

Approved: 3-21-94  
Date

## MINUTES OF THE HOUSE COMMITTEE ON EDUCATION.

The meeting was called to order by Chairperson Duane Goossen at 3:30 p.m. on March 15, 1994 in Room 519-S of the Capitol.

All committee members were present.

Committee staff present: Ben Barrett, Legislative Research Department  
Dale Dennis, Deputy Commissioner, Department of Education  
Avis Swartzman, Revisor of Statutes  
Lois Thompson, Committee Secretary

Conferees appearing before the committee: Mark Tallman, KASB and USD 501  
Gerald Henderson, United School Administrators  
and USD 500  
Connie Hubbell, Kansas State Board of Education

Others attending: See attached list

Representative McKechnie moved and Representative Empson seconded motion to approve minutes of March 7, 8, 9 and 10. Motion carried.

Chairman Duane Goossen proposed an amendment to **HB 3029**. (Attachment 1)

Representative Smith moved and Representative Kline seconded motion to amend **HB 3029**. Motion carried.

Representative Empson moved and Representative Pottorff seconded motion to pass favorably as amended **HB 3029**. Motion carried.

Hearing opened on **SB 803** relating to Charter Schools.

Mark Tallman, representing Kansas Association of School Boards and USD 501 spoke in support of **SB 803**. A policy position adopted by the Delegate Assembly two years ago supports "voluntary efforts to experiment with public school choice plans." Charter schools have the potential to increase options available for students. (Attachment 2)

Gerald W. Henderson, representing United School Administrators of Kansas and USD 500 spoke in support of **SB 803**. It is their opinion the bill, if enacted, "would allow for enormous flexibility in the design of an educational delivery system." (Attachment 3)

Connie Hubbell, Legislative Coordinator of the State Board of Education commented on **SB 803**. The State Board of Education believes there are some very positive characteristics in the bill which could benefit Kansas students. However, they recommend that the charter school concept needs further study during the interim. Some of the issues they feel need to be reviewed are: (1) Limit number of charter schools in each school district, (2) Teacher due process issues, (3) Senate amendments to **SB 803**, (4) Evaluate charter school programs in other states. (Attachment 4)

Due to the late hour, the opponent testimony of Susan Chase for Kansas NEA was held over for Wednesday, March 16, 1994.

Meeting adjourned at 5:02 p.m.

The next meeting of the House Education Committee will be Wednesday, March 16, 1994 at 3:30 p.m. in Room 519-S.

## GUEST LIST

**Committee: Education**

**Date:** 3-15-94

[illegible]

Proposed Amendment to House Bill No. 3029

On page 1, by striking all of lines 13 through 27; in line 30, by striking "New Sec. 2." and inserting "Section 1."; in line 36, by striking "\$20,000" and inserting "\$25,000"; in line 39, by striking "\$20,000" and inserting "\$25,000";

On page 2, by striking all of lines 32 through 43;

On page 3, by striking all of lines 1 through 43;

On page 4, by striking all of lines 1 through 43;

On page 5, by striking all of lines 1 through 6;

By renumbering section 7 as section 2;

In the title, in line 8, after "for", by inserting "uniquely or severely different"; in line 9, by striking all after "thereof"; in line 10, by striking all before the period;

House Education  
March 15, 1994

Attachment 1





**Testimony on S.B. 803 Before the House Committee on Education  
By Mark Tallman, Director of Governmental Relations  
March 14, 1994**

Mr. Chairman, Members of the Committee:

We appear today in enthusiastic support for S.B. 803. This bill has generated some degree of controversy. We have received a number of questions about our support for the concept of charter schools. I would like to explain the basis of our support, how we believe the bill would work, and why we believe it would be a positive step for Kansas education.

We are not testifying as a proponent because of a specific position within our policy positions. In fact, the words "charter schools" do not appear anywhere in those positions. "Charter schools," like many educational concepts, can have many meanings. We do not support S.B. 803 just because it refers to something called "charter schools;" we support it because of what this particular bill would allow.

