

## SENATE BILL No. 246

By Committee on Federal and State Affairs

2-25

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AN ACT authorizing the establishment of state charter schools; repealing K.S.A. 72-1903, 72-1904, 72-1906, 72-1907, 72-1908, 72-1909, 72-1910 and 72-1911.

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

Section 1. (a) Subject to the provisions of this act, any person may establish nonprofit, nonsectarian, outcomes-oriented, performance-based educational programs, hereinafter referred to as state charter schools. The primary purpose for authorizing the establishment of state charter schools shall be to provide parents and pupils with expanded options in choosing educational opportunities that are available within the state. Additional purposes for authorizing the establishment of state charter schools shall be to provide new opportunities for:

- (1) Improved pupil learning;
- (2) increased learning opportunities for pupils in special areas of emphasis in accord with themes established for state 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.

(b) A state charter school shall have all powers necessary or desirable for carrying out its educational program, including, but not limited to, the following:

- (1) To adopt a name. Any name selected must include the words "state charter school";
- (2) to sue and be sued, but only to the same extent and upon the same conditions that a unified school district may be sued;
- (3) to acquire real property, from public or private sources, by purchase, lease, lease with an option to purchase, or by gift, for use as a school facility;
- (4) to receive and expend funds for school purposes;
- (5) to enter into contracts and leases for the procurement of services, equipment and supplies;
- (6) to solicit and accept any grants, gifts or donations for school pur-

1 poses; and

2 (7) to solicit and accept individual and corporate sponsorship of such  
3 school.

4 (c) State charter schools shall operate independently from school dis-  
5 tricts and boards of education of school districts. No board of education  
6 shall have jurisdiction over or legal responsibility for a state charter school.

7 (d) The state board of education shall exercise general supervision  
8 over state charter schools to the same extent and in the same manner that  
9 the state board exercises general supervision over school districts.

10 (e) The state board of education may conduct or cause to be con-  
11 ducted such financial and program audits of the operations of state charter  
12 schools as may be necessary to determine whether such schools are in  
13 compliance with the provisions of their charters and with the provisions  
14 of law from which such schools have not been exempted by this act.

15 (f) State charter schools shall comply with all federal and state laws  
16 relating to provision of special education services for exceptional children.

17 (g) State charter schools shall comply with all federal and state laws  
18 relating to health and safety.

19 (h) State charter schools shall have no power, privilege or authority  
20 with respect to the levy and collection of taxes or the issuance of bonds.  
21 State charter schools shall not have the power of eminent domain.

22 (i) State charter schools shall be deemed to be state agencies for all  
23 purposes of the Kansas tort claims act. The members of the governing  
24 authority and all employees of a state charter school shall be deemed to  
25 be employees of a state agency for all purposes of the Kansas tort claims  
26 act.

27 Sec. 2. The total number of state charter schools operating in the  
28 state in any school year shall not exceed 30. No more than two state  
29 charter schools may be operated in a school district in any school year.  
30 The state board of education shall establish a procedure for effectuating  
31 the provisions of this section by publishing information concerning the  
32 number of state charter schools currently being operated, the availability  
33 of an opportunity for establishment of a state charter school due to dis-  
34 continuance of a previously established state charter school, and criteria  
35 for determining the order in which additional state charter schools may  
36 be established.

37 Sec. 3. (a) The state board of education shall design and prescribe  
38 the format of a petition for establishment of state charter schools. The  
39 petition shall be designed in a manner that will provide for inclusion of  
40 a description of the key elements of the charter under which the school  
41 will be operated.

