achievement as a fundamental basis for a well balanced activity program; serving the best interests of all member schools by influencing the proper type of legislation or any other desirable means.

Executive Director, Gary P. Musselman

Member Middle/Junior and Senior High Schools

State Board of Education

Originally approved Association Bylaws and Articles of Incorporation and must approve any changes in Bylaws or Articles of Incorporation before they can become effective. An annual report of KSHSAA must be submitted to the State Board.

Appeal Board

Member school boards of education elect four positions; four school administrators (three senior high and one middle/junior high school) elected by member schools. (Note: No member of the Board of Directors or Executive Board may serve on the Appeal Board.)

Board of Directors

Members of the State Board of Education; at-large appointees of the State Board of Education; Board of Education members elected by local boards of education; superintendents, principals and educators elected by member schools, representing senior high leagues; independent schools; middle/junior high school principals or superintendents and allied professional organizations; which guarantees gender and minority/ethnic representation.

Executive Board

Principals, superintendents and certified educators elected by each senior high school classification group; a middle/junior high school principal or superintendent; a member representing the Kansas State Board of Education; and a member representing a local Board of Education. Executive Board composition ensures gender, minority/ethnic and geographical representation.

Executive Director

Selected by the Executive Board

Association Staff

Regional Administrator and Board of Education Meetings

Kansas Coaches Association

Kansas Interscholastic Athletic Administrators Association

Student Advisory Team

Kansas Association for Youth Sponsors

Kansas Music Educators Association

Kansas Speech Communication Association

Kansas Association of Scholars' Bowl Coaches

Outline for speech against Kansas Senate Bill #317:

Date: January 18, 2006

Jeffrey W. Handley: Teacher and Head Diving and Swimming Coach Washburn Rural HS.

- I. Present KSHSAA rules already address the issue in question.
 - A. Swimmers and divers are allowed to receive private instruction via any coach they so choose.
 - B. A private coach of the swimmer or diver's choice may work with a high school participant during the high school swim season. A set of rules and guide lines in order to provide this opportunity to any swimmer or diver has been set up by the KSHSAA office.
 - C. Swimmers and divers may participate at any club organized swim meet and use the scores and or times to qualify for the KSHSAA State meet. Once again a set of rules and guide lines in order to provide this opportunity to any swimmer or diver has been set up by the KSHSAA office.
 - D. In conclusion: Bill #317 only duplicates existing rights and freedoms already in place for high school swimmers and divers.
- II. Bill #317 could end High School swim and dive programs all over the state.
 - A. If club teams are going to provide the service of swimming and diving there will be no need for high schools to replicate the service.
 - B. The school board at USD #437 Auburn Washburn Rural is more than likely to rule that in the future outcome of this bill becoming law, the Washburn Rural swim and dive program, in the interest of saving money, will be eliminated.
 - C. If high schools drop their dive programs the sport could be destroyed in the state. Very few club teams in the state of Kansas offer any form of spring board and or platform diving to replace any terminated high school programs. In turn, spring board diving would end as a sport in Kansas.
- III. Bill #317 serves only the elite, the top 1% of swimmers in Kansas.
 - A. Any child who cannot afford to swim will be eliminated from the sport. Pay to participate will be the new motto of swimming in Kansas.
 - B. Any child who cannot swim specific predetermined qualifying times will be eliminated from the sport. Current club programs, because of limited pool time and space, allow only the fastest swimmers the privilege to participate. Children who do not perform at top levels will be eliminated from participation. Note: All athletes are allowed to participate in our swimming programs. We do not cut anyone.
- IV. A story of a deserving Swimmer. {All student athletes deserve an **equal** opportunity}
 - A. The majority of high school swimmers and divers will be hurt by the passage of this bill.
 - B. What is the true goal of NCLB "No Child Left Behind?"

Sen Fed & State Affairs

1-18-06

Attachment 22

James L. Ungerer Testimony
Federal and State Affairs Committee
Senate Bill 317

My name is James Ungerer. I am a Junior at Washburn Rural High School. I would like to thank you for the opportunity to address you today. I want to talk to you today about swimming as it relates to teamwork, school spirit, and building an individuals character for life.

