

MINUTES OF THE HOUSE K-12 EDUCATION COMMITTEE.

The meeting was called to order by Chairperson Ralph Tanner at 9:00 a.m. on March 8, 2001 in Room 313-S of the Capitol.

All members were present except: Geraldine Flaharty - excused

Committee staff present: Ben Barrett, Legislative Research
Avis Swartzman, Revisor of Statutes
Ann Deitcher, Committee Secretary

Conferees appearing before the committee: Sen. Kay O'Connor
Rep. Brenda Landwehr
Mike Farmer, Kansas Catholic Conference
Mark Tallman, Kansas Association of School Boards
Brilla Scott, United School Administrators
Gary George, Asst. Superintendent of Schools, USD 233
Bill Frick, Asst. Superintendent of Schools, USD 512

SB 25 - School Districts; hearings for teachers upon non-renewal or termination of contracts of employment.

An amendment to **SB 25** was distributed to the Committee by Representative Mason.

Avis Swartzman explained **SB 25**.

A motion was made by Representative Mason and seconded by Representative Ostmeyer to adopt SB 25 as amended.

A discussion regarding **SB 25** followed with Ben Barrett and Avis Swartzman answering questions.

A vote was called for on SB 25 after which the Chair, being in doubt of the vote, asked for a show of hands. The motion failed on a vote of 11 to 9.

The hearing on **SB 25** was closed.

HB 2496 - Enacting the Kansas opportunity scholarship research experiment act.

Ben Barrett explained **HB 2496** to the Committee.

Speaking in favor of **HB 2496** was Senator Kay O'Connor. (No written testimony was provided).

Mike Farmer spoke as a proponent of **HB 2496**. (No written testimony was provided).

Representative Brenda Landwehr appeared in support of **HB 2496**. (No written testimony was provided).

Written testimony in support of **HB 2496** was distributed to the Committee by Speaker Kent Glasscock. (Attachment 1).

CONTINUATION SHEET

Appearing in opposition to **HB 2496** was Mark Tallman. (Attachment 2).

Brilla Scott spoke as an opponent to **HB 2496**. (Attachment 3).

Gary George testified as an opponent to **HB 2496**. (Attachment 4).

Speaking in opposition to **HB 2496** was Bill Frick. (No written testimony was provided.).

The hearing was closed on **HB 2496**.

The meeting was adjourned at 11:00 a.m. The next meeting is scheduled for Tuesday, March 12, 2001.

STATE OF KANSAS

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SPEAKER
House of Representatives

**Testimony
On House Bill 2496
Submitted by
Speaker of the House
Kent Glasscock**

Mr. Chairman and members of the committee, thank you for the opportunity to support House Bill 2496 which creates the opportunity scholarship research experiment.

Every year, this body engages in a debate over whether vouchers are a valid means for providing education to our Kindergarten through 12th grade youth. It's a question which, as I'm sure we will see today, raises many passions and reactions. Each year, proponents and opponents of vouchers repeat their positions – either that vouchers will increase educational quality by injecting market forces into the educational workplace, or that vouchers would never work because private schools do not have to educate the same demographic population as do the public schools. Proponents argue vouchers are constitutional, opponents that they are not. These arguments will probably arise today. One thing is certain. The research on vouchers is varied. Both sides of the argument can find justification for their positions, and yet most agree none of the research is conclusive. It's time we settled the debate.

What HB 2496 proposes to do is to take a step back from this rote debate, and find out whether the concept has merit or not. Simply re-hashing the same old conversation on vouchers does little to move us forward on the question of how to better educate our children.

HB 2496 calls for a research study on the question of whether vouchers have a positive, negative or neutral correlation with improved student learning. We ask for the state board of education to select an independent researcher to design and implement a 4-year opportunity scholarship research project with at-risk 3rd, 4th, 5th and 6th graders. The research will be a comparison of the voucher students' achievement with that of a control group. Both voucher students and the control group will consist of at-risk students which represent the demographics of Kansas classrooms, including special education students.