42 (b) A petition for the establishment of a state charter school may be  
43 prepared and submitted to the board of education of the school district

1 in which the proposed charter school will be located, state board of ed-  
2 ucation, state board of regents or any institution of postsecondary edu-  
3 cation as defined by K.S.A. 74-3249, and amendments thereto, by or on  
4 behalf of a business or corporate entity, a parent or group of parents, a  
5 college, university, museum or similar entity, an educational services con-  
6 tractor, or any other person or entity other than the board of education  
7 of a unified school district. Any such petition shall be submitted by not  
8 later than December 1 of the school year preceding the school year in  
9 which the state charter school is proposed to be established. Before sub-  
10 mitting a petition for the establishment of a state charter school, the  
11 petitioner shall submit the charter for operation of the proposed school  
12 to the board of education of the school district in which the school will  
13 be located and shall request the board of education to make comments  
14 and suggestions regarding the charter of the school and its operation in  
15 the school district.

16 (c) Upon receipt thereof, the entity to which a petition is submitted  
17 shall review such petition for establishment or continuation of a state  
18 charter school and may grant or renew a charter for operation of the  
19 school. The charter must contain the following key elements:

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

22 (2) a description of the level of interest and support on the part of  
23 the community to be served;

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

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

28 (5) the governance structure of the school, including the means of  
29 ensuring accountability to the state board of education;

30 (6) a description of qualifications to be met by persons employed by  
31 the state charter school;

32 (7) procedures that will be followed to ensure the health and safety  
33 of pupils and staff;

34 (8) criteria for admission of pupils, including a description of the lot-  
35 tery method to be used if too many pupils seek enrollment in the school;

36 (9) manner in which annual financial and program audits will be  
37 conducted;

38 (10) pupil suspension and expulsion policies;

39 (11) manner of pupil participation in the Kansas assessment program;

40 (12) terms and conditions of employment in the state charter school;

41 (13) specification of the manner in which contracts of employment  
42 and status of employees of the school will be dealt with upon nonrenewal  
43 or revocation of the charter; and

1 (14) the proposed budget of the state charter school.

2 (d) In addition to the key elements required by subsection (c) to be  
3 contained in the charter, a state charter school must comply with the  
4 following requirements in order to qualify for establishment or  
5 continuation:

6 (1) The school must be focused on outcomes or results and must  
7 participate in the quality performance accreditation system;

8 (2) the school shall not limit admission based on ethnicity, national  
9 origin, gender, income level, condition of exceptionality, proficiency in  
10 English language or athletic ability, however a school may limit admission  
11 to pupils within a given age group or grade level;

12 (3) pupils may not be charged tuition;

13 (4) compliance with applicable health, safety and access laws must be  
14 assured;

15 (5) compliance with any state or federal testing or assessment  
16 requirements; and

17 (6) submission of annual reports to the state board of education.

18 (e) Upon receipt of a petition for establishment or continuation of a  
19 state charter school, if the the entity to which a petition is submitted finds  
20 the petition to be incomplete, such entity may request the necessary in-  
21 formation from the petitioner. After receiving a satisfactory petition, the  
22 entity shall determine whether the proposed state charter school will be  
23 in compliance with applicable state and federal laws and rules and reg-  
24 ulations. If it is determined that the proposed state charter school will be  
25 in compliance with such laws and rules and regulations, such entity shall  
26 approve establishment of the school and notify the petitioner of the ap-  
27 proval within 30 days thereafter or by April 1 of the school year preceding  
28 the school year in which the state charter school is proposed to be estab-  
29 lished, whichever is earlier. If it is determined that the proposed state  
30 charter school will not be in compliance with such laws and rules and  
31 regulations, establishment of the school shall not be approved until the  
32 objections to the establishment have been satisfied. If the establishment  
33 of the school is disapproved, the petitioner shall be notified of the reasons  
34 for the disapproval and suggestions for improvement of the petition shall  
35 be included in such notice of disapproval.

36 (f) If a petition for the establishment is approved, such charter school  
37 shall be subject to the oversight and direction of the state board of edu-  
38 cation as provided by this act.

39 Sec. 4. (a) There is established the advisory board on state charter  
40 schools. The advisory board shall be composed of seven members as  
41 follows:

42 (1) The commissioner of education, or the designee of the  
43 commissioner;

1 (2) the chairperson of the committee on education of the senate, or  
2 the designee of the chairperson;

3 (3) the chairperson of the committee on education of the house of  
4 representatives, or the designee of the chairperson;

5 (4) two members of the general public, appointed by the governor;  
6 and

7 (5) two members who are representative of business and industry,  
8 appointed by the governor.