Under S.B. 803, a Kansas charter school would be a "deregulated" educational program within the public school system. Instead of having to conform to most statewide and districtwide procedures and regulations, the operation of the charter school would be determined by a "charter" - an agreement between those operating the school and the local school board, with approval from the State Board of Education. The charter school would be almost entirely evaluated by and accountable for results: whether or not it accomplished the educational outcomes it proposed.

One reason for our support of this concept is a policy position adopted by our Delegate Assembly two years ago to support "voluntary efforts to experiment with public school choice plans." Charter schools certainly have the potential to increase options available for students. To some, charter schools offer many of the advantages attributed to voucher plans like the bill you heard earlier this session - but without what we consider the unacceptable distribution of public resources to non-public schools.

However, the most important basis for our support of S.B. 803 is not in experimentation with "choice;" it is our support for the outcomes based school improvement process. Outcomes based education means that schools should be held accountable for results. KASB believes that when the outcomes for Kansas schools are defined and appropriate resources

House Education  
March 15, 1994  
Attachment 2

and authority provided, Kansas schools can accomplish those outcomes. We believe this so strongly that we support sanctions for schools and districts which fail to show improvement.

But there is another side of outcomes based education: the promise that by focusing on outcomes, we will give schools more flexibility and less regulation. Right now, school boards complain about state regulations, paperwork and "red tape." Teachers complain about board policies and central office "red tape." In some cases, over-regulation may be a real problem. In other cases, it may be just an excuse. But we have become convinced that the State needs to take serious steps to remove both the problems and the excuses.

One approach to that goal was the "home rule for school districts" bill you held hearings on several weeks ago. That bill simply asked that school board members, elected by the same voters that elect the Legislature, be able to do what they believe to be in the best interest of their district, just as long as it is not illegal. We still have not heard a single example of how this authority would harm anyone. For all the talk about "local control" in the Legislature, there still seems to be a belief that the state knows what is best for every one of the 304 school districts, 1,600 buildings and thousands of individual classrooms and teachers; that the same laws, regulations and procedures are appropriate in every case; that "one size fits all."

Let us agree that the state does have a compelling interest and constitutional responsibility in the area of education. In the absence of a system of outcomes, a greater degree of state control over "process" was more appropriate because that was the only handle you had. But with Quality Performance Accreditation, the time has come for the Legislature and State Board of Education to deal with performance - and let those at the local, community and site level determine their own best ways to meet those outcomes.

We believe the concept of the charter school, as proposed in S.B. 803, is an extension of this philosophy, in a limited and experimental way. Only 15 such programs would be authorized by this bill. (We do not believe the bill requires a charter school to be housed in a separate building; it could be a "school within a school.") A petition or proposal to begin a charter school could be presented by teachers, an educational services contractor, or anyone else with an idea for improving educational performance. The petition would have to address a number of requirements specified in the bill. It would have to be approved by the local school board; it would be, in effect, a contract between the board and those seeking the charter, and would be subject to termination every year. Finally, the proposed charter would have to be approved by the State Board of Education.

A number of questions and/or objections have been raised about these schools. Please keep the following in mind. First, these schools would be public schools under the authority of the school district. Second, anything "different" about these schools would be spelled out in the charter. In other words, funding, liability, governance, staff employment conditions, etc., would be determined by the charter - or would be the same as any other school in the district.

The only statutory distinction would be the fact that employees of charter schools would

be exempt from the state due process (tenure) act and the professional negotiations act. Instead, due process rights, terms of employment and employee input would be determined by the charter. Opponents of this bill have suggested that no teachers would agree to work in a charter school without these protections. We believe that there are professional educators who would agree to different kinds of employment arrangements in return for greater flexibility and authority. It seems to us that the only way to know who is right is to pass this bill and find out. If we are wrong, it just means that the only charter schools actually developed would have current rights included in the charter.