With a year set aside for the selection of the researcher and design of the project, the opportunity scholarship project will begin in schools during the 2002-2003 school year and extend through the 2005-2006 school year. Using a nationally standardized assessment program, the researcher will periodically test voucher students and control group students to determine progress. The researcher will review all the

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data, evaluate the opportunity scholarship children's success, and report to the Legislature, Governor and Kansas State Board of Education.

Vouchers will be redeemable at both public and accredited private schools, and for private schools vouchers will equal the amount of base state aid per pupil. Any weights which would have been attached to that pupil's funding if he attended his regular public school will be collected to pay for the research.

This is a different approach to the question of vouchers. I think we all need to have the courage to see whether an approach different than the one we are taking would benefit our children. My guess is that our current public school system is getting the job done. But, if they are not, many of us in state government and in the educational community will have some hard questions to ask ourselves about whether our system of public education works like it should.

Thank you.

TO: House Committee on Education
FROM: Mark Tallman, Assistant Executive Director for Advocacy

Representing:

Kansas Association of School Boards
Kansas-National Education Association
United School Administrators
Schools for Quality Education
Wichita Public Schools
Shawnee Mission Public Schools
Kansas City Public Schools
Olathe Public Schools
Topeka Public Schools

DATE: March 8, 2001

RE: **Testimony on H.B. 2496 – Opportunity Scholarship Research Experiment**

Mr. Chairman and Members of the Committee:

On behalf of the organizations listed above, I appreciate the opportunity to testify on H.B. 2496, the Kansas opportunity scholarship research experiment. We appear in opposition to this measure, which would create a school voucher pilot project. I will explain our opposition in two ways.

First, all of these organizations oppose on principle any system that uses public funding for private schools. These schools do not have to serve all children or follow the same rules as public schools and are not accountable to public governance. Let me stress: we do not oppose the private schools or the right to choose private education. What we oppose is public funding of schools and parents that choose not to participate in the public education system. Supporters of vouchers want it all: both freedom from public school obligations and financial support. Such a system does not really provide choice in education and can only weaken our public school system.

Second, we do not believe the bill, as proposed, would resolve the debate over the impact of vouchers. It would merely establish a precedent for public funding of private schools. There have been ample opportunities to study the impact of vouchers in limited situations. There is no scholarly consensus whatsoever on the results. We do know this: in every instance where vouchers have been put to a public vote, vouchers lost by substantial margins: most recently in California and Michigan.

Why We Oppose Vouchers on Principle

1. Vouchers mean public financial support of private, usually religious, schools.

A. Vouchers use state money to fund private schools. Vouchers are often represented as aid to families, not private schools. In fact, vouchers, like public school funding from the Legislature, are public funds, raised through taxation, appropriated by the government to pay for the cost of operating a school.

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Under H.B. 2496, the parents are never in possession of the money. If a child is eligible to receive an "opportunity scholarship," and the child enrolls in a "nonpublic opportunity scholarship school," the Director of Accounts and Reports *issues* a warrant for payment to the parent of the child but *delivers* the warrant to the school, not the parent. The school then redeems that warrant to pay for the cost of enrollment of the child. The parent may not spend the voucher money on anything else and has no control over how the school spends the money; the only choice is whether or not to enroll in an educational opportunities school.

B. A voucher system simply extends public funding to private schools, which violates the Kansas Constitution. Article 6 of the Kansas Constitution, which is the fundamental law adopted by the people, reads;

The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changes in such manner as may be provided by law.

Constitutions are designed to **limit** the powers of government. A "strict interpretation" of this article clearly shows that people gave the Legislature the responsibility to promote education **only** through the mechanism of public schools and institutions.

