

MINUTES OF THE HOUSE EDUCATION COMMITTEE

The meeting was called to order by Vice-Chairman Carol Beggs at 9:00 a.m. on March 16, 2004 in Room 313-S of the Capitol.

All members were present except:

Representative Patricia Barbieri-Lightner- excused

Committee staff present:

Carolyn Rampey Legislative Research Department
Ann Deitcher, Secretary

Conferees appearing before the committee:

Bob Corkins, Freestate Center for Liberty Studies
Bert Gall, Institute for Justice
Craig Barbee, Emporia Christian School
Bob Goodrich, Independence Bible School
Beatrice Swoopes, Kansas Catholic Conference
Karl Peterjohn, Kansas Taxpayers Network
Delia Barnett, Holy Savior Catholic Academy
Mark Desetti, KNEA
Mark Tallman, KASB

The vice-Chair called the Committee's attention to the minutes for February 24, March 4, 8, 9 and 10 that had been distributed.

A motion was made by Representative Mason and seconded by Representative Williams that the minutes be approved. The motion carried on a voice vote.

HB 2906 - Concerning the provision of financial assistance for kindergarten through twelfth grade for disadvantaged children.

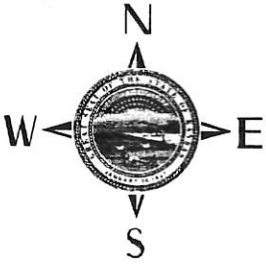
Offering testimony in support of **HB 2906** was Bob Corkins, (Attachments 1 and 2); Bert Gall, (Attachment 3); Craig Barbee, (Attachment 4); Bob Goodrich, (Attachment 5); Beatrice Swoopes, (Attachment 6); Karl Peterjohn, (Attachment 7) and Delia Barnett, (Attachment 8).

Following a brief questions and answer session, testimony in opposition to **HB 2906** was offered by Terry Forsythe, standing in for Mark Desetti, (Attachment 9) and Mark Tallman, (Attachment 10).

Copies of written only testimony in opposition to **HB 2906** was distributed from Terry Byrd of the Tyro Community Christian School, (Attachment 11) and Gary George of the Olathe School District, (Attachment 12).

The hearing on **HB 2906** was closed.

The meeting adjourned at 10:55 a.m. The next meeting is scheduled for March 17, 2004 at 8:30 a.m. in room 123-S.



Freestate Center for Liberty Studies

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March 16, 2004

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The Hon. Kathe Decker, Chair
and House Education Committee
Kansas Statehouse
300 S.W. 10th Ave., Room 303-N
Topeka, KS 66612-1504

Testimony in support of HB 2906

Honorable Chair and Members of the Committee,

My name is Bob Corkins, director of the Freestate Center, a nonpartisan, nonprofit research firm advocating the constitutional principles of liberty and limited government. Our organization has devoted much time to studying the funding methods for Kansas K-12 education and I've had considerable personal experience with the topic in my career dealings with the Kansas Legislature. HB 2906 is a familiar yet innovative reform concept that has been spreading across the country since long before Kansas' now-challenged finance formula was overhauled in 1992. Freestate strongly urges your support for this bill whose time has come.

The inspiration for HB 2906 came from none other than Judge Terry Bullock. His recent Montoy opinion walks us right to the doorstep of school choice and pushes the door wide open. Time and time again, his text of over 100 pages speaks of the need for individualized education, of equal educational opportunity as an individualized right. He cites high educational achievement on average in this state as an over-generalization that ignores the deficient progress of our most vulnerable students. He passionately writes of the duty owed, not to geographic regions or each school district or particular facilities or even groups of students, but to each single child.

How could any formula written by humans ever accomplish this? The Judge picked apart most key elements of the present formula, noting there was no rational basis for them because we've conducted no "bottom up" financial audit that shows how much any given service to given students should cost. The cost will be different for each student, won't it? Costs will differ by region, by city, and within cities. Costs will differ according to each student's abilities. The variables are endless. And when final evaluations of cost are made, however imperfect they may be, how can that detail be written into a formula set by law? With all due respect, you can't do it...nobody can...and you don't need to.

The Freestate Center recommends that Kansas' K12 finance method be simplified through all reasonable means, not made more complicated. After all, it has taken more than a decade to get a reasonably accurate handle on how much Kansas truly spends for each public school student on average – a number that we just verified last week through the Department of Education as being \$9,389. Realistically, any such re-evaluation like the Judge rightly calls for will take months, and properly so. Yet our duty to respond to the education shortcomings noted by Judge Bullock is pressing. While HB 2906 does not address special education funding and other major issues, it should be a part of whatever near-term steps that the 2004 Legislature takes to begin solving the problem.

House Education Committee

Date: 3/16/04

Attachment# 1-1

The scholarship program would be a narrowly tailored response to everyone's core concern for at-risk students. It would cause little or no additional expense to the state, to local units, or to taxpayers. It has been implemented in various formats with success in other states. And, the U.S. Supreme Court gave a green light to its constitutionality while its basic concept appeals to Americans' strong sense of need for the simple freedom of choice.

Public schools would begin receiving funding for students they no longer need to teach. Thus, for students who remain in public schools – they will still be the extremely large majority – HB 2906 would increase Kansas' K12 funding per student. Public schools would have more discretionary dollars to devote to remaining at-risk students or whatever their districts' priorities may be.

As a sincere compliment to the Judge, upon thoughtful consideration of the problems and reasoning he spelled out in Montoy, and with no intent to be disrespectful, this Act contained in HB 2906 should have been titled the Bullock Scholarship Program.

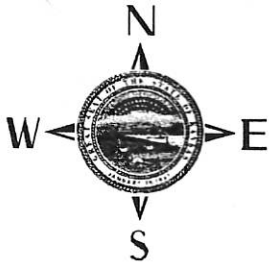
The Freestate Center thanks you for your time and encourages you to pass the bill favorably.

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1.3

	FTE		State Aid + KPERS		Fed. Aid		Local Revenue		Total Expend.	
1989-90	409,656.10		889,326,606		97,985,711		1,082,548,908		2,069,861,225	
1990-91	416,383.20	1.60%	939,904,182	5.69%	105,256,560	7.40%	1,128,045,685	4.20%	2,173,206,427	4.99%
1991-92	424,737.40	2.00%	938,159,474	-0.19%	116,101,192	10.30%	1,246,174,438	10.50%	2,300,435,104	5.85%
1992-93	431,320.50	1.50%	1,142,067,375	21.73%	121,624,374	4.80%	1,282,096,485	2.90%	2,545,788,234	10.67%
1993-94	437,210.10	1.40%	1,520,452,475	33.13%	137,260,114	12.90%	1,011,858,024	-21.10%	2,669,570,613	4.86%
1994-95	440,684.20	0.80%	1,612,411,454	6.05%	140,485,296	2.30%	1,012,554,570	0.10%	2,765,451,320	3.59%
1995-96	442,465.90	0.40%	1,663,189,063	3.15%	150,316,623	7.00%	1,061,918,793	4.90%	2,875,424,479	3.98%
1996-97	445,767.30	0.70%	1,682,378,971	1.15%	181,533,320	20.80%	1,121,816,183	5.60%	2,985,728,474	3.84%
1997-98	448,609.00	0.60%	1,886,079,239	12.11%	189,120,462	4.20%	1,058,428,663	-5.70%	3,133,628,364	4.95%
1998-99	448,925.70	0.10%	2,112,818,552	12.02%	202,565,725	7.10%	1,004,736,639	-5.10%	3,320,120,916	5.95%
1999-00	448,610.30	-0.10%	2,192,132,889	3.75%	220,780,350	9.00%	1,071,444,132	6.60%	3,484,357,371	4.95%
2000-01	446,969.90	-0.40%	2,234,804,134	1.95%	261,038,153	18.20%	1,172,918,480	9.50%	3,668,760,767	5.29%
2001-02	445,376.60	-0.40%	2,291,935,819	2.56%	310,104,678	18.80%	1,269,928,113	8.30%	3,871,968,610	5.54%
2002-03	444,541.40	-0.20%	2,381,990,159	3.93%	340,728,648	9.90%	1,335,185,546	5.10%	4,057,904,353	4.80%
2003-04*	443,947.30	-0.13%	2,245,096,039	-5.75%	360,000,000	5.66%	1,563,000,000	17.06%	4,168,096,039	2.72%