Another area of concern mentioned in the Senate was how students would be assigned to charter schools. The bill specifies that the enrollment of a charter school must reflect the racial and socioeconomic composition of the district. Charter schools would have to follow the same federal laws governing civil rights and special education as other public schools.

In the Senate, most opponents of the bill expressed support for some type of charter school concept, just not this bill. It was suggested that this bill should be delayed for further study. You may hear that recommendation later today. We strongly disagree with that approach. We believe it will be nearly impossible for any district to begin a charter school in the middle of the school year; it will take at least several months for the development and approval process to be completed; and it is unlikely that anyone will spend much time and effort on the process until the legislation has actually passed. Therefore, there will almost certainly be a one year delay between the passage of a charter schools bill and the initial operation of any such schools.

We would offer the following alternative. First, we think the State Board should be given clear authority to select charter school proposals based on relative merits if applications exceed the 15 available slots. In other words, approval need not be granted on a "first come, first serve" basis. Second, to facilitate this process, we suggest that a schedule of deadlines be established. Petitions would have to be approved by the local board and submitted to the State Board by February 1, and the State Board would have to notify boards of approval by April 1 for schools to begin operation the following school year.

If the Legislature passes this bill with these amendments this session, proposals could be developed during the summer and fall of 1994. The State Board could develop what procedures for the evaluation of proposals. Should any "unanswered questions" arise, the Legislature could address these concerns next session. Frankly, we do not believe we will know what these questions might be until we begin the process of development, and that will not happen until the bill is passed. To delay the bill means, in all likelihood, that no charter school could begin operating until the fall of 1996.

In conclusion, we suggest that the passage of S.B. 803 requires courage and faith: courage to welcome innovation and experimentation; faith in your local school boards and State Board members to undertake the innovation in the best interests of Kansas students. If every school were meeting every need of every child, this kind of courage and faith might not be necessary. But we know we have to do better. We believe that S.B. 803 is one way to learn how.





## SB 803

Testimony presented before the House Committee on Education  
by Gerald W. Henderson, Executive Director  
United School Administrators of Kansas  
March 15, 1994

Rep. 500  
USD  
K.C.

Mister Chairman and Members of the Committee:

United School Administrators of Kansas appreciates this opportunity to support **SB 803**, a measure which if enacted would allow for enormous flexibility in the design of an educational delivery system. At first reading there were several sections of the bill which caused us to question the practicality and workability of establishing charter schools in Kansas. Portions of the bill about which we had questions involved:

- 1- qualifications of personnel
- 2- due process and evaluation since articles 54 and 90 of Chapter 72 of KSA do not apply
- 3- accreditation requirements for charter schools

The answers to these questions as well as most other concerns we can imagine, lie in the language of the charter and in the fact that the charter must be approved by the local board of education and the state board of education.

For example, if the petitioners want to attract quality personnel, the charter will necessarily include provisions which allow that to happen. Likewise, if Quality Performance Accreditation is important for **all** Kansas schools, the Kansas State Board of Education would surely withhold its approval if QPA was not included in the language of the charter.

House Education  
March 15, 1994  
Attachment 3



We support the amendment to **SB 803** which eliminated the appeal process to the state board when a petition is denied at the local level. The appeal to the state board was the one concern we had with the original bill. I can not imagine an experiment such as this surviving without the support of local people, and I can not imagine many circumstance under which the state board would impose on a local district its interpretation of what is in "the best interest of the pupils, school district, or community."

We encourage the committee to act favorably on **SB 803** as amended by the Senate Education Committee, and thereby allow those who choose to try this approach an opportunity to do so.

LEG/SB803



# ***Kansas State Board of Education***

120 S.E. 10th Avenue, Topeka, Kansas 66612-1182

March 15, 1994

TO: House Education Committee  
FROM: State Board of Education  
SUBJECT: 1994 Senate Bill 803

My name is Connie Hubbell, Legislative Coordinator of the State Board of Education. It is a pleasure for me to appear before this Committee on behalf of the State Board.