C. This is especially true of religious schools. Furthermore, Article 6, subsection 6 (c), states: "No religious sect or sects shall control any part of the public education funds." In 1966, the people of Kansas not only rejected the idea of public funding of religious instruction, they clearly rejected giving public education funds to churches for any purpose. Any school controlled by any church cannot receive public funding for educational purposes. Any voucher plan that transmits public funding to private religious schools is unconstitutional on its face. The Legislature cannot disregard the clear meaning of the Constitution, even for a research project.

2. Private schools should not receive public funding because they are not required to operate in the same manner as public schools.

A. With public funding comes public accountability. What do we mean when we talk about public education? We mean that all children have an equal right to attend and benefit from this system. Because every citizen has the right to receive a public education, every citizen is obligated to share in its cost through taxation. Because every citizen shares in the burden of maintaining public schools, every voter shares in the governance of those schools through the political process. If I disagree with any aspect of public education, I can run for my local school board, the Legislature or the State Board of Education, or I can vote to "throw the rascals out."

B. Vouchers offer private schools public funding without either the obligation to serve all children or accountability to the electorate that is footing the bill. Under a voucher plan, my taxes will be supporting a religious or independent school that my child may be unable to attend or that is operating in a way I oppose. What a private institution does is none of my business - until I am asked to fund it - then it becomes my business.

Because of the difference between a publicly supported and private, independent school, state and federal laws regulating each are dramatically different. These differences are understandable if private schools are privately supported; but they make no sense if private schools are to be publicly supported and "compete" with public schools. Competition only works if the rules are the same. Here are some examples of the different obligations that would remain under H.B. 2496.

Current Law: Public Schools

Must provide educational services for all children who reside in the district, regardless of capacity.

Must serve children regardless of educational ability or special needs.

May only expel a student after due process and for limited periods of time as provided by law.

Must offer defined K-12 education programs, special education programs, vocational education, health and nutritional programs.

Must provide due process rights (tenure) to teachers and collectively bargain with employees as provided by state law.

Must provide transportation services to children who live more than 2.5 miles from school and free textbooks to disadvantaged children.

Must provide a free education, with limited ability to charge fees, and must operate under budget limits and financial controls set by the state.

Must comply with open meetings and open records laws.

Opportunity Scholarship Schools

Eligible Children

Only required to enroll children up to the limit of capacity, after reserving space for children required or entitled to attend.

Admission Criteria

May establish any admission criteria, as long as "scholarship children" are admitted under the same basis.

Excluding Children

Are not required to give student due process rights and may expel permanently.

Program Requirements

May offer whatever courses and programs they wish, which may be much less expensive than many programs required of public schools. May demand that the public school district provide many services.

Employee Rights

Are not required to provide due process to teachers or collectively bargain.

Free Transportation and Textbooks

Are not required to provide transportation or free textbooks.

Tuition and Budget Limits

May charge whatever tuition and fees the school deems appropriate, may raise funds from any sources without limit.

Public Access

Are not required to comply with these laws.

3. Vouchers will not significantly expand student choice unless significant changes are made in the requirements of private schools.

A. Under vouchers, public demands on private schools will change. A recent Phi Delta Kappa/Gallup Poll asked the question: "Do you think non-public schools that receive public funding should or should not be required to accept students from a wider range of backgrounds and academic ability than is now, generally, the case?" Seventy-eight percent (78%) said yes. (Only 48% of respondents supported the idea of vouchers.)

We believe that with public funding should come greater public obligations. Supporters of vouchers should understand that if they are successful, the requirements on private schools will increase. Regardless of how a voucher system begins, greater governmental intervention will follow.

B. Parents already have educational choice in Kansas, within limits. Those limits would remain under voucher proposals like H.B. 2496. Kansas school children may attend any school that is in compliance with the compulsory attendance law if they (1) meet the admission requirements, (2) can afford tuition, fees, books and supplies, and (3) have transportation or lodging required to get to school. How would the plan contained in H.B. 2496 change that situation?

First, it does not make any change in private school admission requirements. If a child doesn't qualify for admission, there is no choice for that family.