	State Aid PP		Fed. Aid PP		Local Rev. PP		Total Expend. PP		Annual Ks Inflation %	KPERS (included in State Aid)
1989-90	2,171		239		2,643		5,053		0	38,123,436
1990-91	2,257	3.98%	253	5.68%	2,709	2.52%	5,219	3.30%	5.5	43,488,335 14.07%
1991-92	2,209	-2.15%	273	8.13%	2,934	8.30%	5,416	3.77%	3.2	46,252,893 6.36%
1992-93	2,648	19.88%	282	3.16%	2,972	1.31%	5,902	8.98%	3.1	49,504,118 7.03%
1993-94	3,478	31.34%	314	11.34%	2,314	-22.14%	6,106	3.45%	2.6	51,845,652 4.73%
1994-95	3,659	5.21%	319	1.54%	2,298	-0.72%	6,275	2.77%	2.9	54,075,538 4.30%
1995-96	3,759	2.73%	340	6.57%	2,400	4.45%	6,499	3.56%	2.7	58,255,892 7.73%
1996-97	3,774	0.40%	407	19.87%	2,517	4.86%	6,698	3.07%	2.9	63,929,941 9.74%
1997-98	4,204	11.40%	422	3.52%	2,359	-6.25%	6,985	4.29%	1.8	70,395,095 10.11%
1998-99	4,706	11.94%	451	7.03%	2,238	-5.14%	7,396	5.88%	1.6	77,624,470 10.27%
1999-00	4,886	3.83%	492	9.07%	2,388	6.71%	7,767	5.02%	2.3	81,648,499 5.18%
2000-01	5,000	2.32%	584	18.67%	2,624	9.87%	8,208	5.68%	3.4	82,181,648 0.65%
2001-02	5,146	2.92%	696	19.22%	2,851	8.66%	8,694	5.92%	1.6	91,406,020 11.22%
2002-03	5,358	4.12%	766	10.08%	3,004	5.34%	9,128	5.00%	2.3	104,185,479 13.98%
2003-04*	5,057	-5.62%	811	5.80%	3,521	17.22%	9,389	2.85%		106,587,039 2.31%



Freestate Center for Liberty Studies

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January 23, 2004

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Where Bullock's Reasoning Leads

By Bob L. Corkins

Many people have quickly dismissed the latest K-12 finance opinion of district court Judge Terry Bullock. Considering what's in her reform proposal, we can count Governor Sebelius in that crowd.

Beyond the aim to spend lots more money on K-12, there is very little that Bullock and Sebelius seem to agree upon for a solution. This divergence is crucial because even if Kansas signed one big blank check for public schools, its inequitable distribution would still be a fatal constitutional flaw.

Brace yourself for some details. The court of public opinion is not as patient as a court of law, but we must inspect legal themes in the arguments of this billion-dollar court case. It's the only way to know whether the governor or anyone else with a plausible response is on the right track.

"Equal Educational Opportunity"

Keep one key point in mind throughout this digression. Judge Bullock's theme, and justifiably so, is the "equal educational opportunity" that our constitution guarantees. Opportunity requires choice. How can anything be considered an opportunity if you have no choice but to accept it? And the judge was quite explicit in emphasizing that we owe this equal opportunity to each child individually rather than as a nameless member of any larger category of students.

The governor missed Bullock's point. In fact as we'll see, Bullock missed his own point. Both make the mistake of giving too much weight to the well publicized Augenblick & Myers study commissioned by the state over two years ago. The governor's plan closely follows Augenblick's recommendations, although with a somewhat more modest price tag. Judge Bullock's reliance on Augenblick becomes baffling. He praised the thorough effort of Augenblick, was impressed that the study was undisputed (supposedly) at trial, then proceeded to ignore the parts of it he disagrees with.

This would be a logical, complementary cast of players if the judge fully agreed with Augenblick and the governor relied upon the judge's conclusions. However, only one

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significant recommendation by Augenblick is truly consistent with Bullock's opinion: spend lots more money public schools. The judge and the Augenblick study are extremely far apart regarding the method by which \$4 billion is doled out across Kansas. On this matter – which is an independent constitutional question that is far more daunting than deciding the overall price tag – the governor has sided with Augenblick rather than Judge Bullock.

Bullock vs. Augenblick

Remember, these are interpretations of constitutional law. “To be blunt and specific, as the school officials who testified were, the current funding scheme is irrational,” Bullock wrote. “There is no rational factual basis whatsoever for this funding differential premised on additional costs incurred to educate those children receiving more.” He added that the current formula is no more than “the result of a ‘political auction’...freezing the inequities of the old law into the new.”

Augenblick published a starkly different conclusion. Their study found that “no significant changes are needed in the structure of the approach Kansas uses to distribute state aid to school districts.” Furthermore, “the general structure of the system is designed to be sensitive to the needs of school districts and to wealth differences across districts, which means it meets the criteria necessary to promote inter-district equity and taxpayer equity.”

There are also some large, specific parts of the formula that Augenblick defends and endorses, but which Bullock condemns. They include the current formula's “weighting factors” for low-enrollment school districts and for newly opened schools, as well as each USD's “local option budget” spending authority that adjusts for district wealth.

Similarly, among other notable components of today's K-12 aid formula, few escape the judge's criticism. They include weighting factors for high-enrollment districts, vocational education, bi-lingual students, at-risk students, and a special “ancillary” funding factor. Bullock does not merely argue that these are under-funded; he ruled there was no rational structure to their design.

Thus, following the advice of Augenblick & Myers, as the governor was inclined to do, fails to address the most difficult constitutional problem. Kansas cannot ignore the unjust distribution of funds on behalf of individual students that motivated Judge Bullock to bellow “Just go fix it!”

The Judge Points the Way

That brings us to the billion-dollar question: what solution would fit the equal educational opportunity requirements that the judge articulates? Individual choice is the most crucial part of the answer, but Bullock does offer guidance.

He says that the legislature must begin by providing each school district with the same amount of funding per pupil. This amount, Bullock allows, could be increased for particular children, but only for rational reasons that are based on actual and necessary additional costs.

Educational outcomes are another crucial guidestar. Bullock forcefully argues that average student test scores are not sufficient evidence, that we must examine the progress of each student separately. “This case is

ut individual students who seek an equal and suitable education, individuals who are 'left behind' in the averaging of the present accreditation system," he wrote. "The defendants' own disaggregated educational testing records conclusively establish that those most vulnerable and/or protected students...are experiencing an 'achievement gap' of staggering proportion when compared to other Kansas students." By speaking of such vulnerable students, the judge explicitly referred to minorities, the poor, the disabled, and the limited English who "are failing at alarming rates."

