

MINUTES OF THE HOUSE EDUCATION COMMITTEE

The meeting was called to order by Chairman Clay Aurand at 9:00 A.M. on February 15, 2007 in Room 313-S of the Capitol.

All members were present except:

Representative Deena Horst- excused  
Representative Ted Powers- excused

Committee staff present:

Sharon Wenger, Kansas Legislative Research Department  
Michele Alishahi, Kansas Legislative Research Department  
Ashley Holm, Kansas Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Janet Henning, Committee Assistant

Conferees appearing before the committee:

Dale Dennis, Interim Commissioner, Kansas Department of Education  
Representative Lance Kinzer  
Ron Johnson, Kansas City Autism Training Center  
Matthew Carr, Education Policy Director, Buckeye Institute fo Public Policy Solutions  
Judy Pollard-Licklider, Erin Is Hope Foundation, Inc.  
Gretchen DiGiovanni, parent  
Kris Edington, parent and teacher  
Phil and Susan Carrilo, parent  
Julie Perry, Erin Is Hope Foundation  
David & Charlotte Combs, Erin Is Hope Foundation  
Elizabeth Parsons, Erin Is Hope Foundation  
Jean and Bob Brown, Erin Is Hope Foundation  
Sarah Dondlinger, Erin Is Hope Foundation  
Cynthia and Cy Suellentrop, Blessed Sacrament School  
Michael and Christine Ostroski, Erin Is Hope Foundation  
Maria and William Cospers, Erin Is Hope Foundation  
Valerie Johnson, Erin Is Hope Foundation  
Mark Tallman, Kansas Association of School Boards  
Bill Reardon, USD 500  
Kathy Cook, Kansas Families United for Public Education  
Dr. Gary George, Olathe School District  
Ashley Sherard, V-Pres, Lenexa Chamber of Commerce  
Mark Desetti, KNEA

The Chairman recognized Dale Dennis who spoke to the Committee of FY 2008 projection of Special Education expenditures and excess costs. (Attachments #1 and #2)

**HB 2253: School districts; special needs scholarship program**

Representative Lance Kinzer spoke to the Committee as a proponent of **HB 2253**. (Attachment #3)

Matthew Carr testified as a proponent of **HB 2253**. He stated that while the public schools provide a high quality education to many special needs students, far too many are ill-served by the current IEP process. A voucher program for special needs students provides a complement to the standard legal process-compliance model of accountability by providing a quality alternative for those who need it. The use of such programs should not be seen as an either/or proposition or as creating a zero-sum game for special education dollars. Instead, voucher programs for special needs students help en ensure that all students get the services they need. (Attachment #4)

Ron Johnson spoke to the Committee as a proponent of **HB 2253**. (Attachment #5)

CONTINUATION SHEET

MINUTES OF THE House Education Committee at 9:00 A.M. on February 15, 2007 in Room 313-S of the Capitol.

Judy Pollard-Licklider gave supportive testimony to the Committee regarding **HB 2253**. (Attachment #6)

Written testimony in support of **HB 2253** was received from the following:

Gretchen DiGiovanni (Attachment #7)  
Kris Edington (Attachment #8)  
Phil & Susan Carrilo (Attachment #9)  
Michael & Christine Ostroski (Attachment #10)  
Jean and Bob Brown (Attachment #11)  
Valerie Johnson (Attachment #12)  
Maria & William Coper (Attachment #13)  
Julie A. Perry (Attachment #14)  
Cynthia and Cy Suellentrop (Attachment #15)  
Sarah Dondlinger (Attachment #16)  
Elizabeth Parsons (Attachment #17)  
Gary and Brenda Anderson (Attachment #18)  
David and Charlotte Combs (Attachment #19)

Mark Tallman spoke to the Committee as an opponent of **HB 2253**. (Attachments #20, #21, and #22).

Bill Reardon expressed to the Committee the concerns for **HB 2253**. (Attachment #23)

Kathy Cook spoke to the Committee as an opponent of **HB 2253**. (Attachment #24)

Dr. Gary George testified before the Committee in opposition of **HB 2253**. (Attachment #25)

Mark Desetti also spoke to the Committee in opposition of **HB 2253**. (Attachment #26)

Written testimony in opposition of **HB 2253** was received from Ashley Sherard. (Attachment #27)

The hearing on **HB 2253** was then closed by the Chairman.

The Chairman informed the Committee that three bills would be considered for possible action on Friday, February 16, 2007. The bills included **HB 2090**, **HB 2343**, and **HB 2447**.

The Chairman adjourned the meeting at 10:50 AM. The next meeting is scheduled for Friday, February 16, 2007.

**FY 2008 PROJECTION--SPECIAL EDUCATION EXPENDITURES AND  
EXCESS COSTS BASED ON CURRENT LAW**

Est. FY 2007 Costs			\$ 667,062,460
Percent Inc. (Based on Teacher salary increase avg.)	3.25%		21,679,530
Added Teachers No./Amt.	200 \$	58,775	11,755,000
<b>PROJECTED FY 2008 TOTAL BUDGETED EXPENDITURES</b>			<b>\$ 700,496,990</b>
<b>EXCESS COST COMPUTATION</b>			
Projected Total Expenditures			\$ 700,496,990
Less: Avg. Per Pupil Cost of Regular Ed. (\$6,969)			
times FTE Special Ed. Pupils			
(except SRS residents):	\$	25,923 *	180,657,387
Less: Fed. Aid			96,400,000
Less: Medicaid Reimbursements			11,666,655 **
Less: SRS Contribution			1,500,000
<b>FY 2008 EXCESS COST - 100 Percent</b>			<b>\$ 410,272,948</b>

**EXHIBIT:  
ESTIMATED EXCESS COST FUNDING FY 2008**

Percent of Excess Cost	Amount (THOUSANDS)	Inc. Over FY 2007 (a) (THOUSANDS)	Teach. Unit Amount (b)
100 Percent	\$ 410,273	\$ 87,202	\$ 29,752
95 Percent	\$ 389,759	\$ 66,688	\$ 28,031
92 Percent	\$ 377,451	\$ 54,380	\$ 26,999
90 Percent	\$ 369,246	\$ 46,175	\$ 26,310
85 Percent	\$ 348,732	\$ 25,661	\$ 24,589
80 Percent	\$ 328,218	\$ 5,147	\$ 22,868
75 Percent	\$ 307,705	\$ (15,366)	\$ 21,147
70 Percent	\$ 287,191	\$ (35,880)	\$ 19,427
65 Percent	\$ 266,677	\$ (56,394)	\$ 17,706

\* Computed by subtracting from the projected state total of general fund and supplemental general fund budgets, less special education categorical aid local effort amounts for the preceding year attributable to the transportation, vocational education, bilingual education, and at-risk programs weights. This sum was then divided by the projection year unweighted FTE enrollment.

\*\* Medicaid assumption for FY 2008--eliminate bundled rate reimbursement and go to fee for service, billing is done in 15 minute increments.

- (a) Actual FY 2007 appropriation: \$ 323,071,024  
 (b) For FY 2008, this amount is computed by dividing the amount of the appropriation remaining after amounts for "catastrophic" state aid and transportation reimbursement have been paid by the number of FTE Teaching units.

Amounts are in Thousands:

Est. Catastrophic State Aid	\$	2,300
Est. Transportation Reimb.	\$	53,327
Est. Actual FTE Teaching Units		11,920

Prepared by: Legislative Research Department, Division of Financial Services--State Department of Education, and Division of the Budget--November 20, 2006.

NOTE: KSDE 11/20 est. of current FY 2007 excess cost funding -- 89.0%. FY 2007 25,415 FTE Students; per pupil cost \$6,650.

ESTIMATED SPECIAL EDUCATION EXCESS COST  
2007-08

92 Percent of Excess Cost (\$410,272,948)	\$ 377,451,000
92 Percent Excess Cost	\$ 377,451,000
Less Catastrophic Aid*	2,300,000
Less Transportation Aid**	53,327,000
Subtotal	\$ 321,824,000
Est. Number of Teaching Units @ .4	11,920
Amount Per Teachers	\$ 26,999

\*The state pays 75 percent of the cost of any student above \$25,000

\*\*The state pays 80 percent of the cost of transportation of special education students and teachers.

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STATE OF KANSAS  
HOUSE OF REPRESENTATIVES



TOPEKA

LANCE KINZER  
REPRESENTATIVE, 14TH DISTRICT

COMMITTEE ASSIGNMENTS  
TAXATION  
JUDICIARY  
FEDERAL AND STATE AFFAIRS

**TESTIMONY REGARDING HB 2253**

**"The school-choice issue is not about public versus private; it's about choice. It's about knowing what works well for my family and being able to make that choice for them."**

-- Parent of a McKay Scholarships Student

HB 2253 would allow public school students with disabilities to attend a private school of their choice using a state funded scholarship. In order to be eligible for the program, the student must have an individual education plan (IEP) and must have attended and been reported for funding by a public school in the state of Kansas. HB 2253 is modeled on a Florida program, the "McKay Scholarships for Students with Disabilities Program" which provided 17,300 Florida students with special needs the opportunity to attend a participating private school during the 2005-2006 school year.

I recognize that HB 2253 is in many ways a bold proposal; it asks us to begin thinking and acting differently in our approach to education policy in Kansas. In particular it asks us to be kid focused, not system focused. I further acknowledge that thinking and acting differently can be difficult and even frightening, especially to those whose interests are wedded to existing structures. This is only natural, and indeed I would readily concede that those of us who call for greater educational choice bear the burden of showing that we are not merely proposing change for change sake.

With this in mind I would point out that Special Education scholarship programs are working now in states like Florida, Ohio, Utah and Arizona to provide expanded educational opportunities for those children who need it most. A great deal of information about McKay Scholarships is available via the Florida Department of Education school choice web-site [www.floridaschoolchoice.org](http://www.floridaschoolchoice.org). But I'd like to highlight just a few facts.