9 (b) Members of the advisory board who are state officers shall serve  
10 ex officio for terms concurrent with their terms as state officers. Members  
11 of the advisory board who are appointed by the governor shall serve at  
12 the pleasure of the governor and shall hold office until their successors  
13 are appointed by the governor.

14 (c) Members of the advisory board attending meetings of the board  
15 or subcommittee meetings authorized by the advisory board or the state  
16 board of education shall receive compensation, subsistence allowances  
17 and mileage provided for in K.S.A. 75-3223, and amendments thereto.  
18 The advisory board shall meet upon call of the state board of education.

19 (d) The advisory board shall:

20 (1) Advise and consult with the state board of education regarding  
21 the administration of this act;

22 (2) assist the state board of education in monitoring the establishment  
23 and operation of state charter schools;

24 (3) assist the state board of education in reviewing petitions for es-  
25 tablishment or continuation of state charter schools, evaluate the charters  
26 for operation of such schools, consider comments and suggestions made  
27 by boards of education regarding state charter schools, and make rec-  
28 ommendations regarding approval or disapproval of petitions;

29 (4) attend hearings held by the state board of education on nonre-  
30 newal or revocation of charters and make recommendations to the state  
31 board regarding its decision on the matter;

32 (5) periodically assess and evaluate the impact of the operation of  
33 state charter schools upon the public education system of the state and  
34 make reports thereon to the state board of education; and

35 (6) perform such other duties and functions as the state board of  
36 education may request.

37 Sec. 5. (a) Whenever a state charter school has been approved for  
38 establishment by the state board of education, no other approval shall be  
39 required for a period of 15 school years. The state board of education  
40 shall submit budget requests for legislative appropriations for state char-  
41 ter schools in the same manner and at the same time as budget requests  
42 for operation of unified school districts are submitted. Any state financial  
43 aid attributable to pupils enrolled at a state charter school shall be paid

1 directly to such charter school.

2 (b) The state board of education may consider renewal of the oper-  
3 ational status of a state charter school at the conclusion of a fifteen-year  
4 period of approval and either may renew the charter and continue op-  
5 eration of the school, or nonrenew the charter and discontinue operation  
6 of the school. The state board of education shall revoke the charter of a  
7 school if the school:

8 (1) Materially violates provisions contained in the charter;

9 (2) fails to meet or pursue the educational objectives contained in the  
10 charter;

11 (3) fails to comply with fiscal accountability procedures as specified  
12 in the charter; or

13 (4) violates provisions of federal or state law from which the school  
14 has not been exempted by this act.

15 (c) Prior to nonrenewing or revoking a charter, the state board of  
16 education shall hold a hearing on the issues in controversy. Spokespersons  
17 for the state charter school shall be provided the opportunity to present  
18 information refuting the basis upon which the nonrenewal or revocation  
19 is premised. At least 30 days' notice must be provided to representatives  
20 of the state charter school prior to the hearing. Within 60 days after the  
21 hearing, the state board of education shall announce its decision on the  
22 nonrenewal or revocation issue. The state board may abandon the pro-  
23 posed nonrenewal or revocation, nonrenew or revoke the charter, or con-  
24 tinue recognition of the charter contingent upon compliance with speci-  
25 fied conditions. The decision of the state board of education to nonrenew  
26 or revoke a charter is not subject to appeal; however, the chartering au-  
27 thorities may renew procedures for approval to operate a state charter  
28 school.

29 Sec. 6. Pupils who are enrolled in a state charter school and who  
30 reside in the school district in which the state charter school is located  
31 shall be provided transportation to the state charter school by the school  
32 district on the same terms and conditions as transportation is provided to  
33 pupils attending nonpublic schools located in the district. No school dis-  
34 trict shall be required to provide transportation to a state charter school  
35 for pupils who are not residents of the district. Pupils who are not pro-  
36 vided transportation to a state charter school by a school district shall be  
37 responsible for their own transportation to and from the state charter  
38 school.