Second, it does not limit the costs of tuition, fees, etc., to the value of the voucher. If tuition and other costs, from books to uniforms, exceed the combination of a voucher and the family's ability to pay, there is no choice for that family.

Finally, it does not provide transportation or living costs. If a family doesn't have a car, if parents are working during inconvenient hours, if there is no "educational opportunity" school within commuting distance, there is no choice for that family. Therefore, the legal ability of parents to choose is not changed at all under this bill.

4. The contention that private schools have better student performance is unsupported because of differences in the populations they serve.

Within the national debate over vouchers, supporters often argue that public schools - particularly *inner city* public schools - are failing; and that vouchers would allow the students in these schools to "escape" to better private schools. Fortunately, our state has data that allows us to look at issues of school performance more critically.

A. State data shows that school performance is closely tied to the socio-economic status of students served. All public school and state-accredited private schools participate in the Kansas assessment program and are issued building report cards by the State Department of Education. From these and other sources, some important facts emerge.

First, there is a significant difference in student academic performance between economically disadvantaged children and children with families of higher incomes.

Second, according to report card information, approximately 31% of students in accredited schools in Kansas are economically disadvantaged. However, in the largest private school system in the state, the four Catholic dioceses, the percentage of economically disadvantaged students is approximately 11%. In other words, the Catholic school system has only about one-third the rate of student poverty as the public school system. Some of the largest public school districts are far above the state average: the percentage of economically disadvantaged student in grades K-6 is 53% in USD 259 (Wichita), 63% in USD 501 (Topeka), and 70% in USD 500 (Kansas City). Some smaller districts are also above 50%.

Third, although there are many exceptions, public schools and districts with very high percentages of economically disadvantaged students tend to have low test scores, and those with very few disadvantaged students tend to score higher. This strongly suggests that inner city schools are not "failing" because they are bad schools; instead, it means that these schools must take on a far more challenging student population.

B. Private schools have the same challenges in educating low-income children as public schools. Last session we reviewed school report card information for accredited private schools in three "urban" counties. What we found was remarkably consistent with public school performance. For private schools that reported data, the trend was very clear: as the percentage of lower income children increased, average test scores, particularly in reading, declined.

For example, we reviewed school report card information for the 14 Catholic elementary schools in Wichita that reported socio-economic data. Four of these schools had an average score on the state assessment above 70, well above the state average of 64. All four had fewer than 5% disadvantaged students. The three Catholic schools with disadvantaged populations between 10% and 20% had reading scores very close to the state average of 64. But of the five schools with

greater than 20% disadvantaged students, four were below the state average. In fact, the reading score for the Catholic school with the highest percentage of disadvantaged students (47%) scored almost 20 points below the state average.

Likewise, on the state math test, four of the five Catholic schools with more than 20% disadvantaged students scored below the state average, and the “poorest” school was again more than 20 points beneath the state average. These patterns were equally strong in Wyandotte and Shawnee Counties.

Our point is not to be critical of these schools. We understand the difficult task they have undertaken. Catholic school personnel in these communities understand the difficult job public schools face. We don’t need a research project to tell us that disadvantaged children face more difficulties in learning. The state assessment data is already there, and suggests that private education is no more or less successful in meeting the needs of these children.

5. A voucher system will harm public schools by making them the “choice of last resort.”

If a voucher system is created, which parents of children at challenged public schools are the most likely to make use of vouchers? In other words, which children are the most likely to be admitted to private schools and have the family resources and stability to attend? Precisely the children and families public schools most need to retain on behalf of all children: the parents committed to education; the ones who become room mothers and fathers, who have a car to help on class trips, who come to teacher conferences and concerts and school nights.

Which parents and children are the least likely to use vouchers? The parents who never come to teacher conferences; who can’t be found to sign special education plans, who don’t have phones or cars or permanent addresses, who are dealing with their own lack of learning and employment skills. Which students are least likely to be served in private schools? The learning disabled and disruptive and emotionally disturbed; the children who are absent and falling behind. Some parents don’t want their children going to school with “children like that.” But should the state provide funding to separate children on that basis?