During 2005-2006, 751 private schools in Florida accepted McKay Scholarship students. The average scholarship amount was \$6,927. To give a sense of the success of this program in Florida, consider that in 7 years participation has grown from 2 students to more than 17,000 students. More than 50% of these students are members of racial or ethnic minorities. Approximately 40% receive free or reduced-price lunch. And perhaps most importantly 100% of these students are faced with a challenging exceptionality that creates special challenges in their educational progress. It is also interesting to note that just over half of McKay Scholarship students attend non-religious private schools

House Education Committee

Date: 2-15-07

Attachment # 3

School choice programs like the one proposed in HB 2253 are about one thing; maximizing educational opportunities for our children. As Florida Governor Jeb Bush put it in his 2006 State of the State Address, "We are committed to school choice because equal opportunity starts with equal options for education."

The fundamental point I would like to leave you with today is that education policy in Kansas should be kid focused, not system focused. Simply put, the pressing question before us is not what policies will best protect and preserve the existing education system in Kansas; but rather what policies will provide the best results for each individual child. For many children these results will best be achieved within the existing public school structure, but for other this is not the case. Denying expanded educational opportunities to those students serves no legitimate State interest, and in fact is contrary to the real long-term interests of all Kansans.

School choice programs like HB 2253 are no panacea with respect to the manifold challenges we face in providing the best possible educational opportunities to Kansas kids. But used in conjunction with other forward thinking proposals I am convinced that school choice can play a valuable role in advancing our shared goal of maximizing student learning.

Allow me to close with a quote from John F. Kennedy, which I believe captures exactly the spirit in which those of us who support school choice offer these proposals:

"Let us think of education as the means of developing our greatest abilities, because in each of us there is a private hope and dream which, fulfilled, can be translated into benefit for everyone and greater strength for our nation."

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**Testimony of Matthew Carr to the Joint Committee on Children's Issues**  
February 15, 2007

Members of the committee, thank you for inviting me here to testify today on the issue of school vouchers for disabled students. My name is Matthew Carr. I am the Education Policy Director at the Buckeye Institute for Public Policy Solutions in Columbus, Ohio. I have a masters degree in public administration from Kent State University and am currently working at the University of Arkansas as a Distinguished Doctoral Fellow in the College of Education and Health Professions. I have conducted empirical studies on the impact of school choice programs in Ohio as well as on other education issues.

I'm here this morning to describe the empirical research on school choice and the provision of services for disabled students. Existing school choice programs have improved educational outcomes for disabled students who use them. However, I don't want to create the impression that everything in the existing special education system is failing or broken. The current system serves many special needs students very well and is a vast improvement on the way these students were treated in the past. Special education vouchers exist as a complement to the prevailing system, providing an alternative for those students who are not well served by the status quo.

In an age when many citizens and policymakers feel that the public education system has ceased moving forward and, according to some, has even regressed in several important areas such as student achievement and racial integration, there is one area where progress has been clear and sure – ensuring that students with special needs are given every opportunity to succeed. According to the US Department of Education, before 1975

the fate of many individuals with disabilities was likely to be dim. Too many individuals lived in state institutions for persons with mental retardation or mental illness. In 1967, for example, state institutions were homes for almost 200,000 persons with significant disabilities. Many of these restrictive settings provided only minimal food, clothing, and shelter. Too often, persons with disabilities...were merely accommodated rather than assessed, educated, and rehabilitated.

Congress acted in 1975 with the passage of the Education for All Handicapped Children Act, the precursor to the Individuals with Disabilities Act (IDEA) that structures much of special education policy today. The 1975 act required that schools provide special needs students with a free and appropriate education and created the Individualized Education

House Education Committee  
Date: 2-15-07  
Attachment # 4

Program (IEP) to ensure this new right. Currently, the parents of special education students meet with school representatives and draw up an Individualized Education Program. This agreement specifies the services that the school district must provide to each special education student, and once agreed upon the IEP is guaranteed by law.

This progress in protecting the rights of special needs students, however, has begun to slow as the limitations of the IEP system have become more apparent. Though the IEP process is a vast improvement from the days when special needs students were often neglected by the public schools, this system has created inequality as school systems have realized and taken advantage of the fact that the only recourse parents have when their IEP agreements are not met is litigation. Parents without the means or sophistication to take their schools to court, or the will to battle for months or years, must accept whatever services their schools provide. Because parents are at such a disadvantage in the IEP system, there is no way to hold school districts accountable for the level of services they provide. The result is a large number of parents with special needs children who are not getting the services they need.

Both Ohio and Florida, among other states, have enacted programs in an effort to ameliorate this systemic inequity. Ohio created a voucher program for autistic students, the Autism Scholarship Program, in June 2003. The state legislature there is also currently considering a more expansive special education voucher program, the Special Education Scholarship Program (H.B. 431). The proposed program is modeled on the country's first statewide special education voucher program, the McKay Scholarship Program for Students with Disabilities, which was fully implemented in Florida in the 2000-2001 school year. All three of these programs are designed to supplement the IEP system, which is a legal process, with an additional option for ensuring that students get the services they need – namely, choice.

Critics of the choice model of accountability often claim that special education is an area of education where the use of vouchers would be particularly fraught with problems. These critics have argued that private schools won't serve disabled students, or won't serve them as well as public schools. On the other hand, supporters of school choice have argued that giving parents the power to choose is the best way to ensure that students will get the services they need. Private schools are held accountable for providing services by the fact that unsatisfied parents can use their voucher to find another school that will provide the services they need.

In 2003, I worked at the Manhattan Institute's Education Research Office under the direction of Dr. Jay P. Greene. During my time there, our office published the first empirical evaluation of the McKay voucher program for special needs students in Florida to evaluate whether the evidence supported the arguments made by critics of school choice. The study was conducted by surveying both parents who were participating in the program as well as those parents who had been in the program and had decided not to continue participating in it.



Among the results of the study:<sup>1</sup>

- 60% of the McKay participants reported that they did not receive all of the services promised by their traditional public school. Only 14% reported that their McKay school failed to provide all the services they promised to provide;
- The average class size decreased from 25 in the traditional public schools to 13 in the McKay schools;
- Special needs students were bothered or assaulted far less often in their McKay schools. 47% of parents reported that special needs students were bothered often and 25% were physically assaulted in their traditional public school. By contrast, in McKay schools 5% were bothered often and 6% were assaulted;
- Participants also reported a significant decline in behavior problems, from 40% in the traditional public school having behavior problems to 19% in their McKay school.
- The study also found that special needs students were served equally regardless of disability type, race, or income level.
- Finally, over 90% of the parents who had left the program believed it should continue to be available to those who wish to use it.

The study conducted by the Education Research Office provides evidence that the McKay voucher program provides equal or superior services for special needs students through the choice model of accountability. Further, the use of vouchers instead of the IEP process provides a more direct, less adversarial, and less costly way for parents to ensure that their children get the services they need.

While the public schools provide a high quality education to many special needs students, far too many are ill-served by the current IEP process. A voucher program for special needs students provides a complement to the standard legal process-compliance model of accountability by providing a quality alternative for those who need it. The use of such programs should not be seen as an either/or proposition or as creating a zero-sum game for special education dollars. Instead, voucher programs for special needs students help to ensure that all students get the services they need.

Thank you for your time today, I'm happy to take any questions you may have.

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<sup>1</sup> The full report can be found online at: [http://www.manhattan-institute.org/html/cr\\_38.htm](http://www.manhattan-institute.org/html/cr_38.htm).

Mr. Chairman, Representative Aurand, I appreciate the opportunity to provide testimony to the Education Committee regarding issues related to House Bill 2253 and its application to children with IEP's and specifically autism.

My name is Ron Johnson from Gardner, Kansas. I am providing testimony as a parent of a son with autism. I am also the President of the Kansas City Autism Training Center. The Center is located in Prairie Village, Kansas and provides early intervention to young children with autism. The tuition for our Center is paid by a combination of parent's private payment and scholarships provided by our Board from fundraising and donations.

To provide the Education Committee with background to my recommendations for HB 2253, I want to share with you our family's experience advocating for a research based education for our son through the due process system in Kansas.

My son, Ben, is 19 years old. Ben has autism and is severely language impaired. He currently attends High School where he continues to improve in his reading and where he is learning job skills.

My son Ben followed typical developmental milestones until 30 months of age when he started to lose his language. Over the next 9 months he became progressively withdrawn and exhibited stereotypical behaviors associated with autism. When he received his diagnosis of autism at 3.5 years, he was non-verbal and minimally responsive to our family.

Ben attended a public developmental preschool. He attended for a year with no progress on any goals. This was unacceptable to us. My wife and I were determined for him to make progress. From our search of area resources, we discovered the science of Applied Behavior Analysis taught at the University of Kansas. Ben's learning changed from no progress to significant progress by utilizing the science of Applied Behavior Analysis (ABA).

Despite the proven effectiveness of ABA (Applied Behavioral Analysis) for our son, our resident public school was not willing to provide this methodology. Our family went to due process 3 times requesting these services for our son. Participating in due process in the Kansas System has been one of the most difficult experiences of my life.

I remember our first day of Due Process #1 as my wife and I prepared to spend thousands of dollars to secure a research-based education for our son against our school district with an unlimited legal budget. We watched in disbelief and horror as the Hearing Officer selected by the Kansas Department of Education would continually signal the School District's attorney when to object during the proceedings. It was a gut wrenching experience to realize our due process hearing would not be fair.

House Education Committee

Date: 2-15-07

Attachment # 5

I remember during the scheduling of the hearing, the Hearing Officer changed the hearing dates to be spread over 5 different weeks at the School District attorney's request, instead of continuous dates. We learned from our attorney this is a tactic attorneys use to drive up the legal costs for parents and there was nothing he could do to stop them. Our attorney was from New York and the School District attorney wanted our family to pay 5 round trip air fares from New York instead of one or two.

I remember the Hearing Officer requiring us to hire a Kansas attorney because he would not grant our nationally recognized due process attorney to handle the case alone. The Hearing Officer required a Kansas attorney that we paid \$125 per hour, who was not an expert in education law and unfamiliar with our case, to sit in the room with us; another tactic to increase the cost of the hearing.