Kansas is also far too generalized with its financial accounting systems for schools. Bullock found it "astonishing... that Kansas has no "bottom-up" budgeting system for public schools whatsoever!" Again and again, he indicted parts of the state formula because they were never based on any determination of the specific costs necessary to teach students having any given special needs.

There seems no end to Judge Bullock's insistence that the state's educational fix must be very highly individualized to each student. He hammers the point home in declaring "whether any Kansas child is of a minority race, or is a slow learner, or suffers a learning disability, or is rich or poor, or lives east or west, or any other consideration, that child is 'our child' and our Constitution guarantees that child an equal education opportunity consistent with his or her natural abilities."

Bullock believes that the constitution requires Kansas to increase K-12 funding to accomplish these results. That, however, is a question of fact rather than a question of law. If better educational outcomes for each individual student could be accomplished at today's total K-12 spending level, then our state's financing of education would be constitutionally "suitable". Bullock ruled that such is not factually possible given the evidence at trial. He and the lawsuit parties overlooked a major alternative concept.

Maybe No Formula is Capable

This judge certainly has his humble moments. He very honestly writes that "First and foremost, the Court is satisfied that it should not and cannot write a new or different school funding scheme." Perhaps nobody can. Perhaps NO FORMULA will ever be capable of being constitutionally responsive to individualized education needs.

Judge Bullock did not recognize where the legal parameters he articulated steer us. If a child's current public school is unable to provide her an optimum education using current funding levels, then maybe a different public school can provide it for her. Or maybe a private school can.

School choice is the umbrella concept and it has many variations. Tuition tax credits, vouchers, state scholarship programs, charter schools, online "virtual" schools, and other examples abound. Even having greater personal choice in picking which public school to attend in your area could be a meaningful improvement. Some of these options have always been constitutional. For others, the U.S. Supreme Court has recently cleared the path.

A Kansas school-choice program could squarely address Bullock's concerns with the state constitution. It could put the "opportunity" back into "equal educational opportunity" by giving people a real choice for their

future. The program could be directed to the disadvantaged students we most need to help, those that are now being left behind, and it could be done with existing state financial resources.

Most importantly, a school-choice program provides personal flexibility for each student that no state formula ever could provide. Students would have distinct opportunities in where to seek the education that is right for them. An alternate school might have a different curriculum, faculty, or other features that better match a given student's needs and thereby improve the educational outcome for that child. To think that any statewide funding formula could best accommodate the diversity of roughly half a million Kansas students is foolish. Worse, it is intellectual conceit.

Let's walk through the door that Judge Bullock opened and say goodbye to the perennial "political auction" of a finance formula. Freedom of choice between real options is the best way to achieve equal educational opportunity for all.

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Bob L. Corkins is executive director of the Freestate Center for Liberty Studies, a non-partisan, non-profit policy research firm based in Topeka and organized under IRS Sec. 501(c)(3).

Testimony Before House Education Committee
Bert Gall, Attorney, Institute for Justice

Good morning, and thank you for giving me the opportunity to discuss this important piece of legislation. My name is Bert Gall, and I am an attorney at the Institute for Justice, a non-profit legal organization that has participated in the legal defense of every major school choice program in America.

It is altogether appropriate that you are considering this legislation in the year marking the 50th anniversary of *Brown v. Board of Education of Topeka*. Today, and during the course of this legislative session, you have a chance to fulfill the promise of *Brown* – that all children are provided an opportunity to receive a quality education. The idea of using school choice to accomplish this goal is hardly a radical one. In fact, school choice exists, and will continue to exist, for many parents in Kansas regardless of what happens with this bill. Parents who can afford to send their children to private school or move to a better school district already exercise school choice. The question is whether you will extend this opportunity to all families, regardless of their income level.

Although my testimony today will mainly focus on legal issues, I would be remiss not to point out there is a strong national momentum toward the implementation of true educational choice. Other states are effectively using opportunity scholarship programs – also referred to as voucher programs – to help students in poorly performing schools receive the good education they deserve. Within just the past two years, Colorado and the District of Columbia have enacted opportunity scholarships programs. They are set to join existing programs in Florida, Milwaukee, Cleveland, Maine, and Vermont. Over 30,000 children are enrolled in these programs. And that number doesn't include children who benefit from tax-credit programs in states like Illinois, Arizona, Florida, and Pennsylvania. Nor does it include the many thousands of children who receive private scholarships.

The momentum behind the enactment of choice programs is a result of both proven results and favorable public opinion. Research shows that there is a positive link between choice programs and increased student achievement and parental satisfaction. Choice programs also generate dramatic improvements for African-American students located in urban areas. Just as importantly, the competition created by choice spurs public schools to improve their performance. A recent study by Jay Greene of the Manhattan Institute found that, as a result of competition, lower-performing public schools in Florida improved in direct proportion to the challenge they face from competition created by opportunity scholarships. In poll after poll since 2000, a majority of Americans have indicated that they are in favor of school choice. Minorities are strongly in favor of choice. According to a 2002 survey by the Joint Center of Political and Economic Studies, 57% of African-Americans support school choice. According a 2000 survey, 74% of African-Americans from households with children support school choice. According to a 2003 poll conducted for the Latino Coalition, 57% of Hispanic adults support school choice. In short, school choice is both a good, and popular, policy.

House Education Committee

Date: 3/16/04

Attachment # 3-1

At IJ, we are always asked to testify as to what legal challenges might be brought against a school choice program, particularly under the Establishment clause of the federal constitution and the religion clauses of state constitutions. We have repeatedly dealt with these issues in the defense of school choice programs, because those are the issues on which our opponents have primarily relied. They always contend that programs that allow students to attend religious schools are unconstitutional. For reasons I'll now explain, they're wrong.

Any federal constitutional challenge to a program like the one you are considering today would be frivolous. The United States Supreme Court has removed any doubt as to the constitutionality of school choice programs, such as the one you are considering today, under the Establishment Clause of the federal constitution. In *Zelman v. Simmons-Harris*, IJ represented parents whose children were attending non-public schools in the Cleveland school choice program and successfully defended the program against legal attack. The Court ruled that Cleveland's program did not violate the federal Establishment Clause because it possessed two important characteristics. First, it was neutral toward religion. Second, participants made genuine and independent choices as to where they would attend school. The legislation you are considering today passes both of those tests. Religious schools receive no special treatment under the proposed legislation, and parents can make an independent choice as to what school they wish their children to attend. Recognizing this fact, opponents of school choice have all but abandoned any legal attacks grounded in the federal constitution.

I also believe that the religion clauses of the Kansas constitution do not present a significant obstacle for the proposed legislation, which allows all non-public schools, religious and non-religious, to participate. However, because opponents of school choice can always be expected to raise these issues, it's worth spending some time discussing them so that any misconceptions or fears can be dispelled. The first religion clause in the Kansas constitution I'll discuss is called a "compelled support" provision; it's found in Section 7 of the Bill of Rights and says that no person shall be compelled to attend or support any form of worship. 28 other states also have compelled support provisions, which were intended to address, and stop, the Colonial era practice of requiring church attendance and support for the state's established church. Opponents of choice argue that the incidental benefits accorded to religious schools that participate in choice programs violate these clauses. However, no compelled support clause has ever been used to invalidate a school choice program. Only in Vermont has a compelled support clause been used to exclude religious schools from such a program. Wisconsin and Ohio have compelled support clauses, but they have not rendered the Milwaukee and Cleveland programs unconstitutional. And that makes perfect sense: These clauses were intended to stop the direct funding of an established church; they were never meant to be applied to programs that are both neutral toward religion and provide for the genuine and independent choices of parents.