Senate Bill 803 authorizes local boards of education to establish a nonsectarian, outcomes-oriented educational program, referred to as a charter school, as a means of providing new opportunities for: (1) improved student learning; (2) increased learning opportunities for pupils in special areas of emphasis in accord with themes established by charter schools; (3) creative and unconventional instructional techniques and structures; (4) new professional vistas for teachers who operate such schools or who choose to work in them; and (5) freedom from conventional program constraints and mandates.

The total number of charter schools operating in any school year shall not exceed 15 with no limit on the number of schools operated within a single district.

The State Board of Education shall establish a procedure for effectuating the provisions of this bill by providing districts with information concerning the number of charter schools currently being operated, the availability of an opportunity for establishment of a charter school due to discontinuance of previously established schools, and criteria for determining the order in which additional charter schools may be established.

A local board of education shall receive and review each petition for establishment or continuation of a charter school and may grant or renew a charter for operation of the school. The charter must contain the key elements contained in Section 4 of the bill.

The State Board of Education is required to design and prescribe the formula for establishing charter schools, provide technical advice and assistance including the establishment and operation of such schools, and assist in the preparation of petitions requesting authority by a local board of education to establish a charter school.

Dale M. Dennis  
Deputy/Assistant Commissioner  
Division of Fiscal Services and Quality Control  
(913) 296-3871  
Fax No. (913) 296-7933

*House Education*  
*March 15, 1994*  
*Attachment 4*

This bill exempts school districts from the professional negotiations law, due process procedures, evaluation of certified personnel, and the continuing contract law.

The primary authority for approval of a charter school is up to the local board of education.

During its March meeting, the State Board of Education reviewed Senate Bill 803. We believe that there are some very positive characteristics in this bill which could benefit Kansas students. However, it is our recommendation that the charter school concept needs further study during the interim. Issues to be reviewed may include, but not be limited to, the following.

1. Limit number of charter schools in each school district.
2. Teacher due process issues.
3. Senate amendments to Senate Bill 803.
4. Evaluate charter school programs in other states.

# CHARTER SCHOOLS

## Definitions of Charter Schools

The charter school is to offer change-oriented educators, or others, the opportunity to go either to the local school board, or to some other public body, for a contract under which they would set up an autonomous (and therefore performance-based) public school which students could choose to attend without charge.

Ted Kolderie  
"Charter Schools...."  
*School Choice Watch*  
1993

Charter schools are public schools formed and run by a group of teachers and staff, largely free from centralized State and district management or oversight. Academically and financially autonomous, these schools typically exist in areas where parents can choose their child's school, and they compete for students by offering quality instruction.

*Business/Education Insider*  
May 1992

Charter schools are schools, developed by a team of teachers, that receive funding from the State but are relieved of most State regulations as long as students meet specified standards.

Minnesota  
Constance L. Koproivic,  
*Statehouse to Schoolhouse, State Legislatures,*  
February 1993

Charter schools are generally defined as local and/or State sponsored public schools managed on site by teachers, parents, and other members of the community. These schools are characterized by independent and innovative educational programs, and even though funded like a typical public school, they largely operate outside of most district and State regulations...these schools function under a charter that defines educational objectives, health and safety standards, and racial and ethnic balance.

Policy Update  
NASBE, October 1993

## Origin of "Charter School" Concept

The idea of a "charter" as a written agreement goes back well over a thousand years. However, the idea of a "charter school" is fairly recent. Ray Budde, an education consultant in Massachusetts, wrote in 1988 a document entitled "Education by Charter: Restructuring School Districts to Long Term Continuing Improvement in American Education." The document puts forth a model of a "school-within-a-school" which would involve an educational charter or written agreement between a group of teachers and the school board that defines purpose, educational objectives, and sponsor.