Our experience with due process was not about what was best for the child, it was about how the school district's attorney could use Kansas laws to financially damage families to win their case or to better position themselves for a settlement.

Our son's IEP that we were in disagreement with did not provide teaching and behavioral strategies based in research, but provided for strategies like sensory integration. (Research now documents these strategies to cause regression in students with autism...J.S. Howard et al. 2005. *Research in Developmental Disabilities*) The IEP was implemented by special education staff that were not prepared or qualified for the behavioral needs of our son.

Despite the strength of our case, realizing this due process would not be fair; we settled with the School District. We spent over \$25,000 in attorney's and expert fees and learned the Due Process system in Kansas was not about justice or the education of a child. Because of the school's significant violations of IDEA, we were able to negotiate a revised IEP, one with teaching strategies based in research like applied behavior analysis and some staff that understood the behavioral needs of our son.

We don't know how much the district spent on their attorney and the proceedings. The actual hearing was two days. Our second due process hearing was 15 days.

These experiences I am sharing with you regarding dispute resolution are shaping my comments, concerns and recommendations regarding House Bill 2253.

**Comments:**

- 1) We would have preferred a scholarship system over a due process system to meet the needs of our child.
- 2) I question why the State of Kansas has an elected School Board, that determines science standards of evolution one year, Intelligent design the next and then back to evolution. If KSDE believes in science, why do parents of children on IEP's still have to file due process to have an education based in science?
- 3) HB 2253 will provide a beginning to a mature working collaboration between Parents and School Districts for students that are difficult to educate.
- 4) Currently School Districts that provide poor services to difficult students are rewarded when parents move from their district in search of better services. This is unfair to the students, parents, and the new school. HB 2253 will not reward poor services.
- 5) Given adequate funding in the scholarship, HB 2253 will allow participating schools to be created to best meet the needs of the child. Parent and School District satisfaction will soar.

**Concerns surrounding HB 2253:**

- 1) IEP's identifying teaching strategies, instruction intensity and staff based in research will be more expensive than IEP's not based in science. HB 2253 states a participating school does not have to use the resident public schools IEP. The parents will receive a scholarship on the lesser of two amounts. How will the IEP scholarship utilize research proven methodologies without due process?
- 2) HB 2253 provides scholarships to families who are dissatisfied. Do we need to wait until the parents are dissatisfied with the resident public school and relationships with the school are damaged to provide the scholarships?
- 3) If scholarships are made available to parents, how will the taxpayers be assured the services are effective and appropriate?
- 4) How will participating schools be encouraged and created to accept scholarships?

## **Recommendations:**

1) As President of the Kansas City Autism Training Center it is common for parents to inquire about our services and provide us with a copy of their child's IEP. Typically their child has 5 to 7 goals, no behavior plan, limited one on one support, 30 minutes of speech and OT three times per week and no oversight by staff licensed in or specifically trained in the only science proven effective for children with autism, Applied Behavior Analysis. These are the parents that have 2 or 3 years of minimal progress and are dissatisfied with their school.

Our Center would propose an IEP with 25 to 40 goals for that child, behavior plan and behavioral goals, full-time one on one support until it was determined they could learn in small group instruction, speech and language acquisition would be incorporated throughout their day in all of their goals. Our teachers are trained in the science of Applied Behavioral Analysis with a Ph.D. level supervision of staff and educational programming of the student.

Our goal at the Center is to provide an intensive short term intervention (1 to 3 years) developed to allow a student to return back to their resident public school with the necessary skills they need to find academic and social success.

Professionally, we could not recommend a Resident Public School IEP described above as it does not meet a minimum level of recommended services for the child. A scholarship created with these below minimum level services would be financially inadequate for our school to accept. It would require additional funding to be financially viable and provide effective results.

My recommendation is the participating school should develop the IEP with input from the resident public school. The scholarship should be based on this transitional IEP, and provide adequate funding to allow the participating school to educate the child.

2) If Parents receive scholarships, the taxpayers need to be assured these funds will be utilized at Participating schools that provide programs based in science. Taxpayers need to know that scholarship programs are effective.

To document effective outcomes, I recommend the students participating in the scholarship program have independent standardized assessments prior to entering and exiting the resident public school and entering and exiting a participating school.

Parents should be surveyed for satisfaction in the scholarship program. Survey data should be posted on the Kansas Department of Education website.

School outcomes data from public schools and participating schools should be posted on the Kansas Department of Education website for parental review broken down by primary disability.

3) To assure the participation and creation of alternative schools, I recommend scholarships be provided to meet a level of services that will assure effectiveness of the education, financial viability of the provider, and parent satisfaction.

**In summary:**

Parents need and want options for their children. House Bill 2253 with modifications will provide a basis for this option.

According to the Director of School Finance with KSDE as of July 1, 2004; Public School Districts held in Kansas Banks \$130 million in unencumbered funds in special education cash balances and earned \$1.7 million in interest on those funds. These funds were available prior to the additional \$466 million of additional funding the Kansas Legislature approved over the next 3 years.

Public Schools have a safety funding mechanism for IEP's that cost more than \$25,000 to implement called Catastrophic Reimbursement. This funding provides reimbursement for 75% of the cost of an IEP over \$25,000.

With the funding that currently exists, it is a School Districts choice to offer services that parents will not be satisfied with. Parents should be given the opportunity to select a different school with an IEP and services that will assure satisfaction.

Thank you for your consideration of my testimony. If you have any questions, I would be happy to answer them at this time.

Ron Johnson, 539 S. Plum Creek Drive, Gardner, KS 66030

**TESTIMONY**  
**KANSAS HOUSE**  
**EDUCATION COMMITTEE**  
*House Bill 2253*

Testimony By: **Judy Pollard-Licklider**  
**Erin Is Hope Foundation, Inc.**  
**4921 E. 21st Street North**  
**Wichita, KS 67208**  
**(316) 681-3204**

**February 15, 2007**

**Parents raising a disabled child are confronted with so many obstacles as they struggle to pursue the best possible outcome for their little one. They actively search for information about their child's disability through the internet and other media resources. As a result, these folks do not passively enter the educational process that will shape their child's future. Many are perplexed and discouraged to find that specialized services required by their child will not be offered or paid for by their public special education agencies. They are devastated to know that their household budget could never afford such essential services. As the parent of a multiply-handicapped daughter, I know about the distress of the struggle and the dread of conflict.**

My name is Judy Pollard-Licklider. I am president and founder of Erin Is Hope Foundation, Inc. (also known as Pollard-Licklider Clinic) in Wichita. "Erin" is a non-profit, private special dayschool and medical therapy clinic serving children (ages 2-0 thru 22 years) through 2 facilities. At capacity, we enroll 100 children and employ 40 staff. While we serve mild-to-severe manifestations of various diagnoses ranging from muscular dystrophy and Rett Syndrome to Down Syndrome and dyslexia, "Erin" is best known for remarkable outcomes achieved for children with autism and apraxia. Each year, dozens of families come to our school searching for options more specialized to their child's diagnosis and learning needs.

Children attending specialized schools such as Erin Is Hope would benefit greatly from the type of special education scholarship proposed in HB 2253. Before discussing the scholarship issue itself, however, it is essential to take a moment to understand what makes the specialized program at "Erin" remarkably different from programs provided through the local education agency.

Most public special education models have moved away from "pull-out" services that remove early childhood and elementary age students from their classrooms. All services, including individual and group speech, occupational and physical therapies, are delivered in the classroom. While the staffing ratio for self-contained programs may vary, it does not provide consistent 1:1 intensity.

House Education Committee  
Date 2-15-07  
Attachment # 6

In contrast, "Erin" provides intensive, daily structured intervention through a very low student-to-staff ratio. Impairments in ability to speak and understand are the central focus of our program, and are addressed through systematic, incremental and repetitive strategies that ultimately sequence and organize the child's attention and learning system.

At Erin Is Hope, our children "rotate" every 30 minutes into a different self-contained area to work with a different staff member focusing on a different area of instruction. Direct, intensive 1:1 rotations include speech, occupational and physical therapies. Other intensive 1:1 rotations in "pull-out" low distraction areas include mathematics, fine motor/self-help and critical thinking. Group or classroom rotations include computer lab, adaptive PE, pre-vocational training, communication group and general classroom activities. Classic consistent behavior management principles are enforced throughout instructional and therapeutic experiences. In the truest sense, each child works toward the discovery and realization of his underlying learning potential.

The outcomes from this type of intensive intervention are remarkable. "Erin" commonly admits children of age 4 and older who have been receiving special services since age 2. Generally, these youngsters arrive at our clinic with no words and no ability to even imitate simple sounds. They exhibit many maladaptive behaviors, which often include self-abuse and aggression towards others. At the time of admission, these children do not display ability to functionally sit or attend to task for even a few seconds. These are children with no language. The parents have removed their child from public services against the recommendation of their IEP team. Even though that public education team reports that the child is doing well, the family hopes for so much more and looks for more specialized services.

It is equally common that, after only a few days in "Erin's" specialized curriculum, these same children are observed sitting without assistance and productively participating in tasks. At 10 weeks, most are imitating a lexicon of 12 - 15 sounds. By 16 weeks, most have a lexicon of 12 - 15 words. Early sentences are started for many as early as 24 weeks into our program. Because of our multi-sensory approach, the children learn to read and write simultaneously with their ability to speak and understand at each incremental level. Families are stunned and thrilled as they observe that the child they were told would never talk is not only speaking words, but reading. The screaming, kicking, biting child who kept the family isolated at home now enjoys going to the store, eating at restaurants and attending movies.

While the report of such progress may seem astonishing, perhaps the most amazing feature of Erin Is Hope is found as these superior services are provided at prices that even the average family can afford. Even though specialized, high intensity services will typically cost over \$100,000 per year, a family can purchase this curriculum for \$1600 per month.