However well meaning the idea of vouchers and choice, the message it sends to families about public education is this: give up and get out. And who is left in public schools? In a free market world of school competition, it is the children nobody else wants.

Arguments Against H.B. 2496 As A Research Project

- To be accepted for a voucher, a child would have to be “representative of the demographics of pupils enrolled in the state, including exceptional children.” The bill does not explain how a single child can be representative of the demographics of the state. Presumably this provision is to determine how a voucher system can impact a random sample of students. But the bill does not define “demographics.” It cannot mean family income, because vouchers would be limited to children eligible for free meals. Does it mean race, language, national origin? Does it mean the number of parents or adults in the home, level of parental education, mobility? All of these factors influence student performance. We question how these variables can be captured in a limited study.

- This bill does nothing to “level the playing field” in comparing public and private school performance. Private schools would be able to impose whatever criteria they wish, as long as the same criteria is used for both voucher students and others. They can charge whatever tuition they want, as long as they do not charge voucher students more. Therefore, how can the “research project” guarantee that the experience of these “voucher students” will be comparable to students in public schools throughout the state?
- The bill does not require private schools to accept special education students, although public schools must serve these students. But if private schools do agree to accept a special education student, they are guaranteed state funding for the actual costs of the student at time when public schools are receiving only 80% of excess costs.
- At least initially, we believe the program would have a cost to the state. We certainly cannot support using general fund dollars for an experimental program when there are so many unmet needs in the public schools.
- Finally, let us suppose the research finds positive results for students in private schools. This will tell us nothing about how a large scale use of vouchers will impact either the public or private school systems. At most it will tell us how a small number of poor children do when placed in private schools that have none of the obligations placed on public schools. How would that information be useful to the Legislature?

Let me leave you with these questions:

If this bill is about parent choice, why does it allow private schools to make the choice of accepting students?

If this bill is about school competition, why are the rules different for public and private schools?

If this bill is about accountability, why does it allow private schools to be accredited as different agencies than public schools and exempt from the curriculum standards and tests the Legislature requires of public schools?

If this bill is about helping children, why does it provide funding for children to attend private schools which offer programs such as all day kindergarten that the Legislature does not fund in public schools?

We can't answer these questions, and we therefore oppose the bill. Thank you for your consideration.

2000 Fourth Grade Math Assessment

Shawnee County Catholic Schools

School	% Low Income	% Unsatisfactory	Total Score
Christ the King	0%	4%	60.1
Most Pure Heart	5%	5%	57.2
Assumption	24%	20%	52.3
Holy Name	11%	12%	51.7
Sacred Heart	31%	6%	48.9
Guadalupe	18%	20%	43.8

State Results – Average Total Scores

General Education, Gifted and English Language Learners	54.9
Students with Disabilities	43.1
All Students	53.8
English Language Learners	40.7
Migrant	43.3
American Indian	46.4
Asian	56.2
African American	42.2
Hispanic	45.4
White	57.5
Free Lunch	46.2
Reduced Price Lunch	51.6
Free or Reduced	47.7
No Meal Support	58.3

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HB 2496: Kansas Opportunity Scholarship Research Experiment Act

Testimony presented before the House Education Committee

by
Brilla Highfill Scott
United School Administrators of Kansas

March 8, 2001

Mister Chairman and Members of the House Education Committee:

HB 2496 would establish a research experiment to determine whether there is a positive, negative or neutral correlation between school vouchers that provide choice in the selection of schools and successful pupil learning.

United School Administrators of Kansas stands in opposition to HB 2496 which would provide Opportunity Scholarships or Vouchers for students to attend private schools. Students who receive free lunches would qualify for these vouchers.

By supporting this bill, you will be diverting public funds away from public schools at a time when Kansas schools are receiving minimal funding. Currently administrators, teachers, students and parents are diligently working to improve the public schools in our state.