The next religion clause in the Kansas constitution I'd like to discuss is part (c) of Article 6, Section 6. That clause states that "no religious sect or sects shall control any part of the public educational funds." This clause, because it denies the appropriation of public

funds to religious sects, is of a type commonly referred to as "Blaine amendments." These are found in 37 of the state constitutions, and are named after a failed constitutional amendment proposed by Senator James G. Blaine of Maine in 1875. The amendment was directed primarily at efforts by Catholics to obtain direct state funding for their schools, which they had created because of their unwillingness to send their children to the Protestant-oriented public schools. Although the public schools of that period were called "nondenominational" and "nonsectarian," those descriptions did not mean that they were non-religious or non-secular in today's terms. It meant only that they did not teach the doctrine of any particular Protestant sect or denomination in the course of conducting religious activities, such as school prayer, Bible reading and lessons, and hymn singing. In other words, "nonsectarian" meant "Protestant"; "sectarian" was a code word for "Catholic."

Catholics and other religious groups understandably did not want to send their children to the Protestant-dominated public schools, and instead wanted to own and maintain schools of their own. When Catholics began asking for direct public funding of their schools, politicians such as Blaine saw an opportunity to take advantage of growing nativism and anti-Catholic animus in the country for political advantage. The vast majority of Catholics were Democrats, and Blaine, a Republican, wanted to use growing fear of Catholics to gain popularity for a presidential run. He led the charge to pass a constitutional amendment to ban public funds from going to Catholic schools. He and others wanted to make sure that all students attended a public school system dominated by Protestantism. Although he obtained a large majority of support in both houses of Congress, he fell short of the supermajority required for passage. Unfortunately, this setback was only temporary. Supporters of the Blaine amendment were able to force new states to include the language in their state constitutions as a condition for admission into the Union. Additional states added Blaine-like language on their own, joining states, like Kansas and Massachusetts, whose Blaine-like language predated efforts to pass the federal amendment.

The point of this trip through history is two-fold. First, it's significant that the Blaine Amendments were aimed at attempts by Catholics to receive direct funding for their schools. Thus, they should have no application to a program in which religious schools receive indirect benefits only as a result of the independent choices of parents. Parents, not schools, control the direction of funds in the program. Second, applying Kansas' Blaine Amendment to strike down the choice program would unnecessarily link it with the discrimination that is generally associated with those amendments. I believe Kansas courts would strive to avoid such an interpretation, just as the state supreme courts of Wisconsin and Arizona, as well as two Illinois appeals court, have. Certainly, there is no state court precedent from Kansas that demands such an interpretation. In litigation over Florida's program, a state trial court said that that state's Blaine amendment rendered the program unconstitutional, but that ruling is an aberration that we believe will eventually be overturned on appeal. The United States Supreme Court has reserved the question of whether a Blaine amendment can constitutionally be used to discriminate against religious options, but existing Supreme Court precedent suggests that the answer is "no."

Ultimately, the best way to interpret state religion clauses is in a parallel fashion with the federal First Amendment. I should note that in 2000, the Kansas Attorney General said that proposed school choice legislation would violate the religion clauses of the state constitution. However, a review of that opinion and of Kansas precedent indicates that no Kansas court has interpreted those provisions in the context of a program like an opportunity scholarship program – where any incidental or indirect benefits to religious institutions are the result of the individual choices of parents. Moreover, the Attorney General’s opinion failed to note that, in its 1965 report on the Education Amendment to the Kansas constitution, the Committee on Education of the Legislative Council indicated that Kansas’ Blaine amendment does not prohibit the appropriation of funds to indirectly benefit private institutions.

The bottom line is that there are no significant legal obstacles to passing a school choice program in Kansas. To be sure, no matter how well-crafted school choice legislation is, opponents of school choice – particularly the large teachers’ unions – can be expected to challenge it. A couple of years before the Supreme Court decided that properly crafted school choice programs did not violate the federal constitution, an attorney for one of the teachers’ unions promised to raise what he called “Mickey Mouse” claims to challenge every single choice program. That fact should not dissuade you from passing this important legislation.

What should persuade you to pass this legislation – or at least legislation similar to it – is that 50 years after *Brown v. Board*, the promise of real educational opportunity for all has not been achieved within the traditional public school system. However, in places like Cleveland, Milwaukee, and Florida, opportunity scholarships are beginning to fulfill that promise. Parents are demanding choice for their children because they want what’s best for their kids. Good things happen when you place the power of educational choice in the hands of parents. I can think of no better way to commemorate the 50th anniversary of *Brown* than for this legislature to give Kansas parents that choice.

Subject: HB 2906
Date: 03-16-04
From: Craig E. Barbee
Chairman of the Board
Emporia Christian School
Emporia, Kansas

My name is Craig Barbee and I would like to voice my personal support for House Bill 2906 an act concerning the provision of financial assistance for kindergarten through twelfth grade for disadvantaged children.

I have been on the board of directors of a private school for 13 years. I am currently serving in my 3rd term as the Chairman of the Board. Our school is a multi denominational school serving over 20 different churches in a 5 county area. We are in our 12th school year. The teachers in our school are all state certified. Our vision and mission statements are attached to the written statement you have been given.

Recently we performed a survey of our graduates to gauge the success of our mission. In that survey we found that the graduates of Emporia Christian School:

- 1) Have had an average High School GPA of 3.74 (with 7 subjects that is equivalent to 5-A's and 2-B's)
- 2) Have had 33% on the National Honor Society
- 3) Have had 81% that graduated with honors
- 4) Have had 83% that went on to attend College
 - a) Of those that attended College 90% received Academic Scholarships
 - b) Of those College graduates we have several that have come full circle and are now State certified Teachers working in Schools in Kansas, two are now teaching in our school.
- 5) Have scored in the top 25% nationwide in standardized national tests that are administered to millions of students annually.

In the late 90's we also had a High School. When we ended that program 2 of our students that had completed our 10th grade decided to go on to college rather than enter the public high school. They took their ACT's and both scored above the 90 percentile of graduating seniors even though they had only completed the 10th grade in our school. Those 2 students went on to graduate

from Emporia State University 2 years early. One graduated Suma Cum Laude as an elementary educator.

In our early years we had to prove ourselves to the local public high school and they had every right to want to test our graduates. In the years that have passed our students have not only been welcomed; they have been given options to take honors classes even in their first year of attendance. Our graduates have bolstered the GPAs of our local high school as well as the high school's over all ACT scores.

We have seen hundreds of families over our 12 years that have wanted to give their children that opportunity yet couldn't afford the investment. Some have turned to home schooling if they could afford that and felt that they could accomplish that task. We currently have a tuition cost of \$2800 per child. We offer need based financial aid for families that qualify. That aid is supplied by donations, given by local businessmen and women that see our school as a beacon of hope for our local community as well as the larger community of our State and Nation.

We believe that our school has met or exceeded our vision and mission and would like to offer those opportunities to every student that desires it.

The program offered by this bill would allow children from low-income families an opportunity to reach beyond the limits that our society has placed upon them. Many children that grow up in lower income families do not have the means to achieve academic levels that would put them in position to receive college scholarships. As a result many are trapped in a vicious circle, growing up poor and then becoming the heads of low-income families. These scholarships would allow these low-income students to attend private schools that have smaller class sizes, offer better-structured curriculum and the atmosphere necessary to achieve academic excellence. This program would allow children to escape the ties that would have otherwise held them in perpetual poverty.