Certainly, that \$1600 price tag may seem cheap as compared to the more common \$100,000 price tag...but for most families, \$1600 per month is a challenging figure. Several of our parents work second jobs to support their child's special private services. For some families, that \$1600 is an impossible expense. At Erin Is Hope, we provide charitable assistance to get that monthly charge down to an amount that is realistic to the individual family's ability to pay.

Now all of this may seem like a daring and reckless adventure, please be re-assured. Erin Is Hope Foundation, Inc. has been conducting this remarkable experiment in exceptional service for over 10 years.

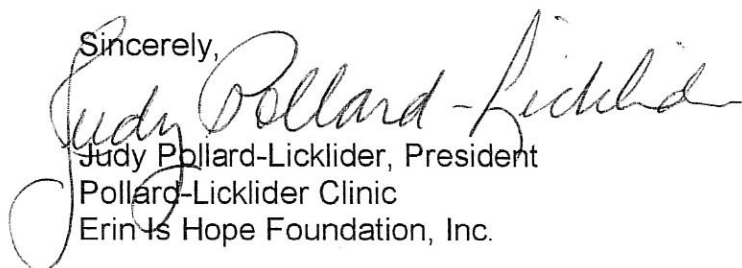
We can summarize, then, and say that services with "Erin" are different as they offer a multi-sensory curriculum, specialized strategies, a higher level of intensity and behavior intervention not available through public schooling. When parents, medical professionals or school personnel recognize that a child is a candidate for this level of critical intervention, how can anything less be accepted? The gross discrepancy in outcome without the proper intervention cannot be tolerated.

Indeed, if the public special education model will not be a good match for every child, public school scholarships, as proposed in HB 2253, provide a positive way for the local education agency to support specialized services. Because the IEP provides the gateway to such funding, the public school will continue to be able to monitor progress and facilitate a smooth transition, when appropriate, into less restrictive public school programs. Perhaps most important, scholarship support could help to reduce conflict and due process proceedings that wear heavy on both school staff and parents.

In closing, Kansas public special education is funded by the Kansas community of citizens. That same Kansas community offers a wonderful resource of services that can embellish and complete the continuum of services described in I.D.E.A. I am so hopeful that the Kansas House Education Committee will provide the needed leadership that will facilitate the incorporation of those services. Providing more special education options will result in appropriate services for more children....and fewer children being "left behind."

Thank you for your consideration.

Sincerely,

  
Judy Pollard-Licklider, President  
Pollard-Licklider Clinic  
Erin Is Hope Foundation, Inc.

My name is Gretchen DiGiovanni - my husband Sean and I have 5 year old triplet boys, Sam, Paul, and Jack. At 25 months, Sam was diagnosed with moderate to severe autism. At the time we lived in Johnson county. As we researched every possible alternative for treatments and therapies, we found that ABA, or applied behavioral analysis, was going to be the most effective method of reaching Sam. We started a home program using ABA, speech therapy, occupational therapy and physical therapy. Sam learned very quickly - he went from being non verbal and isolated to using words appropriately, communicating his wants and needs, playing appropriately with toys, improved joint attention skills, etc. We were on the right path it seemed. There were several behavior analysts to choose from in the KC area and although we were not given nearly enough hours of therapy on our IFSP, we received training from our consultant and were able to provide some therapy to Sam ourselves.

We moved to Wichita for my husband's job in 2003 and started the process of getting services. The system was extremely confusing and hard to navigate, but eventually we got placement at Rainbows United. Sam has received services since then. It is safe to say he has not attained AYP this year. I believe this for many reasons, among them the fact that he is not receiving as intense a program as we did in Johnson County, i.e. ABA, as well as the lack of adequately trained staff. As a family, we have no other options but to work within our current boundaries, even though we know he could be getting more effective treatment at Heartspring. We cannot afford the programs they offer. This would be an example of how SB 2533 might help our family, by allowing Sam to receive part of his education at another facility that works with the methods that are most effective for him. Rainbows has done a great job in some areas, but he is not meeting his goals.

We are currently working on placement for all three boys for Kindergarten in the Wichita school district. After visiting several schools and visiting with teachers, consultants, special education coordinators, and principals, we had decided to ask for placement at an elementary school that focused on an inclusion model - typical peer exposure is very important and helpful for Sam (and most kids) to learn. We didn't want him at a school that secludes the special needs kids behind the double doors at the end of the hall (it's amazing to me that this is still done in places).....I have been told by multiple people in the district that I was not to "shop" schools, and that the district did not want parents to have a choice. I am alarmed that this is the current position. We don't know yet if we will receive the special transfer for the boys. I am willing to provide transportation to take the cost of that off the district, but not all families are able to do that.

If you look at the average parent with a special needs child, they are truly the expert on their child. We are constantly looking for what works for our children and what doesn't. We do the most research and know our children best. Each child and family is different and what works for some might not work for others. Some kids need sensory input throughout the day to help them feel calm and balanced. They learn better when their sensory needs are met. If one school will not provide the sensory diet that a child needs or does not have the facility or educated staff to provide such needs, a parent must have the choice to place that child where his needs can be met appropriately.

As a parent in Kansas, I strongly urge you support this legislation. We must be able to make choices for our children. If we can achieve our best outcome in the short term, we will significantly limit the costs of caring for our kids as they transition to a hopefully independent adulthood.

Please contact me if you have any questions and thank you for your support on this important legislation.

Sincerely,

Gretchen DiGiovanni  
29905 E. Lanners Circle  
Wichita, KS 67219  
(316)393-9348

House Education Committee  
Date 2-15-07  
Attachment # 7

Good morning Legislatures,

I am a parent of a 5 year old autistic boy who would benefit greatly if we were allowed to choose which school our son could attend. The special needs scholarship program sounds like such a great idea and we as parents would have the choice to send Joseph to the best school possible that provides for the educational needs of our son.

Please consider this House Bill 2253 in favor of school choice for not only our son but for all children to be successful!

Thank you,

Kris Edington  
Parent and Teacher  
Emporia, KS 66801

House Education Committee  
Date 2-15-07  
Attachment # 8

Just as each of us is unique and faced with personal challenges, children with Spina Bifida face their own unique and personal challenges. For our son Dominic, he not only faces the usual challenges of Spina Bifida, such as mobility and mental retardation, but also his unique challenges of epilepsy and autistic tendencies which affect learning and communication.

From the time that Dominic started early childhood educational services, we always trusted that his teachers and therapists were competent to work with him. We always trusted that they were insuring Dominic was getting all of the help that he needed.

From early childhood through middle school placements, Dominic was served in self-contained classroom settings, supplemented by two 20-minute sessions weekly of therapy, including speech, occupational and physical therapy. Even though we believed that he would benefit from a 1:1 paraprofessional, Dominic seemed merely to "hold his own" in classrooms housing at first 8-10 classmates taught by up to three staff. By middle school, his classroom had grown in size to 20-25 classmates taught by up to six staff members. More times than not most of his middle school teachers did not have a degree in special education, which in our opinion was a gross negligence, injustice and disservice to all the special needs students. Many times it resembled a "day care center" instead of a learning institution.

This level of service continued even though Dominic did not meet classroom or therapy goals. His lack of progress was never confronted by increasing services. Instead the "status quo" of minimal intervention was continued until Dominic's freshman year of high school. Suddenly, everything that we had believed about the integrity of his services seemed to fall apart.

At the end of his freshman year in 2003, we were told that all of Dominic's therapies were being eliminated. We were absolutely stunned! They also stated Dominic's occupational and physical therapies were no longer relevant to Dominic's academic educational needs.

They assured us that it was more important to now focus on vocational training.

As we struggled with this shocking news, school staff then told us that even Dominic's adaptive physical education classes were being terminated. We immediately objected, arguing that this PE time represented Dominic's only opportunity to get out of his wheel chair during the school day. PE was the only activity that helped maintain his strength and endurance.

We were devastated by this announcement and pleaded for staff to protect Dominic's adaptive PE services. Both the class room and adaptive PE teachers agreed with us that terminating PE services was not in Dominic's best interests. They also made it clear that they could do nothing about it! It was amazing! The teacher was the head of the IEP team, and her opinion meant nothing!

House Education Committee

Date 2-15-07

Attachment # 9

Our opinion meant nothing! When we refused to sign the IEP terminating all services specialized to Dominic's disabilities, school district administrators served us with notice that they were taking us into litigation. Clearly, they would tolerate no further discussion.

Ironically, about the same time that these terrible developments were happening with the public school district, we heard about a very remarkable private special day school program. We learned that this intensive program was almost a "marriage" of medical and educational strategies across a curriculum of academics, physical, occupational, and speech therapies.

So, as the public school pursued us in litigation, we enrolled Dominic in the Pollard-Licklider Clinic for the summer of 2003 session. While we intended to only enroll Dominic for the summer course, we were so impressed by the dramatic progress he made in 12 short weeks, we decided not to send him back to public school. We removed Dominic from public school and enrolled him for the 2003-4 school year at the Pollard Licklider Clinic and he currently remains there.

Dominic has continued to make astounding progress in this intensive program. With the public schools, all that Dominic had to do to meet a goal was to complete his skills at 25% or 50% proficiency. He met no goals!

At the Pollard-Licklider Clinic, Dominic met 63 goals in nine months. This includes 29 speech-language goals at 80-90% proficiency, 11 out of 16 occupational therapy goals, 9 out of 13 physical therapy goals, and 17 educational goals.

The school district was discontinuing Dominic's therapies because they said his skills were "commensurate with his ability." They had no idea what his abilities were! When Dominic entered the program at Pollard-Licklider, he was unable to dress himself independently. Now he can put on a pull over or button-up shirt without assistance. He was unable to brush his teeth without complete assist. Now he completes the set up independently and sequences the task correctly. He was unable to independently remove his shoes and AFO braces. Now he independently removes his shoes and braces, and can participate in the strapping of his long braces.

Because of his autistic tendencies, he covered his ears and put his head down in the classroom. Now he participates in class, raises his hand, and even calls out answers.

