

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on February 18, 1998 in Room 519-S of the Capitol.

All members were present except: Rep. Larkin
Rep. Mays
Rep. Presta

Committee staff present: Chris Courtwright, Legislative Research Department
Tom Severn, Legislative Research Department
Don Hayward, Revisor of Statutes
Shirley Sicilian, Department of Revenue
Ann McMorris, Committee Secretary

Conferees appearing before the committee:
Craig Grant, Kansas NEA
Wendy McFarland, ACLU

Others attending: See attached list

Chair asked for bill introduction.

Rep. Thomas Klein requested introduction by the committee of a bill to provide a \$5,000 adoption tax credit to the person placing the child.

Moved by Representative Tanner, seconded by Representative Ruff, introduction of a committee bill to provide \$5,000 adoption tax credit to person placing the child. Motion carried.

Chair announced a subcommittee had been appointed to hold hearings on **HB 2602 - Establishment of the Kansas tax appeals commission**. Members are: Chair Tony Powell, Reps. Franklin, Cook, Larkin and Wempe. First meeting to be held on February 23 in Room 519S at 9:00 a.m.

Chair reopened hearing on:

HB 2755 - Income tax credit for teaching aids and certain education expenses

Opponents:

Craig Grant, Kansas NEA (Attachment 1)
Wendy McFarland, ACLU (Attachment 2)

Due to scheduling conflict, hearing continued to next meeting on February 19.

The next meeting is scheduled for February 19, 1998.

Adjournment.

Attachments - 2

TAXATION COMMITTEE GUEST LIST

DATE: FEBRUARY 18, 1998

NAME	REPRESENTING
Craig Grant	HNWA
Mark Tallman	NASIB
Mark Tallman	CHECK
Dawn Holcomb	Western Services
Lestie Kaufman	K's Farm Bureau
Diane Gjerstad	USD 259

American Civil Liberties Union of Kansas and Western Missouri

Wendy McFarland / Lobbyist (785) 233-9054

Testimony On HB2755 Concerning Tax Credits For School Teachers and Parents Presented To House Taxation Committee February 17, 1998

THE AMERICAN CIVIL LIBERTIES UNION APPEARS BEFORE YOU TODAY TO OPPOSE THE IMPOSITION OF TAX CREDITS ON KANSANS WHO DO NOT WISH TO UNDERWRITE THE COSTS OF RELIGIOUS EDUCATIONS.

IN ADDRESSING NEW SECTION 1, THE ONLY POSSIBLE WAY THIS PLAN COULD BE CALLED CONSTITUTIONAL WOULD BE TO LIMIT THE TAX CREDITS TO TEACHERS OF PUBLIC SCHOOLS.

BY LIMITING IT IN THIS WAY, THE REIMBURSEMENTS WOULD NOT VIOLATE THE ESTABLISHMENT CLAUSE OF THE FIRST AMENDMENT TO THE U.S. CONSTITUTION WHICH READS IN PART "CONGRESS SHALL MAKE NO LAW RESPECTING AN ESTABLISHMENT OF RELIGION" AND IT IS IN THOSE VERY WORDS THAT THE SEPARATION OF CHURCH AND STATE WAS FOUND BY THE COURT. IT IS THIS PROVISION THAT FORBIDS GOVERNMENT FROM SUBSIDIZING SECTARIAN EDUCATION.

IT IS VERY EASY TO SEE HOW TAX DOLLARS IN THE FORM OF CREDITS TO TEACHERS OF PRIVATE RELIGIOUS SCHOOLS WOULD BE VIEWED AS IMPERMISSABLE KNOWING THAT THEY WOULD BE USED TO PURCHASE MATERIALS FOR ADVANCEMENT OF RELIGION.

IN (*PEARL*) *v. Nyquist* (1973) (money grants), *Sloan v. Lemon* (1973) (tuition reimbursement), and *Levitt v. PEARL* (1973)(testing) three cases heard by the Supreme Court all on one day, the Justices held that providing benefits almost identical to those proposed in this bill all violated the Establishment Clause. Later decisions concerning payment for equipment and materials, *Meek v. Pittenger* (1975), and instructional field trips, *Wolman v. Walter* (1977), also were held to be unconstitutional.

CURRENTLY PRIVATE SECTARIAN SCHOOLS ACCOUNT FOR 85 PER CENT OF THE TOTAL PRIVATE SCHOOL ENROLLMENT IN THE UNITED STATES.

THESE SCHOOLS CLEARLY HAVE A RIGHT TO CO- EXIST WITH PUBLIC SCHOOLS. WE SHOULD NEVER FORGET, HOWEVER, THAT PRIVATE SCHOOLS CAN AND SOMETIMES DO REJECT ADMISSION OF CHILDREN BASED UPON FACTORS SUCH AS THE CHILD'S SEX, RELIGION, RACE OR SPECIAL NEEDS.

THE FREEDOM TO ACCEPT ONLY CERTAIN STUDENTS COMES WITH A PRICE AND THAT PRICE IS PROVIDED FOR IN THE SUPREME COURTS INTERPRETATION OF THE FIRST AMENDMENT WHICH HAS CONSISTENTLY HELD THAT TAX DOLLARS CANNOT BE USED TO SUBSIDIZE PRIVATE SCHOOLS.