Also in 1988, Albert Shanker, president of the American Federation of Teachers presented this idea to the National Press Club. Shanker's argument was that education reform was not moving "fast enough" and that groups of teachers should be granted to set



up 'totally autonomous' schools of choice within existing school buildings as a way to jump start the reform movement. Six or more teachers would submit a proposal to create a new school using a different approach to teaching children. Shanker outlined the need for specific learning objectives measured by performance-based forms of assessment, and the necessity to operate a school-within-a-school long enough to make a difference.

The idea of charter schools then caught on with proponents of school choice who wanted to increase the range of public-school options available to parents. It also meshed with educational thinking that emphasizes new "break the mold" schools and holding schools accountable for outcomes, not processes.

### **Purpose of Charter Schools\***

1. Improve learning.
2. Increase learning opportunities.
3. Use innovative teaching methods.
4. Create new professional opportunities for teachers, including having responsibility for learning program.
5. Expand choices of educational opportunities.
6. Use performance-based accountability system.
7. Hold schools accountable for meeting measurable outcomes.

### **Essentials of Charter Schools\*\***

1. The State allows more than one organization to offer public education in the community.
2. It is education for the public.
3. The schools becomes a legal entity.
4. Accountability shifts from process to performance.
5. Charter can be combined with choice.
6. The State pays the school.
7. The teachers have the professional option to be owners.
8. The State lists questions that the school/sponsor must answer.

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\* "Charter Schools: What Are They? How Will They Work?" Santa Cruz County Office of Education, Capitola, CA, November 1992.

\*\* Ted Kolderic, "Charter Schools...." *School Choice Watch*, pp103-104.

## Arguments for Charter Schools\*

1. Is a lever for change: By making a structural change in the way public schools can organize and establish themselves, charter schools will encourage change agents throughout public education.
2. Provides pressure relief valve: Currently public schools have no built-in incentives for change and improvement. Charter schools offer relief from the pressure put on the system by parents and students who demand change.
3. Provides R & D for public education: Education has no systematic approach to looking ahead and pioneering new methodologies or forms of teaching and learning. High tech firms devote 10 percent of their profits to research and product development.
4. Encourages education entrepreneurship: If public education is to be revitalized, we need to reward risk taking which is often required for change. Charter schools encourage the implementation of new ideas.
5. Honors the teaching profession: The role of charter schools is to release and empower the creative energy and commitment of teachers currently in our education system.
6. Respects parents: Charter schools require parent involvement in choosing the "right" school for their children. Charter schools redefine the meaning of "local control" and "community" a school serves.
7. Provides opportunity for real business partnerships: One offshoot of the charter school concept is to marry it with workplace schools, where businesses provide space and facilities for a school right at the workplace.
8. Takes aim at the one-size-fits-all phenomenon: The standardization of education exists in public schools across the nation. Right now California and Texas' textbook adoption process virtually defines the curriculum of public schools in other states. Charter schools could choose and use a variety of books and materials.
9. Could save public education from itself: If the existing education system does not change, privatization of America's schools could occur. Restructuring our schools with parental choice, competition, and innovation can keep them public.

## Myths About Charter Schools\*\*

1. Special interest enclaves: Legislation for charter schools would declare them to be nonsectarian and would prohibit them from discriminating on the basis of race, sex, etc. In fact, current legislation in other states calls for diversity and inclusive representative of the community.

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\* David D'Evelyn, "Charter Schools: Will They Be Good for Public Education?" *Colorado Education Insider*, February 1993, pp1-3.

\*\* David D'Evelyn, "What Charter Schools Are and Aren't." *Colorado Education Insider*, February 1993, pp3-4.