He could not spell any words, now he spells dozens of one-syllable nouns. He could not even legibly copy single words, now he not only copies sentences from the board but can even write independent sentences from pictures shown to him.

Most importantly, Dominic is proud of himself and his accomplishments and it shows. When he was in public school, he didn't want to go to school. He would grab his wheels of his wheel chair to keep us from putting him on the school bus. He no longer does that, he look forward to attending school at the Pollard-Licklider Clinic.

You may wonder what is so different about this "intensive" training program. The public school provided 120 minutes of occupational, physical and speech therapies combined each week. The Pollard Licklider Clinic provides 210 minutes of these same therapies each day.

We mourn the years lost in public school class rooms that did not meet Dominic's needs and we will forever wonder how different things would be for Dominic today had we discovered intensive services like these at the Pollard Licklider Clinic when he was a little boy.

We pay \$400 per month out of pocket to keep Dominic in this program and are fortunate the remaining cost is offset by insurance.

It is imperative that the House Committee members recognize that the story we share is not a tale of terrible schools in Kansas. It is a story about the challenges faced by one, special boy. Sadly, it is a common story for families of special needs children across the country. You now have an opportunity to right a disservice that has been going on for far too long. Hopefully, sharing our story might inspire you our State Elected Representatives and stewards of our tax dollars, to learn more about the discrepancies in our public school system impacting our children's lives.

Thank you for listening.

*Phil & Susan Carrillo*  
Phil & Susan Carrillo

**Testimony of Michael & Christine Ostroski  
In support of HB 2253**

**February 15, 2007**

Dear Committee Members:

How far will a parent go to properly educate a special needs child? In our family's case, the answer is, "Quite far."

We are Michael and Christine Ostroski, parents of two young children, Veronica and Francis, and residents of Wichita. We'd like to tell you about the tremendous challenges we've encountered in trying to educate our son Francis who is six and a half years old.

When Francis was a baby we began to notice that he wasn't attempting to crawl or to talk. Our family doctor ordered a series of evaluations for Francis at the age of 16 months. The tests showed that our son had profound developmental delays that would require ongoing physical, occupational and speech therapy.

Three different types of therapy on a weekly basis is an extremely costly plan, but one that many special needs families must live with if they wish to see improvement in their children. In our case, insurance only covered a small portion of the cost of treatment, with the remainder of the balance paid for by us.

We spent another two years taking Francis to nine different specialists trying to determine the cause of the delays. The tests always came back negative. Only after two child psychologists administered some standardized tests did we finally realize the full extent of our child's problems. The tests showed that Francis was severely mentally retarded and that he possessed a few characteristics of autism, although not enough to receive the autism label. Although the news was devastating, it was also a relief to know that our search was over. We were now free to concentrate solely on our son's education.

By that time Francis was three years old and even though he could not speak, he was eligible for pre-school. We enrolled him in a special ed program in a pre-school that was a sub-contractor for USD-259. We were very pleased that the curriculum included weekly therapy sessions.

Francis had only been in school for one semester when we had to plan a move out of state for Michael's new job. We reluctantly withdrew Francis from his special ed program and began to look for a comparable program in our new location of Lexington, Kentucky.

Over the course of the next six months, Francis attended classes in both a public and a private school. Unfortunately, neither was able to adequately meet his needs, especially when it came to the proper amount and type of therapy. Both schools had caring staffers who were very concerned with Francis' welfare, but they simply did not have

House Education Committee  
Date 2-15-07  
Attachment # 10

facilities, therapists or curricula that could provide anything that amounted to more than babysitting.

We became so desperate to help our son that we began to look back to Kansas, even though Michael's job was in Kentucky. Through many phone calls, letters, special applications and prayers, we managed to secure a spot in Francis' former school in Wichita. Of course, this meant our family would now have to live apart, with Michael commuting 12 hours to Wichita just to spend a weekend with the family. However, we decided that if there were ever a chance for Francis to speak, it would have to come about as a result of this sacrifice.

That was in the fall of 2004. By the spring of 2005, it was time for Francis to "graduate" from his pre-school program. He had made much progress in one year's time, but he still could not speak. The cost of living between two states was exhausting us personally and financially, but we were committed to continuing the arrangement as long as it meant progress for Francis.

When we looked at having Francis continue his education in a USD-259 school, we once again had misgivings that our son's needs would be adequately met. The individual education plan (IEP) written for Francis by the public school contained a minimal amount of speech and occupational therapy, and no physical therapy at all.

Francis is a very social child, a "sensory-seeker" as the therapists called him, and he loves to learn. We knew if there were any hope for him to speak, it would have to be in a program that would take a very aggressive approach, especially with regard to speech therapy.

It was about that time we heard of a private school in Wichita with just such a reputation. The school had a great track record for getting non-verbal children to speak, including the children of some of the families we knew. We applied for admission and Francis was accepted. The school would provide a full-day curriculum, including weekly sessions of physical, occupational and speech therapy.

The school was a real dream come true, but at the same time, it provided another financial mountain for our family to climb. As always, insurance would help cover a small portion of the therapy sessions Francis required, but the rest would be up to us.

Francis started classes in August of 2005 at the age of five years old. Within a few weeks we saw tremendous results. He began imitating letter sounds and identifying them on a page. He was able to make the sound of the letter "b" while waving his hand. A short time later the "b" sound became the word "bye". Small words gave way to bigger words, and then sound blends, and combinations of bigger words. By the end of the first semester, our son could say the alphabet, count to 100 and read short sentences on a page. It was nothing short of a miracle!

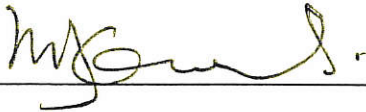
In order to continue financing this miracle, Christine had to return to work part time. It was another sacrifice the family agreed to make, but by this time, we were used to doing what seemed impossible in order to help our son. Even with additional income, the cost remains a heavy burden.



Unfortunately, special needs families get used to everything being a heavy burden, but it shouldn't be this way. Having appropriate choices, especially when it comes to education can make all the difference in the life of a child who can't speak or walk or hear.

Treatment and education go hand in hand for these children. We urge you to support HB2253 and let special needs families have the best options, not just the most convenient ones. Thank you.

This written testimony given by:



Michael J. Ostroski  
40 Stratford Road  
Wichita, KS 67206

(316) 516-1404



Date



Christine M. Ostroski  
40 Stratford Road  
Wichita, KS 67206

(316) 516-1404



Date

# R O B E R BROWN

430 North Crestway  
Wichita, Kansas 67208

TEL  
316 684 6900

FAX  
316 684 6903

Representative Lance Kinzer  
Re: House Bill 2253

2/14/07

Dear Mr. Kinzer,

We are writing in response to your involvement in House Bill 2253 and the positive impact it would have on our family. We have a 10 year old daughter, Caroline, with developmental delays, she is nonverbal had has a generalized seizure disorder. Her intense medical and educational needs forced us to leave the public school system for a private school that fulfills her needs.

The special education and medical needs of our daughter Caroline could not be met in the Wichita 259 school system. Caroline began her first grade year in September 2003, in a classroom situation that did not provide enough stimulation for her. The result of continuous downtime was an increase in her seizure activity from what her previous classroom experienced at the end of May. The school system wanted to reevaluate her after attending one week of school, Caroline's last complete educational evaluation had been in May 2003, 20 school days prior to the requested evaluation. The schools intention of the reevaluation was a process that would ultimately place her in a lower classroom setting with children in wheelchairs, nonverbal, tube fed, where the majority of the classroom day deals with toileting and feeding issues. A placement in a classroom of this type would give her no children to model for speech and a day with little educational activity it was a placement that would be totally detrimental to her future. After refusing the evaluation, we were required to go to a through a due process hearing. The school she attended became very defiant due to the impending hearing, did not carryout her IEP as required, would not return our phone calls and was allowing her even more down time which medically endangered her. Due to our concerns for her medical and physical safety and any possibility of an education, we formally removed her from the school system and placed her in a private day school, Erin is Hope.

Even though we removed her from the school system, we were still required to go through the due process hearing. The sole issue of the hearing was whether the school system had the right to reevaluate Caroline. The hearing lasted 3 days over

House Education Committee

Date 2-15-07

Attachment # 11

# R O B E R BROWN

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two months, and took two more months for a result. The school system spent thousands of dollars, involved two attorneys, had a 768 page transcript with an outcome of Yes, the school system did have the right to reevaluate her. The money spent on this hearing was over \$10,000.00, for an outcome that did not matter because she was no longer attended the public school system. I only wish the public school system could have used this unnecessary expenditure to help Caroline and other special education children.

Because the public school system could not meet Caroline's educational and medical needs, we placed her in a private school that is more than capable of helping her to succeed to the best of her ability. She no longer has any downtime, she is worked with one to one and in small groups, she has speech, occupational and physical therapy, less seizure activity and is in a safe, non combative loving educational environment. The downfall of private education is that we must now personally pay for her education, and her medical insurance resources are decreasing.

We are so appreciative of the time and effort devoted to the idea of special education vouchers. We need to provide a link between private and public schools so that available state tax money can be used for everyone in need of special education, not just the children who attend public schools. The two systems can collaborate and make quality special education an affordable possibility for all children. Methods and ideas can be exchanged between private and public schools allowing everyone to benefit from the knowledge of successful educational systems. If the goal of our country is to not leave any children behind, the special education community needs to not be left behind but brought together so that all children can be educated to their highest capabilities in an affordable manner. We appreciate your help to make the process of special education affordable to everyone.

Respectfully,

Jean and Bob Brown



## Special Education Vouchers

A few months ago I read a magazine article about a family that was suing its local school district because the district refused to help fund their child's education at a private school that specialized in working with children with autism. The family had documented significant educational progress for the child during the student's enrollment at the private school vs. a pervasive lack of progress during the child's enrollment at the local public school. The legal team representing the school district addressed the documented benefit the child was receiving from the private school by saying that the federal law—I.D.E.A.—ensures that children with disabilities are entitled to a *free* and *appropriate* education—**NOT** the *best* education possible. That's brutal...