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Curiously absent from this section of HB 2755 is the stipulation that the credits will not go to teachers of schools if the schools who employ them violate the Federal Civil Rights Act. The absence of this language means that teachers in schools who disallow the attendance of Jewish children, black children, disabled children, or any of the other protected categories under that act will also receive this generous tax credit which Jewish Kansans, Black Kansans, Disabled Kansans and all Kansans will be underwriting.

AS A GENERAL RULE, THE GOVERNMENT REGULATES WHAT EVER IT CHOOSES TO SUBSIDIZE.

THEREFORE IF YOU CHOOSE TO UNDERWRITE PRIVATE SCHOOLS BY UNDERWRITING THEIR TEACHERS, YOU HAVE BOTH A RIGHT AND A RESPONSIBILITY TO ENSURE THAT THE FUNDS ARE BEING SPENT WELL.

ADDRESSING NEW SECTION 2 WHICH WOULD GRANT TAX CREDITS TO PARENTS OR OTHER GUARDIANS FOR EDUCATION EXPENSES, THE INCLUSION OF THE FEDERAL CIVIL RIGHTS ACT OF 1964 AND OUR STATE'S VERSION OF THE SAME OPENS UP A PANDORAS BOX OF PROBLEMS FOR THOSE WHO SEE THIS AS A WAY TO USE TAX DOLLARS TO DEFRAY THE COSTS OF PRIVATE EDUCATIONS.

AS I READ AND UNDERSTAND THE FEDERAL ACT, IT DISALLOWS SCHOOLS FROM COMMITTING VIRTUALLY EVERY TYPE OF DISCRIMINATION INCLUDING RACIAL, SEXUAL AND RELIGIOUS AMONG OTHERS. PLEASE TAKE A MOMENT, IF YOU WILL, TO PONDER THE VIABILITY OF THIS IDEA WHEN AS WRITTEN, THE STATUTE WOULD NOT ALLOW A CREDIT TO THE PARENT WHO SENDS THEIR CHILD TO A SCHOOL THAT DISCRIMINATES. SO, AN ALL GIRLS SCHOOL WHO HAS A BOY REQUESTING ADMISSION OR A RELIGIOUS SCHOOL WHERE ONE YOUNG JEHOVA'S WITNESS SITS IN THE CLASSROOM THAT ADVANCES THE TEACHINGS OF JESUS CHRIST COULD BOTH FILE SUIT SUCCESSFULLY WHICH WOULD THEN DISALLOW TAX CREDITS FOR THE PARENTS OF ANY CHILD WHO ATTENDS THESE SCHOOLS.

THE INEVITABLE ENTANGLEMENT OF GOVERNMENT REQUIRED TO IMPLEMENT THESE PROVISIONS WILL VIRTUALLY INSURE THEIR DEMISE UPON A COURT CHALLENGE.

KANSANS HAVE EVERY RIGHT TO SEEK FOR THEIR CHILDREN A RELIGIOUSLY ORIENTED EDUCATION AND TO SEND THEIR CHILDREN TO PRIVATE SCHOOLS WHICH PROVIDE THE SORT OF RELIGIOUS ORIENTATION THEY WANT.

BUT THESE KANSANS HAVE NO MORE RIGHT TO ASK THE GENERAL PUBLIC TO PAY FOR SUCH SCHOOLS AND THE RELIGIOUS INSTRUCTION THEY PROVIDE THAN TO ASK THE GENERAL PUBLIC TO PAY FOR THE CHURCHES IN WHICH THEY ARE HAPPILY FREE TO GATHER FOR PRAYER AND WORSHIP AS THEY PLEASE.

WE URGE YOU TO GIVE CAREFUL CONSIDERATION TO THE PROBLEMS THIS BILL WOULD INVITE UPON OUR STATE. THE ACLU STANDS FIRMLY AGAINST ITS PASSAGE.



KANSAS NATIONAL EDUCATION ASSOCIATION / 715 W. 10TH STREET / TOPEKA, KANSAS 66612-1686

Craig Grant Testimony Before
House Taxation Committee
Tuesday, February 17, 1998

Thank you, Mr. Chairman. I am Craig Grant and I represent Kansas NEA. I appreciate this opportunity to visit with the Taxation Committee about House Bill 2755.

At first glance it may seem strange that Kansas NEA is opposing HB 2755. Section one of the bill would provide a \$500 tax credit to teachers who spend their money on school materials and equipment. Many of our members would benefit from this provision. It may also seem strange that we are opposing a bill with 66 sponsors. Although it might seem futile, we still oppose the bill.

Our opposition is section two of the bill. We believe that this is a back-door approach to the voucher question. Parents would be able to take tax credits for "educational expense" which would include, but are not limited to, textbooks and other instructional materials and equipment. Nothing indicates that tuition is not on the list. Nothing would prohibit a school from raising book and equipment fees and lowering tuition a like amount. We believe that parents would use this provision like other tax credit provisions which go for tuition which our organization has long opposed. Whether voucher or tax credits, Kansas NEA opposes the use of public taxpayer money to support the operation of private schools.

Because of the above reasons, we oppose HB 2755 and ask that the committee report it unfavorably. Thank you for listening to our concerns.

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