I would like to ask you to give this bill an affirmative recommendation and send it on to the full house for passage.

HB 2906
Amendment Proposals
Craig E. Barbee

Page 3, Sec. 5, Line 35

Amend: "Within 15 days after receiving the application,..."

To: "Within 30 days after receiving the application,..."

Or: "Within 15 business days after receiving the application,..."

Basis for change: Many times with student applications we need time to check references and if a Board decision is needed we would need to call a special meeting and that alone can sometimes take 3-5 days to get a quorum for a meeting. Add to that; mail time and the potential to have 20-30 applications arrive within a 2-3 day period and the original 15 days requirement is very narrow. (In section 4 we give the school that is receiving the initial application for the program 45 days to notify the applying parent they have been accepted into the program.)

Page 4, Sec. 6, Line 20

Amend: "... to administer statewide assessments to the eligible children attending the nonpublic school pursuant to this act;"

To: "... to administer statewide assessments or other recognized national standardized tests such as the Stanford Achievement Test to the eligible children attending the nonpublic school pursuant to this act;"

Basis for change: One difficulty with testing only with the State assessment test is that they only test a few subjects annually. Another difficulty would be; if a local school district wishes to test the student with their test and the student is going to be tested by the nonpublic school, the student could be spending two different weeks taking both tests. The scheduling of the testing will prove to be difficult for both schools and especially difficult for the student if they have to miss school to take the State test and then return to take the nonpublic school test. The Stanford Achievement Tests and others like it test every subject each year. These tests, at our school, are already part of the tuition, which would reduce the costs that would be born by the local school districts. The Stanford Achievement Test is given to millions of school children each year all across the country by public school districts as well as nonpublic school districts.

Page 5, Sec. 6, Line 7

Amend: "The information may be either in an electronic format or in a mailing to parents. If the school district receives private moneys sufficient to pay for a mailing to the parents, the school district shall provide the information to the parents in such a mailing."

To: "The school district shall provide the information to the eligible parents in a direct mailing and should the school district have a web site the notice shall be posted on such web site."

Basis for change: The bill uses “ifs” which mean ‘you don’t have to do this’ in legal language. Without direct language guiding this action, the parents may only learn of this opportunity ‘if’ they watch the local cable channel that makes announcements or ‘if’ they have internet and they go to the school web site and happen to stumble upon the information. The people we are trying to help don’t always have access to either of these ‘electronic’ media. If they do have access to cable and the internet, they most likely won’t be checking for this information in either of these electronic locations.

Page 6, Sec. 8, Line 11

Amend: “Twenty-five percent of the amount described in subsection (b) of this section in September, 25% of the amount in February, and the remainder in May.”

To: “Twenty-five percent of the amount described in subsection (b) of this section in September, the remainder in monthly installments to be paid at the beginning of the month of November and each successive month that the child remains in the nonpublic school.”

Basis for change: Paying at the beginning of the month ensures that the nonpublic schools will be paid through the month of any withdrawals. This would also ensure that the nonpublic schools would not be left bearing the cost of the program. If a child withdraws under the current revision of the bill, the nonpublic school might receive only the initial 25% even if the student withdraws in January. If the student withdraws in April the nonpublic school would only receive 50% pay even though the student attended for 90% of the school year.

EMPORIA CHRISTIAN SCHOOL
STANFORD ACHIEVEMENT TEST (SAT) RESULTS FOR 2001-2002 YEAR

(Percentile Rankings)

<u>Grade</u>	<u>Reading</u>	<u>Math</u>	<u>Basic Battery*</u>	<u>Complete Battery**</u>	<u>OLSAT***</u>
K	91%	93%	87%	86%	N/A
1 ST	91	93	87	86	81%
2 ND	84	81	79	78	64
3 RD	68	85	71	69	77
4 TH	85	79	72	74	N/A
5 TH	67	70	67	66	65
6 TH	81	77	70	73	N/A
7 TH	93	98	94	95	95
8 TH	<u>82</u>	<u>86</u>	<u>85</u>	<u>86</u>	<u>N/A</u>
SCHOOL AVERAGE	82%	85%	79%	79%	76%

* **Basic Battery** includes Total Reading (Phonics, Word Recognition, Vocabulary, and Reading Comprehension), Total Math (Problem Solving and Procedures), Language Arts, Spelling, Listening, Using Information and Thinking Skills.

** **Complete Battery** includes all that is in the Basic Battery plus Environment, Social Studies and Science.

*** **OLSAT** is the acronym for the Otis/Lennon School Age Ability Test. The OLSAT is administered in grades 1, 2, 3, 5 and 7. It is like an I.Q. test, measuring a student's ability rather than his/her achievement. Achievement is measured by the SAT. This test allows us to compare students' achievement in relation to their ability. The percentages indicate that 00% of our students are achieving at or above their ability level. A more individualized assessment is possible so that we can help students raise this score. As in all forms of assessment, a track record, year after year, is very useful in helping students further develop their greatest strengths, and to improve areas of less strength.

GENERAL OBSERVATIONS

Reading and Math scores rank in the upper 18 and 15 % in the nation, respectively; Basic and Complete Battery scores are in the upper 21%. The OLSAT score reveals that the students' ability level is also high, but not quite as high as the achievement scores. The goal in education is that students would achieve at or above their ability level. Not obvious in this report is the fact that the longer we have students, the better they tend to do on their assessments.

2001 SAT Results
(Percentile Rankings)

<u>Grade</u>	<u>Reading</u>	<u>Math</u>	<u>Basic Bat.</u>	<u>Complete Bat.</u>
1 st	84	91	83	82
2 nd	78	88	74	73
3 rd	61	81	68	69
4 th	67	80	67	68
5 th	73	85	77	79
6 th	90	85	84	84
7 th	<u>75</u>	<u>72</u>	<u>71</u>	<u>70</u>
AVG.	75	83	76	75

EMPORIA CHRISTIAN SCHOOL (ECS) MISSION STATEMENT

Emporia Christian School exists for the purpose of educating children in spirit, mind and body. The school's primary goals are to develop academic excellence, moral integrity, and spiritual depth. Christian precepts and teachings are presented as an integral part of the curriculum. To accomplish this mission, we purpose to do the following:

1. Help our students to develop a close personal walk and relationship with Jesus Christ.
2. Educate and nurture future Christian leaders.
3. Provide students with instruction emphasizing academic excellence, moral integrity and strong biblical principles.
4. Provide students with the tools they will need to be leaders both now and in the future, and to commit them to God.
5. Teach students how to be equipped with the whole armor of God. (Ephesians 6:10-18)

March 16, 2004

Gentlemen,

Thank you for the opportunity to comment on HB 2906. I strongly support this bill and encourage passage of this legislation. There are several notable points about this bill.

- 1) **This bill provides for choice.** The rest of the world is envious of America because we are free – and we have freedom of choice. This bill allows families to make choices – and send their children to a private school of their choosing; this is a choice that they might not otherwise have.
- 2) **This bill is fair.** It helps those who need it most. Out of all of the ways that we can help families, I cannot think of a better way to help people than to assist them acquire an education at a school of their choosing.
- 3) **This bill makes sense.** Currently, families that send their children to private schools pay both the private school tuition and taxes. From a taxpayer's perspective, this bill offsets the burden that tax-paying families currently incur.
- 4) **This bill encourages competition.** Competition brings out the best in individuals and institutions. This bill serves to challenge and, ultimately, improve the current public school system.