And tragic. A better education option may well exist for a child with special needs, but in Kansas only children born to parents who can afford private, specialized education can benefit from those alternative private schools.

Public special education services may adequately serve many students who qualify for service, but other children—particularly those with multiple diagnoses—may benefit more from specialized services provided by professionals with more experience and training.

This has certainly been the case with our son. Eric is almost 12 years old. He has a chromosomal abnormality, a neurological motor disorder, sensory dysfunction and auditory processing issues. He is educable, but requires direct teaching and regular speech, occupational and physical therapy. We've had experience with both public school and private school. His progress in the private school setting has far exceeded any progress made in the public school setting. In fact, he made almost no measurable progress in ANY area during three years of public school enrollment.

Most of us have multiple health professionals treating our children. We have neurologists, pulmonologists, GI specialists, cardiologists, etc. We wouldn't reasonably expect a family physician to treat our children's multiple health issues.

We also don't reasonably expect a typically trained special education teacher to be properly trained and equipped to deal with children with multiple disabilities. My mother is a fabulous special education teacher, but she wouldn't have the knowledge or experience to effectively teach her own grandson. His needs are too specialized. Private schools with properly trained professionals who understand his combination of needs do exist and are able to serve his needs more appropriately and effectively.

Part of the problem with educating disabled children in a public school setting is that therapy—speech, occupational and physical—is provided for academic-related goals—but many of our kids

House Education Committee  
Date 2-15-07  
Attachment # 12

have significant medical needs that can—and SHOULD--be addressed with speech, OT and PT. Many of our children qualify for Medicaid because of their diagnoses. In the “old days”—10 years ago—Medicaid helped pay for medical-related therapy for disabled children. Sadly, that benefit was taken from our vulnerable, dependent children. To further aggravate the situation, public schools can collect Medicaid reimbursement for therapy services provided by school therapists. The money is still being spent on children’s therapy, but rather than paying for private, medical-related therapy....SRS is reimbursing the school districts for providing therapy that does not necessarily meet the medical needs of the children. This hardly seems to be in the best interest of my child. From this outsider’s point of view, it seems that SRS is footing the bill for therapy services that are federally mandated to be provided by each school district. If my son is guaranteed a free and appropriate public education, why then have my son’s Medicaid benefits been hijacked? I would like to use his Medicaid benefits to pay for medical-related speech, occupational and physical therapy—not to reimburse the school for his free and appropriate education.

Thank you for considering the option of special education vouchers. I would also encourage you to look at the unfortunate issue of the Medicaid benefits being available only to public schools. Providing more support during the education years may well pay dividends during the adult years when our children grow to be adults who will not require as much support from public—and tax-supported—programs.

Valerie Johnson  
371 Limuel Court  
Wichita, KS 67235

February 12, 2007

To whom it may concern,

First of all, I would like to thank you for recognizing the fact that services for many special education students in our state are desperately lacking and that this issue deserves investigation and immediate action.

As you know, the best way to approach education in special needs children is through early detection, proper diagnosis and early, intensive intervention.

Quality and quantity of therapeutic and educational intervention are key to allowing this segment of our population to become as functional as possible and to become as productive as they can potentially be.

If we do not provide proper services ~~to~~ when they are young, these <sup>children</sup> have no hope of reaching their fullest potential. With proper intervention,

many of these children have the potential to become tax payers instead of tax burdens. If you do not invest in these children in their early

years, it will be much more expensive.

House Education Committee

Date 2-15-07

Attachment # 13

to care for them for the rest of their lives. I would like to tell you about my son, Isaac Cooper, and the experience we had with the public school system and why we felt it was imperative that our son ~~receive~~ attend Judy Pollard-Ficklender's clinic/school rather than public school.

Our son, Isaac, was diagnosed with high-functioning autism and a component of social anxiety disorder when he was approximately 4½-5 years old. He was diagnosed by a pediatric neurologist, a developmental pediatrician and through extensive testing in the public school system. He also received extensive hearing and vision testing privately. We also turned to Wichita State University for their assessment. The ~~past~~ diagnosis was unanimously agreed upon and we began to search for a place for our son to go to school.

At first, Isaac attended Kabiscope

preschool at WSU. Although it was a nice program, it was only offered twice a week in half-day sessions. He also attended speech therapy at WSU, but the methods they used were not as effective as it had hoped.

When Isaac was five, he attended our local elementary school, Gammon, in a regular classroom. He was to undergo testing to determine proper placement/services for him, but that took four months to accomplish! During this time, Isaac was basically put in an isolated part of the classroom and not really included in any of the classroom activities. Although Isaac's teacher had years of experience, she clearly had no idea of how to approach Isaac and, this, basically ignored him. When he attended the halloween party in October, Isaac said, "Hi Mommy," as he walked in the door. The children in the classroom were astounded; they



had no idea that Isaac could speak!  
I attributed this to the teacher  
excluding Isaac during school.

In January, we were told by Hammon  
that testing was complete and  
it was determined that Isaac  
should attend a program in a  
school that was approximately  
30-40 minutes away from our home.  
When we went to observe the classroom  
that Isaac was to be placed in,  
we were very disappointed. We were  
there for approximately three hours  
and there was not much accomplished  
during that time. Also, we felt  
that it was too low-functioning of  
a classroom for Isaac. We asked  
about alternatives, but were told  
that there were none. We then  
began to search privately, particularly  
after learning that Isaac would  
only receive 30 minutes of speech therapy  
twice a week and no occupational  
therapy. Needless to say, this is  
~~not~~ approach to "therapy" is  
ineffective because it lacks intensity

and the methods used are not as effective as the Association Method used at the Pollard-Licklider Clinic, which simultaneously teaches written and oral language. (There is also a math-language <sup>component</sup> ↓)

After our disappointing search in the public school system for a proper place for Isaac to go to school, we approached the Pollard-Licklider Clinic. Mrs. Pollard-Licklider herself evaluated Isaac and she immediately recommended a therapeutic and educational plan of action.

It was recommended that Isaac receive intensive intervention in speech and occupational therapy for half of <sup>a school day</sup> ↓ and that he should attend either the Erin is Hope Academy or ~~the~~ another school for ~~half~~ the other half of the school day. Since we could not afford a private school, we decided to send Isaac to the Erin is Hope Academy full-time.

Mrs. Pollard-Licklider provided Isaac with intensive one-on-one speech and group speech as well as

occupational therapy daily. He receives at least two to 2 1/2 hours of therapeutic services daily. In addition to this, ~~Usack~~ receives instruction in keyboarding and use of a computer as well as other educational interventions. There is no possible way my son would have made the progress he made anywhere else, particularly the public school system. I urge you to consider making the Erin the Hope Academy a part of the public school system and to use this school as a model of what special education should strive to be. ~~Remember~~ Remember, the number of children <sup>on the</sup> ~~with~~ ~~the~~ autism spectrum ~~disorders~~ is increasing and if you help them when they are young, it will be much cheaper in the long run.

Thank you for your time and attention to this matter.

Maria & William Cooper  
 7409 Winterberry St. / Wichita, KS

This is a letter of testimony and support of House Bill 2253.

I hear from parents weekly, from districts all over the state expressing frustration. Many are told that their child will never be verbal, or that sign language or a pecs communication system is all that their local district has to offer. Others have been threatened to be considered truant while pursuing the private medical level therapies their child needs to succeed. Still others tell of over 60 minutes a day spent riding on buses in pursuit of the free and appropriate education that they are entitled to receive.

Public special education services adequately serve many students, but some children benefit from a more specialized set of services. It's not reasonable to expect a typically trained special education teacher to be able to best serve the educational needs of every child and every diagnosis. Private organizations have the distinct advantage in providing these services. They have staff with specific, specialized training.

Nonpublic school settings also would have a diverse funding basis. Private special education options would be able to offer a greater student and family benefit, for potentially less money. Private institutions utilize grant monies, charitable contributions, medical insurance, Medicaid, and tuition as a funding base. This broad funding base allows for specialized programming, lower student to teacher ratios, and higher student outcomes.

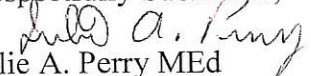
This is the model of service delivery that we provide at The Erin Is Hope Foundation. Our mission is to provide maximum outcomes for each child at prices affordable to the average family budget. In addition to serving the needs of many local families, others have moved from across the country to participate in Erin's legendary success in teaching functional speech to nonverbal children.

Our focus on multidisciplinary intervention provides remarkable opportunities for the integration of **medical** and **educational** strategies under one umbrella of service. Through its registered non-accredited private school, the Erin Is Hope Foundation, Inc. delivers quality educational programming, including academic curriculum, community based instruction, home living, leisure skills, self-help and functional application skills.

The freedom to provide the intensive intervention in a private school setting affords our students with the freedom to participate in a world previously closed to them. Education is a key determinant of future success, and everyone deserves equal access to education, with truly no child being left behind. The opportunity for a quality education should not be denied on the basis of physical, mental or cognitive disability, or finances.

Please pass House Bill 2253 to open the door to free and appropriate education for the special education students of Kansas.

Respectfully Submitted,

  
Julie A. Perry MEd  
Erin Is Hope Foundation, Inc.

House Education Committee

Date 2-15-07

Attachment # 14

To the Kansas House Education Committee

I am the parent of a special needs child in the state of Kansas. My child, Jake, was diagnosed with mitochondria disease at the age of 1. He is delayed physically as well as cognitively. I quickly learned that being the parent of a special needs child, I had to become my child's best advocate. I had to find the most knowledgeable doctors, the most qualified therapists, and the most effective medicines. The area where I have found the most limitations is in education.

When starting Kindergarten, my son was fortunate to be accepted into our parochial school, Blessed Sacrament where my other children attend. He struggled through ½ day kindergarten even with an aide at his side. He repeated Kindergarten, but as the gap continued to widen, I knew we needed to consider the only other option... the public school system. The Catholic School System just does not have the funding to properly educate children with special needs.