39 Sec. 7. (a) Each school district shall grant a leave of absence to any  
40 employee requesting such leave in order to participate in the operation  
41 of a state charter school. A school district employee may request a leave  
42 of absence for up to two years. At the end of the two-year period, the  
43 employee may request the board of education to extend such leave for

1 an additional three years, and approval for the request shall not be with-  
2 held unreasonably, or the employee may return to employment by the  
3 school district. At the end of the fifth year, the employee either may  
4 return to the employee's former position or, if the employee chooses to  
5 continue participation in the operation of the state charter school, resign  
6 from employment by the school district.

7 (b) No board of education shall terminate the employment of, or  
8 prevent or impair the profession of, or impose any other sanction on any  
9 school employee because the employee requested a leave of absence to  
10 participate in the operation of a state charter school.

11 (c) All employees who are participating in the operation of a state  
12 charter school and who qualify for membership in the Kansas public em-  
13 ployees retirement system shall be members of the system.

14 (d) All employees who are on leave of absence from a school district  
15 in order to participate in the operation of a state charter school and who  
16 qualify for health insurance and other fringe benefit programs provided  
17 for other employees of the school district shall be eligible to participate  
18 in such programs.

19 (e) The governing authority of a state charter school may purchase  
20 group life, health and accident insurance or health care services of a  
21 health maintenance organization for all employees of the school. The  
22 governing authority of a state charter school may purchase liability insur-  
23 ance covering all or any part of the operation of the school.

24 Sec. 8. The state department of education, in conjunction with the  
25 state department of administration, shall publish annually a list of vacant  
26 and unused buildings and vacant and unused portions of buildings that  
27 are owned by this state or by school districts in this state and that may  
28 be suitable for the operation of a state charter school. The state depart-  
29 ment of education shall make the list available to the public. The list shall  
30 include the address and a short description of each building and shall  
31 specify the ownership of the building. Availability of the building, by sale  
32 or lease, for use as a state charter school shall not be withheld unreason-  
33 ably by the state or by the school district owning the building.

34 Sec. 9. The state board of education shall provide, upon request, any  
35 person, group, or any other entity with technical advice and assistance  
36 regarding the establishment and operation of a state charter school or the  
37 preparation of a petition requesting authorization to establish and operate  
38 a state charter school.

39 Sec. 10. At the conclusion of each school year, commencing with the  
40 2007-2008 school year, the state board of education shall make a report  
41 to the governor and the legislature on the effectiveness of the provisions  
42 of this act. The report shall include the following information:

43 (a) The number and location of state charter schools established and

1 operating in the state;

2 (b) the number of petitions for authorization to establish and operate  
3 a state charter school submitted during the school year, the number of  
4 such petitions that were approved, and the number of such petitions that  
5 were disapproved along with the reasons for disapproval; and

6 (c) an assessment and evaluation of the impact the operation of state  
7 charter schools has had on the public education system of the state.

8 Sec. 11. Nothing in this act shall be construed or applied in any man-  
9 ner so as to abrogate, impair or abridge the terms of any charter for  
10 operation of a school executed prior to the effective date of this act, nor  
11 shall anything in this act be construed or applied in any manner so as to  
12 change or affect the operation and management of any charter school  
13 approved and operating prior to the effective date of this act. All such  
14 charters and charter schools shall be controlled by the provisions of law  
15 in effect at the time of execution and approval, which laws are repealed  
16 by this act.

17 Sec. 12. K.S.A. 72-1903, 72-1904, 72-1906, 72-1907, 72-1908, 72-  
18 1909, 72-1910 and 72-1911 are hereby repealed.

19 Sec. 13. This act shall take effect and be in force from and after its  
20 publication in the statute book.

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