I believe that there are many good public school systems within the state and my comments are not intended to imply otherwise. However, the fact exists that the school I superintend is currently in its 55th year – we continue to exist because we meeting a need within our community. There are many such schools within the state.

Families send their children to private schools for many reasons: religious instruction, quality of education, staff-to-student ratio, safety of their children, and a myriad of other reasons (both perceived and real). Yet, these families who choose to send their children to my school or any other private school are penalized for making this choice. They continue to be law-abiding citizens and pay taxes as well as the tuition. I am convinced that this is not what our founding fathers intended, but is more what you would find in a socialist country – no choice, but rather the unwritten mandate that all must attend the government-sponsored school.

I thank God for our freedoms and this bill is a step to granting more freedom to Kansas families.

Thank you for your time.

Sincerely,



Alan R. (Bob) Goodrich
Superintendent, Independence Bible School
2246 S. 10th Street
Independence, Kansas 67301
(620) 331-3780/3781
IndBibleSchool@juno.com

House Education Committee

Date: 3/16/04

Attachment # 5

House Education Committee
March 16, 2004 – 313-S



6301 ANTIOCH • MERRIAM, KANSAS 66202 • PHONE/FAX 913-722-6633 • WWW.KSCATHCONF.ORG

Testimony in Support of H.B. 2906

Madame Chair, members of the Committee:

Thank you for the opportunity to testify this morning in support of H.B. 2906, the Kansas Opportunity Scholarship Program for “at-risk students”. My name is Beatrice Swoopes and I am the Associate Director of the Kansas Catholic Conference, the public policy office of the Catholic Church in Kansas.

There are several notable goals contained in this proposed legislation. One of these is to provide equal educational opportunity in Kansas.

The Catholic Church has a long tradition of providing quality education in this state and nationally. Recent figures from the Official Catholic Directory of 2003 indicate that in Kansas alone, the Catholic Church that year, educated over 23,096 students in 96 elementary schools, 6,561 students in 14 high schools, and almost 5,000 students in 4 Catholic Colleges.

The Catholic Church believes that:

All persons, by virtue of their dignity as human persons, have an inalienable right to receive a quality education. We must ensure that our nation’s young people – especially the poor, those with disabilities, and the most vulnerable – are properly prepared to be good citizens, to lead productive lives, and to be socially and morally responsible in the complicated and technologically challenging world of the twenty-first century.–Taken *from Faithful Citizenship, A Catholic Call to Political Responsibility*, by the Administrative Committee of the United States Conference of Catholic Bishops.

MOST REVEREND GEORGE K. FITZSIMONS, D.D.
DIOCESE OF SALINA

MOST REVEREND JAMES P. KELEHER, S.T.D.
Chairman of Board
ARCHDIOCESE OF KANSAS CITY IN KANSAS

MOST REVEREND THOMAS J. OLMSTED, J.C.D., D.D.
DIOCESE OF WICHITA

MOST REVEREND RONALD M. GILMORE, S.T.L., D.D.
DIOCESE OF DODGE CITY

MOST REVEREND EUGENE J. GERBER, S.T.L., D.D.
RETIRED

MOST REVEREND MARION F. FORST, D.D.
RETIRED

MICHAEL P. FARMER
Executive Director

House Education Committee
Date: 3/16/04
Attachment # 6-1

In this same document, under *Moral Priorities for Public Life – Promoting Family Life*, the bishops also state:

The education of children is a fundamental parental responsibility. ... Parents – the first and most important educators – have a fundamental right to choose the education best suited to the needs of their children, including private and religious schools. Families of modest means especially should not be denied this choice because of their economic status.

Unfortunately, many parents, especially those in the inner city, and some rural areas, have no alternative except to send their children to poorly performing schools. Parents in middle and upper class communities have long practiced school choice. They have the ability to send their children to schools where they would get the best possible education. This option should not be closed to low-income parents.

We feel a strong government school system is in everyone's best interest, and the Conference supports the public school system, which educates the vast majority of children, Catholic and non-Catholic alike. But we also feel society is not fully served when we fail to recognize that what is truly in the best interest of children is not simply a strong government school system, but a **strong educational system** that includes government, religious and private schools.

Many states, now including Kansas, face litigation that challenges the equity of their education funding formulas. H.B. 2906 presents an opportunity to address this concern.

I can remember my parents saying, "Education is the poor child's ticket out of poverty". H.B. 2906 could provide that ticket by meeting the educational needs of high-poverty, at risk children, and by providing parents with more options for their children's future.

In a continued commitment to quality education for all children the Kansas Catholic Conference supports H.B. 2906. All parents must be empowered to make the best decisions in the raising of their children, particularly when it comes to education.

Thank you,



Beatrice E. Swoopes
Associate Director

KANSAS TAXPAYERS NETWORK

www.kansastaxpayers.com

P.O. Box 20050
Wichita, KS 67208
16 March 2004

316-684-0082
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Testimony Supporting H.B. 2906

Karl Peterjohn
Exec. Dir.

There are many problems facing public schools and school finance. H.B. 2906 is an attempt to address one part of this problem and that is improving the education for at-risk students. There is a need for a change in the incentives and a way to provide positive feedback that should empower the at-risk students and their families. That is the opportunity scholarship approach contained within this legislation.

As an advocate for the largest taxpayer group in Kansas we are continually looking for a more productive use of existing tax dollars being spent by the state. This state should be getting so much more for the over \$4 billion in all tax funds spent on Kansas public schools last year.

We believe that H.B. 2906 provides an excellent prospect for achieving an improvement at no new tax cost or increased spending to Kansas taxpayers. While this is an important outcome I believe an equally important point is this bill's ability to provide more choice in educational options for at-risk students at the same time there are stronger incentives for all of the schools trying to meet these students educational needs to improve.

As legislators you face a number of difficult choices in the school finance debate in 2004. H.B. 2906 provides a way to empower families that often feel like they have the fewest choices and the least ability to control their destinies through the opportunity scholarships offered as part of this legislation.

There are other states that are much further along in implementing these scholarships. There is a model based upon what Colorado enacted last year that Kansas can follow in meeting these students' educational challenges. The Kansas Taxpayers Network urges this committee to approve H.B. 2906.

House Education Committee

Date: 3/16/04

Attachment # 7

Testimony of Delia Barnett
In support of HB 2906
Before the House Education Committee
March 15, 2004

I, Delia Barnett, am the Program Administrator of Holy Savior Catholic Academy. Holy Savior Catholic Academy is a predominantly African American school. Its ministry is to the African American community. The school barely holds it own, financially, from year to year due to the reduced tuition rates and the assistance given to families that still have difficulty expending an additional \$200.00 per month from their monthly budget. In addition the teachers agree to receive reduced salaries in order to reduce the school budget. Yet, Holy Savior Catholic Academy is committed to servicing the "at risk" population in Northeast Wichita and surrounding areas. Holy Savior Catholic Academy is often the last stop for the students it serves. Holy Savior Catholic Academy services 75% low SES families. Due to smaller class sizes, a personal atmosphere, and more individualized attention, "at risk" children tend to have success at Holy Savior Catholic Academy that may have not otherwise been achieved. If the goal is to help "at risk" students, lets help all "at risk" students by sharing the load. By utilizing non-public schools, public schools can reduce class sizes and students in both environments can receive more individualized instruction from their teachers.