Jake has moved onto 1<sup>st</sup> grade this school year at Blessed Sacrament, but to accommodate his needs and meet the requirements of his IEP, he has been bussed to College Hill Public School 2 times a day. He leaves for College Hill at 8:30 a.m. for class from 9:00 to 10:00. He returns to Blessed Sacrament by bus around 10:15. In the afternoon he is picked up by a school bus at 12:30 for a class from 1:00 to 2:20. I pick him up everyday from College Hill and either return him to Blessed Sacrament or take him to private therapy.

Not only does Jake waste 1 hour and 15 minutes on the bus everyday. He has to transition from one school setting to the next. All involved (teachers, students, therapists, and parents) are required to duplicate adaptation requirements. This is a real challenge for my child when stress, fatigue, and lack of continuity impair his ability to learn.

The philosophy of the public school system, in my experience, is "Don't push the children too far; you don't want to see them fail." Is this really in the best interest of any special needs child? I choose to send all of my children to a parochial school for the Religion aspect first, but equally important is the standard of excellence in education. Blessed Sacrament has the opposite philosophy. "Strive for the best or you are setting them up to fail."

I am in favor of House Bill No. 2253 passing so that I can continue to send my son, Jake to the school of my choice on a full-time basis.

Cynthia Suellentrop  
CY Suellentrop

House Education Committee  
Date 2-15-07  
Attachment # 15

February 14, 2007

**In Response to HOUSE BILL No. 2253 State of Kansas**

I'm writing to you today to ask you to consider passing the bill for HOUSE BILL No. 2253.

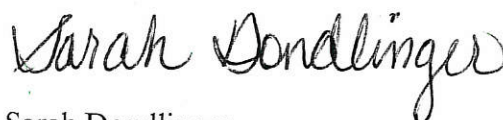
You see, I wear two hats in this matter. The first hat is as a parent. My husband and I have a daughter with Down's Syndrome. When she was two months she received special services. It was not easy to find the money to pay for her services. Allison is now 22 years old and is getting educational and speech services at Erin Is Hope, Pollard-Licklider Clinic in Wichita, Kansas.

The other hat I wear is as a speech assistant. I have worked for Erin Is Hope for 15 years. I have seen many families come to us with their children needing speech and educational services. Through the private donations we get, we can help only a little. I have seen families leave because they cannot afford the cost month after month.

This is where passing House Bill No. 2253 will greatly help those families that are in desperate need for specialized help with their children. These special children have a lot to offer and can get better if given the opportunity with right help with calculated plan.

Therefore, I ask you to please pass House Bill No. 2253 for the families with special needs children.

Sincerely,



Sarah Dondlinger  
Andover, KS

House Education Committee  
Date 2-15-07  
Attachment # 16

February 14, 2007

**In Response to HOUSE BILL No. 2253 State of Kansas**

As a parent of a special needs child with a severe communication disorder, I am responding in favor of the **Act** proposed in **House Bill No. 2253** creating a special needs scholarship program and the administration thereof.

We have experienced special education with our son for two years in the system the public school had in place. We found it lacking in intensity and ability to combine the prescribed medical services along with the education. There was no specific method and my child continued to lose ground while he was there. They lacked a method of teaching speech, the complimentary structure to carry it out in the classroom, the necessary transitions for the child and the teacher, and mostly, they lacked the one to one interaction required to reach a severely language impaired child.

We moved our whole family to Wichita, Kansas from Oklahoma when we found a private school/clinic that provided the intense, one on one medical services our son needed and an educational setting to complement the medical services. It was here that our child finally made progress with his language, ability to read and write taught simultaneously through an appropriate and proven method for language-impaired children. Our son is now age 7 and has made tremendous progress in this setting. It is our desire to continue his medical therapies and education here at Pollard-Licklider Clinic which has shown results rather than place him in another setting that cannot adequately serve our child's special needs.

Pollard-Licklider Clinic offers what our severely language impaired children need. They have the experience and numerous positive outcomes. Use them for a pilot project that can work with the public schools and other private schools in treating and educating our special needs children. We have a population of children that have been dealt a major challenge. Let's offer them the best possible treatment at an obtainable rate to make the most of their abilities. Let's limit their dependence on society and make them a productive member of it by reaching them early and developing them to the best of their abilities. Let's offer them language, the keystone that differentiates us from the rest of the mammals and makes us human

Respectfully,



Elizabeth Parsons

House Education Committee  
Date 2-15-07  
Attachment # 17

Testimony Supporting House Bill 2253

By: Gary and Brenda Anderson, Parents of a Special Needs Child

February 13, 2007

Our names are Gary and Brenda Anderson and we are the proud parents of Tyler (T.J.) Anderson. T.J. is a special needs child currently enrolled at the Pollard-Licklider Clinic in Wichita. Special Education vouchers are important to us because they would help us bear the financial burden of continuing T.J.'s education at the Pollard-Licklider Clinic. T.J. formerly was a student in the Derby public school system but after three years of little to no progress we decided to enroll T.J. at the Pollard-Licklider Clinic. Since his placement there, he has made significant gains and we believe that the special educational therapy he is currently receiving is the best that is available. We know first hand how helpful Special Education vouchers would be for us, but we also know that there are many other families with special needs children whose children are not receiving the educational program they require through the public school system.

Sincerely,

Gary and Brenda Anderson



House Education Committee

Date 2-15-07

Attachment # 18



Mr. and Mrs. David Combs  
601 Brentwood Place  
Andover, KS 67002  
February 14, 2007

**In Response to HOUSE BILL No. 2253 State of Kansas**

Dear Committee Members,

Our son Luke is suffering from a very rare communications disorder called Landau-Kleffner Syndrome (*also known as Epileptic Aphasia*). Luke was fine for the first two years of his life. He was learning to talk and developing normally, but at about 18 months of age, we started noticing that he was having staring spells. Luke was just turning two-years-old, when our pediatrician ordered an EEG and we were devastated to learn that the starring spells were actually the result of epileptic brain seizures that were focused in his left front temporal lobe... the precise location of the communications center in his brain

As you might imagine, we spent the next two years seeking out every possible source of medical help we could find and took him to see the top pediatric neurologists in the country... including week long stays at John Hopkins Hospital and Rush Medical Center in Chicago. The seizures did stop within about a year, but Luke's ability to process both receptive and expressive speech language sounds was lost.

When Luke was three years old, an expert Speech Language Pathologist (SLP) in Chicago, with years of experience treating children with severe epileptic communications disorders (Pat Van Slyke, Ph D., CCC/SLP) conducted an extensive evaluation. The report's recommendations stated that Luke should be placed in a *language based special education classroom* and that he should receive *intense speech and language therapy, not less than 60 minutes per day*.

The scope needed of one on one, specialized and time intensive speech language therapy is not available in any public school system we could find. We searched all over the country for the next three years for the proper language based program and intensive speech rehabilitation therapy services.

House Education Committee  
Date 2-15-07  
Attachment # 19

In June 2003, we learned about a clinic in Wichita, Kansas called the "Erin Is Hope Foundation / Pollard-Licklider Clinic." The not-for-profit organization is somewhat of a rehabilitation clinic that focuses solely on helping kids with severe communications handicaps learn to talk. We read a brochure and watched a video about the clinic and found that they combined medical and educational services in one program. As you know, the public school system does not provide medical services and can not combine medical and educational services like a private school can.

It all sounded too good to believe, so a couple of days after hearing about the place, my wife and I took off for Kansas to check out the clinic and the staff. What we found surpassed our wildest hopes.

Although our son's malady is very rare and therefore difficult for average speech language therapists to treat, it turned out the director of this Clinic has many years of experience successfully treating children with Luke's challenges. We watched observation videotapes of kids being treated who were even worse off than Luke and we were amazed to see them making remarkable progress after just a few months of treatment. After a couple of days of watching them evaluate Luke and interviewing their staff, we were convinced that we had no choice but to make immediate plans to move to the state of Kansas, in the best interest of our son, Luke.

At the time we moved here, Luke was six years old and only knew a few sign language gestures and about 15 words. But we knew, according to the medical professionals familiar with LKS, that Luke had good intelligence and excellent reasoning skills. We believed then, as we do now, that Luke has unlimited potential if we could just break through and get him the kind of help he needs to learn to talk. This was not just our biased parental opinion, his speech therapist in Kentucky and the neurologists who evaluated him agreed.

Despite his communications handicap, Luke was a very happy child from birth to three years old. If you had known him then, you would have discovered that he has a zest for life and loves to have fun with other people. But for about 6 months prior to admitting Luke in the Pollard-Licklider clinic, Luke was not his usual jovial self. Dr. Michael Smith, Director of the Rush Epilepsy Center in Chicago, told us that this is because he started to realize how different he is from other kids his age. He was frustrated and depressed about not being able to talk to his peers. This is another reason having a parental choice is important... unlike in the public school setting, Luke is victimized much less often by his peers and

has fewer behavior problems.

The rehabilitation program at this private school includes both an educational and medical component. We are covering the private tuition fees, but we believe that it would be just if at least a small portion of the tax dollars we pay to the Kansas public schools could be used to help kids like Luke, when appropriate.

We look forward to the day our son can attend Kansas public schools and benefit from the services offered, but some special needs children's needs are so unique, they need different approaches that are not possible in a public school system that has to take a cookie-cutter approach to special education.

We especially appreciate the fact that you are considering a bill that will give those closest to the child, his parents, the empowerment to determine whether their child's special needs are best met by the existing public school in their county or by a non-public school that caters specifically to certain disabilities. We deeply believe this determination should reside with the parents instead of a school district or some panel of educators that are not even that familiar with all facets of the child's needs.

Typical children and their parents have lots of choices in life... unfortunately, our kids do not at this point. If you could help see this bill through, we believe you will be giving special needs children in Kansas a better opportunity to overcome their handicaps and grow up to be positive and fruitful influences in our communities in their adult years. Thank You!

Earnestly,

A handwritten signature in cursive script, appearing to read "David and Charlotte Combs". The signature is written in dark ink and is positioned below the word "Earnestly".