Provisions of the bill state that if the student discontinues attendance at the selected private school, the private school would repay the state board. In turn the state board would remit any amount collected to the state treasurer.

It is conceivable that a scholarship child could enroll in a private school and decide on September 21 to return to the public school. The public school district would have the responsibility for educating this student for the remainder of the year but would receive no state funding.

This bill also raises constitutional issues because religious schools are included in this voucher program. The Kansas Constitution clearly states that "No religious sect or sects shall control any part of the public education funds."

Students in our state do have choice through a variety of public school offerings which include magnet schools, charter schools and alternative

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Kansas Association of
Elementary
School Principals
(KAESP)

Kansas Association of
Middle School
Administrators
(KAMSA)

Kansas Association of
School Administrators
(KASA)

Kansas Association of
School Business
Officials
(KASBO)

Kansas Association for
Supervision and
Curriculum Development
(KASCD)

Kansas Association of
Special Education
Administrators
(KASEA)

Kansas Association of
Secondary School
Principals
(KASSP)

Kansas Council of
Vocational
Administrators
(KCVA)

Kansas School
Public Relations
Association
(KanSPRA)

schools. Some 13,500 Kansas students attend public schools outside their home districts. Within the boundaries of school districts, countless families choose schools outside their neighborhoods.

We would caution the committee that the passage of this bill would send a message that Kansas schools are failing. Evidence is already available that suggests that when private schools serve the same population, private schools have the same results. Public schools with low numbers of poor children have test scores equal to or greater than the private schools.

Our association asks that you reject this bill and allow private schools to continue to be privately funded and independently governed.



March 7, 2001

TO: Chairman Tanner and House Education Committee Members

FROM: Gary George, Assistant Superintendent of Schools

SUBJECT: Voucher Legislation

The Olathe School District is unalterably opposed to the concept of vouchers. The school districts of Kansas have done an excellent job throughout our history of educating the students of this state.

Consistently, Kansas ranks among the top states on a variety of indicators in the area of student achievement. At this time, education funding in Kansas is in jeopardy and our ability to maintain these high levels of scholarship is threatened by inadequate resources.

As a state, we need to put all our resources into creating an even better public education system. Voucher experiments, etc., are not in the best interest of the students of this state. Our board of education, elected at-large by the voters of the areas served in Olathe, Lenexa and Overland Park, has unanimously adopted a position against vouchers and has gone even further and adopted a specific resolution against vouchers, both of which are included.

In conclusion, vouchers undermine the principles of public education that ensure that every child in our state receives a quality education. We strongly urge you to vote against this bill, should it come up for a vote.

**U.S.D. 233, JOHNSON COUNTY, KANSAS RESOLUTION OPPOSING
PRIVATE AND PAROCHIAL SCHOOL VOUCHERS AND TUITION TAX BREAKS**

Whereas, plans to create taxpayer-funded vouchers for private and parochial school tuition and fees drain scarce resources from public school classrooms; and

Whereas, plans to allow tax breaks and dedicated IRA's for private and parochial school tuition or expenses, ultimately diminishes revenue available for public schools; and

Whereas, the public schools in the Olathe School District educate well over 90% of the students in this community; and

Whereas, the public schools educate every child, regardless of race, ability, religion, special needs or economic circumstances; and

Whereas, the public schools are directly accountable to the residents of this community; and

Whereas, research regarding the effects of voucher plans shows insignificant gains in academic achievement for voucher students; Therefore

Be it resolved that tax revenues paid into the federal, state, or local treasuries by citizens of this community should be utilized to support public school children; and

Be it further resolved that we urge policy makers to oppose any efforts to use public tax dollars to finance private and parochial school vouchers; and

Be it further resolved that we urge policy makers to oppose providing tax breaks for the tuition and fees of private and parochial schools; and

Be it further resolved that we urge policy makers to work with our local community to ensure that our public schools provide world-class educational opportunities for **all** our children.