Kansan Association of Independent and Religious schools (KAIRS), in which Holy Savior Catholic Academy is a member, in their 2001 Public Policy Agenda states very eloquently that, "We who represent independent and religious schools respect public education and consider public educators to be our partners, not competitors. We respectfully point out that recent legislation and school funding have been inherently unequal. We believe that this legislation has been detrimental to educational achievement as a whole, and in particular, for those who have the fewest choices; low-income families." KAIRS consists of a total of 159 schools 132 elementary, 26 high schools, and 1 Early Childhood Center. These combined schools service over 38,000 students and over 25, 000 families. High school graduates are over 1,800 and the average ACT score is 22.6. There are a total of 2,727 teachers employed by these schools.

It is a myth that non-public schools do not service "at risk" students. We currently service approximately 6,000 "at risk" students. Resources however are a problem. A single parent, usually a woman, disproportionately heads these "at risk" student families. "At risk" students are identified as those qualifying for free and reduced lunch. These families as stated above are the least likely to have the opportunity to choose a school for their child. Middle and upper class families can move to another school district in the suburbs or pay tuition. Everyone has choice except the poor.

These opportunity scholarships proposed in this bill will incur a very small net cost to the state because it will take the amount of state aide and split it between the public and the non-public school. Therefore if the state aide per pupil were \$5500.00, the non-public school would receive \$2750.00 and the public school would receive \$2750.00.

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Special Education is a good example of how the law works well in Wichita. The public schools work closely with the non-public school to provide special needs services to students who are attending non-public institutions. This partnership has worked well between the two systems and students are receiving needed services from the public school system.

Parent choice is important in that parents are happy when they are allowed to choose their child's school. It may be a magnet school or a private school. However, this choice instills ownership, which then becomes involvement. Evidence has shown that students are more successful when there is active parental involvement.

This bill will require students to be tested and the state has every right to those results. This bill however will not help students who are already in non-public schools. This is a major starting point and can benefit the students and families who need the greatest amount of assistance.



Mark Desetti, testimony
House Education Committee
March 16, 2004
House Bill 2906

Madame Chairman, members of the committee, thank you for the opportunity to appear before you today to speak on **House Bill 2906**.

We are somewhat surprised to see such a bill before this committee this year. In light of the ruling by Judge Bullock, the unfunded mandates of No Child Left Behind, and the perilous condition of school finance in Kansas in general, it seems counterintuitive to be considering a bill that puts additional burdens on public schools.

Our public schools are already working under the requirements of the State Board of Education and the Federal Elementary and Secondary Education Act to close the achievement gap by addressing the needs of at-risk students. We are making slow but steady gains. Our schools are implementing the supplementary services required under NCLB. What does the state hope to gain by moving some children out of public schools and into private institutions?

One of the things of which we are most proud in the public education system is that we turn no child away. Regardless of what a child brings to our schools, we take that child in. If we have no more desks, we take the child in. If the child speaks no English, we take the child in. It is our mission to serve every child within our borders and we do it gladly.

That is the great difference between public and private education. The private school can and does discriminate. The private school can discriminate based upon religion and HB 2906 allows this. The private school can set admissions criteria to turn away students who are likely not to meet high standards and HB 2906 allows this. The private school can turn away a child with a discipline history or expel a child for a disciplinary infraction and HB 2906 allows this. A private school can cap its enrollment and turn children away and HB 2906 allows this. Then, HB 2906 takes money away from public schools to do all this.

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In addition, HB 2906 demands that public schools in essence advertise private schools and assist parents in accessing them. If one promotes vouchers as "competition," HB 2906 is the equivalent of requiring Pepsi to tell consumers, within every Pepsi ad, that Coca Cola is an option.

HB 2906 sends children off to private schools with public funding and then requires public schools to pay for and administer tests to those children who left. Public schools today are not required to test private school students. Private schools who wish to be accredited must test and report the results for students that attend the private school. How is it appropriate that public schools be accountable for testing private school students?

Private schools have a place in our society. Parents should have the option of choosing to send their child to a school that discriminates, has admission standards, keeps discipline problems out, or presents curriculum within the construct of particular religious beliefs. But tax dollars should not be used to support such a system. Tax dollars benefit society at large, not a few select persons.

Vouchers are not good policy. They do not improve schools, they simply segregate them. Private schools in Kansas with similar populations to public schools get the same results. There is little to be gained from a voucher scheme.

We urge this committee to reject HB 2906 and turn its attention to appropriately funding the great public schools that Kansas has come to enjoy and expect.

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

Testimony on
HB 2906 – School Voucher Program

Before the
House Committee on Education

By Mark Tallman, Assistant Executive Director/Advocacy
March 16, 2004

Madam Chair, Members of the Committee;

Thank you for the opportunity to appear today in opposition to **HB 2906**, which would provide public funding for students attending private schools. KASB has a long-standing policy position against this concept, which would apply to this bill specifically, based on the following reasons.

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

Vouchers are often said to be aid to families, not private schools. In fact, vouchers, like public school funding from the Legislature, are the use of public funds, raised through taxation, to pay for the cost of operating a school. Under **HB 2906**, the parents never see any actual money. The public school district issues a check that is sent to the private school, which “the parent shall restrictively endorse for the sole use of the participating non-public school.” 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.

Let’s be honest. A voucher system simply extends public funding to private schools. However, that violates the Kansas Constitution, which is the fundamental law adopted by the people. Article Six 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 changed 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.

Furthermore, Article Six, subsection six, (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. Obviously the monies provided in this bill are “education funding.” The money would come from public school districts! Any school controlled by any

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church cannot receive public funding for education purposes. **HB 2906** or any voucher plan that transmits public funding to private religious schools is unconstitutional on its face.

2. Private schools should not receive public funding because they are not required to operate in the same manner as public schools: there are “different rules.”

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 Kansas State Board of Education, or I can vote to throw the rascals out.

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. As a private institution, it is none of my business; but when I am funding it, it become my business.

Because of the differences between a publicly supported and private, independent school, state and federal laws regulating each are dramatically different. These differences are spelled out in detail in the KASB publication, *Different Rules*. 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 **HB 2906**.

Current Law: Public Schools

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

Must serve children regardless of educational ability or special needs.

May only expel children after due process and for limited periods of time 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.

HB 2906: Non-Public Schools

May determine how many “eligible children” to enroll.

May establish any admission criteria, as long as the school does not discriminate on the basis of race or national origin. That means the school can discriminate on any other basis.

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

May offer whatever courses and programs they wish, which may be much less expensive than many programs required of public schools.

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

Are not required to provide transportation or free textbooks.

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

May charge whatever tuition and fees the school deems appropriate.

Must comply with the Kansas Open Meetings and Open Records Act.

Are not required to comply with these acts.

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

Parents already have educational choice in Kansas. Children may attend any school that meets that requirements of 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 physically attend the school.

Let's look more closely at **HB 2906**.

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 participating private 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.

Public schools are not opposed to the idea of choice; in fact, the past 10 years has seen an explosion of new opportunities for students: magnet schools, charter schools, alternative schools. Thousands of students attend districts where they are not residents under local policies; tens of thousands are given choices of schools within districts. If public schools assign children to a particular school or refuse to admit students from other schools or districts, it is almost always because of space or program limitations; by an understandable desire to first meet the needs of children required or entitled to attend that school.