2. Private schools: Charter schools are clearly public schools -- publicly funded they can charge no tuition. There can be no conversion of a private school into a charter school, except in Minnesota, where a private Montessori school received a charter.
3. Completely unregulated: Charter schools are held to all Federal and State regulations regarding health, safety, and civil rights. They are governed by the terms of their charter, or agreement.
4. Amateur operations: One image based on fear is that of hapless parents of charter schools trying to manage a transportation network. The governing board of charter schools, which probably will include parents, will contract for whatever professional services are not included on the school staff.
5. Overnight sensations: Another fearful image is that of an overnight proliferation of fly-by-night operations. Any school charter would include a mission statement, student outcomes, enrollment policy, student performance evaluation, employee qualifications, proposed budget, facilities, transportation plan, and policy regarding potential school discontinuation.
6. Anti-public education: The interest in charter schools is often motivated by the need to rescue schools from the increasingly widespread perception that public schools are no longer up to the task and no longer able or willing to respond quickly and effectively to changing needs and what the public wants in schools.

Planning, Research, and Evaluation  
March 7, 1994



# Comparing Charter School Laws in Six States\* with Kansas Senate Bill 803

Here is a comparison of certain aspects of charter school laws as defined in six U.S. states.

| ISSUE                       | 1992<br>CALIFORNIA  | 1993<br>COLORADO   | 1993<br>GEORGIA  | 1993<br>MASSACHUSETTS  | 1991<br>MINNESOTA   | 1993<br>NEW MEXICO   |
|-----------------------------|---|--|--|--|---|--|
| Charter length              | Up to 5 years   | Up to 5 years  | Up to 3 years  | 5 years  | Up to 3 years   | Up to 5 years  |
| Legal autonomy              | Exempt from laws governing school districts except law dealing with teacher retirement system.  | Rests with school district. State regulation waivers must be passed by local district, charter applicants and state board of education.                                | Exempt from state and local rules, regulations, policies and procedures.   | Exempt from all local control and state rules and regulations as needed.   | Exempt from laws and rules applicable to school board and district.   | Exempt from certain provisions of state's public school code.  |
| Schools allowed             | 100   | No more than 50 by July 1997   | Not specified  | No more than 25 statewide  | 20 (5 per sponsor)  | No more than 5 statewide   |
| Who can apply for a charter | One or more people can circulate a petition to start a school. The petition must be signed by 10 percent of teachers in a district or 50 percent of teachers in a school.                 | Any one or more people, groups or organizations can apply. Non-public schools can't apply to convert to a charter school.  | Any local school with approval of local board, 2/3 secret vote of faculty and instructional staff, and 2/3 vote of parents attending a meeting to vote on the charter proposal.    | A business or corporate entity, two or more certified teachers, or ten or more parents. Private and parochial schools can't apply. | One or more licensed teachers with sponsorship of local board. Existing public school may convert with petitions of 90 percent of full-time teachers in the school. | Any local public school with support of 65 percent of teachers at that school. Applicants must show substantial involvement by parents of children in development of proposed charter. |
| Revoking the charter        | Can be done if the school: 1) violated charter conditions, 2) failed to meet pupil outcomes identified in charter, 3) failed to meet accepted accounting standards, or 4) violated a law. | Can be done if the school: 1) violated any charter condition, 2) failed to meet pupil outcomes, 3) failed to meet accepted accounting standards, or 4) violated a law. | State board of education can revoke a charter if 2/3 of the school's faculty and instructional staff request to withdraw the charter if the school fails to fulfill charter terms. | The state secretary of education shall develop procedures and guidelines for revocation and renewal.                               | Can be done if the school: 1) fails to meet generally accepted fiscal management standards, 2) violates a law, or 3) any other good cause.                          | Not specified  |
| Teacher qualifications      | No certification required, but charter must specify required employee qualifications.   | Charter qualifications must be described if they differ from certification of licensure requirements.  | Only certified teachers can start a charter, but non-certified ones can be hired thereafter.   | Not specified.   | Licensed teachers only.   | Current public school code requirements.   |

\* Source: National Education Association