As a Freshman at WR I qualified for the state high school championships in two events and was a state top sixteen finalist in both events. As a Sophomore I qualified in most events and made top eight in the two events I swam at state. I wish to say right up front that it is my experience with USA swimming that has allowed me to be the swimmer I am. But with that said it is high school swimming that will provide me with some of my best memories of my high school years.

While USA swim teams promote team unity and spirit it is impossible for them to provide the kind of team opportunity and memories high school swimming does for many kids who, for one reason or another do not wish to compete at the USA level. When someone swims for a USA team it costs them a monthly fee to be a member of the team and entry fees to swim meets. They or I probably should say their parents, also pay travel expenses for three day meets out of town. This is not to say this money is not a good investment as it is expensive to operate a team and it provides an opportunity for many swimmers to compete. But what can happen is the sport becomes more about winning than about creating a fun atmosphere for kids to grow from. When a sport is costing parents that kind of money they pressure their kids to do the best they can, which we should all strive to do, but sometimes this pressure goes beyond what is healthy. I have known a number of swimmers who have swam competitively for a number of years only to quit swimming completely because it is no longer fun for them. When this happens parents are upset because they feel they have invested too much time and money in the sport to see their child just quit. But amateur sports shouldn't be that high pressure. USA swimming is a great opportunity and provides many opportunities for swimmers who wish to advance to another level. This isn't about trying to take away or belittle those opportunities.

What this is about is the many kids who wish to be a part of a high school team because of what it means to them, their classmates, their school, and the pride this opportunity provides. I cannot compete in contact sports because of my knees and I have a good friend on the WR swim team who also cannot compete in contact sports because of health reasons. High school swimming provides us the opportunity to participate in a school sport. After every high school meet the coaches pick out a couple of individuals and announce to the entire school their accomplishments. But what makes these announcements special is it is not always about who wins or competes the best. They try to announce the name of every swimmer once during the season, for cutting time in an event or placing the highest they have, just some sort of recognition that the individual is part of a team. When Washburn Rural wins a meet an individual swimmer does not need to win their event to earn points for the team and feel like they have contributed. Their efforts are recognized that they have been a part of a team victory.

I'd like to share some examples with you that may help you to see the true meaning of high school swimming. The last event in high school meets is the 400 free relay. At last years Manhattan meet, the City meet, and League Championship meet the entire WR swim team stood on the bulkhead cheering on the WR relay teams. They cheered just as hard for the C team as they did the B team and A team. When WR wins a meet they celebrate as a team, sometimes by throwing our coaches and trainers in the pool where the entire team joins them with the meet trophy. Even though many of us swimmers do not hang out with the same people, we come together as one team during swimming practices and meets. Also this last year the WR swim team won the spirit week award the week of homecoming. This type of school spirit exemplifies what it means to be a part of your team and school.

But the question is why can't a swimmer do both. If the question were really that simple the answer may be easy. I have heard that when athletes were given the opportunity to compete on both teams in Missouri that some schools dropped swimming from their athletic programs. If this happens at even one school that is one too many when you think of the impact that has on the individuals who were a part of that team. But even if a high school doesn't drop their program it is going to diminish the meaning of the high school team. If a parent is paying for their child to practice with the USA team the pressure is going to be on that child to attend USA practice and events. If that happens how could the other members of a high school team really feel that person is a part of their school team?

What this is about is assuring this opportunity remains for the many swimmers who for whatever reason don't or can't compete on USA teams. Those swimmers are not doing anything to jeopardize the opportunity an athlete has to swim competitively on the USA team. If an individual wishes to pursue that opportunity, and their family can afford it, that opportunity is there for them. They can chose to stay with their USA team and be a part of it year around but the very number of them that chose not to is what shows this bill could do more harm than good. The fact is 99% of swimmers chose to compete on their high school teams because of the reasons I have touched upon and many more. If this bill causes that opportunity to be lost we have all lost because it is those opportunities that will make us, today's youth, the kind of adults we will become. It is those opportunities that will benefit us as part of the workforce, in family relationships, part of society, and maybe even when we are sitting in your chairs making decisions that will affect our state and world.

Thank you again for this opportunity.