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

Voucher supporters often argue that at least some 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. All public schools and state accredited private schools participate in the Kansas assessment program. As this committee is well aware, these tests show that there is a significant difference in student academic performance between economically disadvantaged children and children with families of higher incomes.

Several years ago, KASB reviewed information provided in state assessment and other reports and found that private schools have the same kind of "achievement gap" that public schools face. In other words, the more low income children a school enrolls, the lower its test scores tended to be.

For this testimony, we need look no farther than a special supplement to the *Kansas City Star* from Oct. 26, 2003. This newspaper used state assessment information and surveyed private schools to provide comparisons of performance of schools in the Kansas City area. I have attached a summary looking at private schools and school districts on the Kansas side of the state line. It groups private schools with public schools that have similar populations of low-income students – the same students that would be affected by **HB 2906**.

This information makes two points very clear. First, that as the percentage of low-income students increases, the test scores of that school tends to fall. Second, when the percentages of low-income students are the similar, public and private schools have similar academic results.

The argument that vouchers will help close the achievement gap has no foundation in fact. That brings us to our final point.

5. A voucher system will harm public education by casting it as the "choice of last resort."

The message the Legislature would send by enacting a voucher plan like **HB 2906** is that public schools are failing. As we have seen, it is easy to simplistically look at school report cards and other information to suggest that our most challenged public schools are "failing," even though the evidence suggests that if private schools served the same population, they would have the same results.

This bill limits participation to low-income students, not students that are struggling academically. As this committee knows, some low-income students do very well, and some higher-income students struggle. Nothing in this bill requires non-public schools to accept low-performance low-income students.

Among the parents of children at challenged public schools, which 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.

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.

Thank you for your consideration.

**Comparison of Kansas City Area Private Schools and Public School Districts
Based on Low Income Students Enrolled**

(Source: Kansas City Star, October 26, 2003)

High Schools

	% Low Income	% At or Above Proficient in	
		Math	Reading
<i>(5% or less low income)</i>			
Bishop Miege	0%	51.4	57.1
Immaculata	5%	58.9	65.9
Blue Valley	2.1%	65.2	70.4
<i>(15% to 30% low income)</i>			
Bishop Ward	25.5%	24	52.3
Gardner Edgerton	19.1%	52.8	59.4
Tonganoxie	20.5%	37.7	65.5
Bonner Springs	28.9%	28.9	47.9

Elementary/Middle Schools

	% Low Income	% At or Above Proficient in	
		Math Middle/Elem.	Reading Middle/Elem.
<i>(Less than 5% low income)</i>			
Ascension	0.2%	72.3/83.7	86.9/76.0
Cure of Ars	0.0%	83.7/83.6	92.9/77.1
Good Shepard	0.0%	73.3/87.6	90.9/93.7
Holy Cross	0.0%	78.0/84.4	89.3/82.6
Holy Spirit	1.0%	84.7/81.5	86.5/83.7
Holy Trinity	1.0%	72.6/89.7	88.0/72.1
Nativity Parish	0.0%	79.4/82.7	96.1/85.9
Prince of Peach	1.7%	78.8/83.2	85.4/74.0
Queen of Holy Rosary	4.9%	70.8/90.9	83.3/82.3
St. Ann	0.0%	78.7/68.2	95.4/NA
St. Joseph	1.2%	70.4/95.4	75.3/68.8
Christ the King	0.0	67.6/71.4	73.7/52.2
Blue Valley	2.1%	78.1/89.9	86.0/87.7

	% Low Income	% At or Above Proficient in Math Middle/Elem.	Proficient in Reading Middle/Elem.
<i>(5% to 15% low income)</i>			
St. Paul	11.1%	88.0/66.9	94.7/55.6
St. Pius X	11.0%	70.6/61.5	76.5/64.7
Xavier	7.0%	47.8/70.3	84.4/78.6
St. Paul	8.0%	84.6	63.1
DeSoto	11.7%	67.1/72.4	61.8/77.2
Olathe	11.7%	78.1/83.1	78.9/81.4
Shawnee Mission	12.3%	75.5/87.2	79.7/83.9
<i>(15% to 50% low income)</i>			
St Agnes	23.0%	63.0/65.0	81.6/74.5
St. John/Holy Family	19.0%	NA/NA	54.5/62.5
Gardner-Edgerton	19.1	63.2/90.5	74.9/68.3
Tonganoxie	20.5	54.3/60.8	78.6/71.6
Bonner Springs	28.9	40.8/67.2	56.6/59.9
<i>(50% to 70% low income)</i>			
Holy Name	52.0%	30.8/11.8	NA/52.6
Our Lady of Unity	54.0%	NA/58.3	80.0/21.4
Turner	49.1%	29.1/58.1	46.9/57.0
<i>(Over 70% low income)</i>			
Cathedral of St. Peter	75.0%	41.9/34.8	72.3/68.0
Kansas City Kansas	73.6	29.1/43.3	57.3/48.2

Tyro Community Christian School

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March 15, 2004

As an administrator of a private Christian school I am happy to support House Bill 2906. I think this bill would provide much needed assistance for "at risk" students and their families.

Respectfully,

Terry Byrd
School Administrator

House Education Committee

Date: 3/16/04

Attachment# 11

Olathe Public Schools
Gary George, Ed.D.
March 16, 2004
HB2906

We are submitting written testimony in opposition to HB2906.

As one reviews HB2906, a number of problems become evident. First, the state aid per pupil definition grossly overdetermines the amount of aid available. It includes all funds received by school districts from the state treasury divided by the unweighted full-time equivalent student population. This will substantially increase the amount available. This figure would include state aid for the general fund, the LOB fund, special education aid, school lunch aid, Parents-as-Teachers aid, and bond and interest aid. We believe the state aid in these programs has been set up over the years to provide assistance for selected programs and there was never any intent for it to be used to support a voucher program. In the case of special education, the district is still required to provide these services. In the case of bond and interest aid, a school district will still have to meet its debt obligations even though some of the aid is not available. This makes no sense.

A second major objection is that HB2906 permits discrimination as long as such discrimination is not based on race or national origin. We question the use of tax dollars that support a voucher to an organization that could discriminate in its admission or other policies as long as such discrimination was based on factors other than race and national origin.

A third major concern occurs in Section 6 where the local school district must incur the cost of administering the state assessment test for an education it did not provide. This is an unfunded mandate.

A fourth concern is that the school district is charged with providing information about the program including applications to students and their families. This is an unfunded mandate. It makes no sense to saddle schools with additional obligations at a time when we are operating on reduced budgets.

A fifth concern is that the bill makes no requirements on the nonpublic school to account for the money it receives, conduct audits, make its audit public, etc. Further, the nonpublic school is not required to be accredited or use teachers who have valid Kansas teaching certificates. We could go on, but the point is that the state has determined that public schools which receive tax dollars must meet a long list of requirements and be accountable to the public. This bill proposes to send tax dollars to nonpublic schools with almost no safeguards that the public's money is being used wisely or that the school meets minimal accreditation requirements.

There are many more reasons to oppose vouchers, but time is limited. Kansas ACT scores are among the highest in the nation. We need to sustain that high level of achievement by fully funding the formula and not draining off precious resources on a voucher program. We all know that if a voucher program is started it will be difficult, if not impossible, to ever shut down. Voucher proponents use the idea of aid to the poor or at risk as a way to start these programs. Once started the strategy can easily shift to expanding the program. We urge you to vote against HB2906 if it is brought up for a vote.

House Education Committee
Date: 3/16/04
Attachment # 12