David and Charlotte Combs



Testimony on  
**HB 2253 – Special Needs Scholarships**

Before the  
**House Committee on Education**

**By Mark Tallman, Assistant Executive Director/Advocacy**  
February 15, 2007

Mr. Chair, Members of the Committee:

**HB 2253** would establish a private school voucher program for special education students. KASB's position on vouchers is very simple. If a school receives public funding, it must serve all students without any preconditions or eligibility requirements, as public schools do; it must be governed by the same rules and regulations that the Legislature, the Kansas State Board of Education and the federal government has established for all other public-funded schools; and it must be accountable to the public and taxpayers through the locally elected school board (as provided in the state constitution.) We oppose this bill because it meets none of those standards.

**HB 2253 allows private schools to accept students the school chooses, not the parents.**

Section two of the bill says the purpose is to provide special needs students with the option to attend the public or non-public school of their choice. Yet it does nothing to guarantee that option beyond current law. The bill does not require public schools to accept children that do not reside in their district; nor does it require private schools to accept all children who apply; nor does it limit the cost of tuition to private schools. Nor does the bill require private schools to accept students with all exceptionalities, which seems to mean that a school could accept only gifted students, or gifted students who have no behavior problems, or gifted students with whatever attribute the school finds desirable.

Section four provides that any parent who is "dissatisfied with student's progress" is eligible, presumably even if the student is meeting the Individual Education Plan goals that the parent agreed to. However, the student must also be accepted by a participating school, which may not discriminate on the basis of race, color, national origin or religion, but may discriminate on the basis of anything else.

**HB 2253 provides funding for private education without requirements for special services.**

The amount of the scholarship or voucher will be determined by the Kansas State Department of Education, based on what it would have cost to provide the IEP in the public school, or the estimated cost of serving the student in the private schools, even though the private school is not required to follow the IEP. [Section 4 (e) and (f)] The private school's cost of serving the child is not limited to special education services.

House Education Committee  
Date 2-15-07  
Attachment # 20

In other words, the parent can demand a high level of special education services from a public school, transfer to a private school that provides a lower level of special services, and receive a special needs scholarship for educational costs not related to special education. Therefore, the special needs scholarship may simply subsidize the regular educational costs of the private school. Public schools, on the other hand, must use special education funds only for special education, and must follow the IEP.

Private school students in Kansas are already entitled to receive special education services from public schools. Under **HB 2253**, a student could continue to receive free special education services from the student's public school district, and at the same time, receive a voucher to cover the "regular" costs of attending the private school. The bill does not require the private school to provide any special services.

Section 4(h) allows a parent to remove the child from the private school "at any time." If the parents announce they are "dissatisfied" and transfer the child to a private school, the school district may be able to reduce costs of special services – special staffing, equipment, etc. – required by a student's IEP. Several months (or weeks, or days) later, if the parents are dissatisfied with the private school, they can immediately return the child to the public school, which must immediately restore the services required by law, regardless of cost.

**HB 2253 does not require oversight and accountability for public funding.**

Section 7 (12) (b) and (c) specifically states that the private school is not subject to public oversight or regulation, despite the fact that it is accepting public education dollars – even while legislators continue to call for MORE requirements on public schools, such as new accounting systems. Under this bill, private schools would not be subject to the open records or open meetings acts, or account for funding like public schools. Students would not have to take state assessments.

Finally, Section 9 authorizes an evaluation that seems to be designed to produce a biased result. Such a study is supposed to assess parent and student satisfaction with the program without defining how satisfaction is to be measured, and to assess students who were "victimized" because of their special needs at their resident school compared to the percentage so victimized at the participating school. It doesn't define what is meant by "victimized" or how this is to be measured, and it ignores the fact that public schools must report certain incidents to law enforcement and many private schools are not. It calls for a comparison of "behavior problems." We readily concede that a public school which is legally required to accept all students, including those with behavior problems, will have more students with behavior problems than a private school which can exclude or expel such students.

In fact, the study of a special needs scholarship program is not required to assess anything having to do with "special needs" or "scholarship," such as academic performance or special services to students.

**"School Choice" programs do not improve education.**

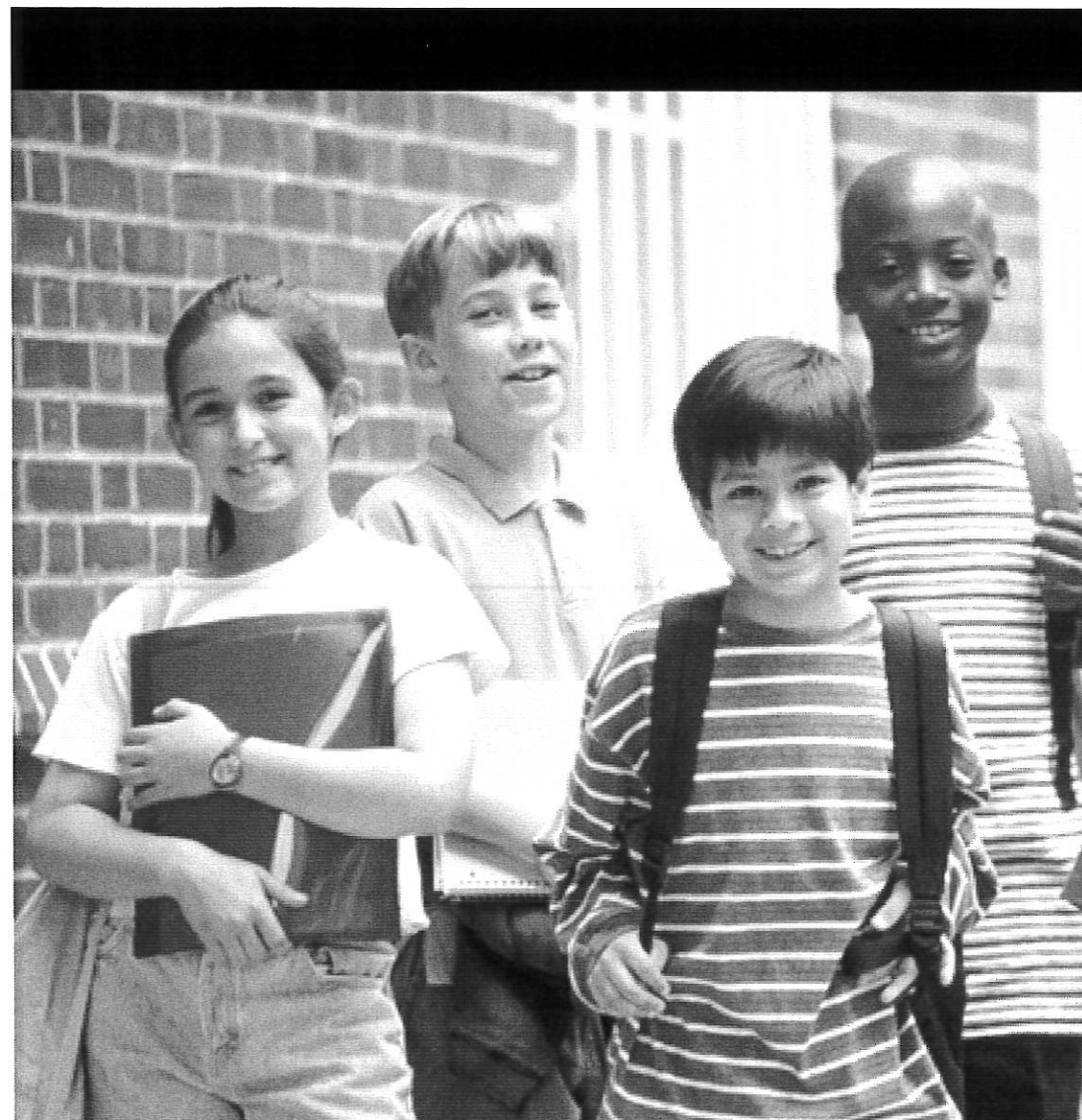
We would also share these facts. First, states that have experimented with "school choice" programs tend to have LOWER student achievement than Kansas. Second, a recent study from the U.S. Department of Education found that private schools have no better academic results compared to public schools with similar student characteristics. Third, public and private schools face such "different rules" that any idea of competition is meaningless. I have provided background information on each of these points.

Like all voucher programs we have seen, **HB 2253** would allow private schools to enroll only such students as they wish to serve, receive public funding in the form of scholarships, and provide a lower level of special services, with virtually no oversight or accountability.

We urge you to reject this bill. Thank you for your consideration.

National Assessment of Educational Progress

# Comparing Private Schools and Public Schools Using Hierarchical Linear Modeling



National  
Assessment  
of Educational  
Progress

House Education Committee  
Date 2-15-07  
Attachment # 21

U.S. Department of Education  
NCES 2006-461

FOR  
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## Executive Summary

The goal of the study was to examine differences in mean National Assessment of Educational Progress (NAEP) reading and mathematics scores between public and private schools when selected characteristics of students and/or schools were taken into account. Among the student characteristics considered were gender, race/ethnicity, disability status, and identification as an English language learner. Among the school characteristics considered were school size and location, and composition of the student body and of the teaching staff. In particular, if the student populations enrolled in the two types of schools differed systematically with respect to background characteristics related to achievement, then those differences would be confounded with straightforward comparisons between school types.

The present report examined results from the 2003 NAEP assessments in reading and mathematics for grades 4 and 8. NAEP draws nationally representative samples of schools and students. In 2003, over 6,900 public schools and over 530 private schools participated in the grade 4 assessments. Over 5,500 public schools and over 550 private schools participated in the grade 8 assessments.

Hierarchical linear models (HLMs) were employed to carry out the desired adjustments. HLMs were a natural choice because they accommodate the nested structure of the data (i.e., students clustered within schools) and facilitate the inclusion of variables derived from student and school characteristics. In this study, the focal parameter was the mean difference between mean NAEP scores for two populations of schools. (This difference was not identical to the difference in mean scores between the two student populations, though the discrepancy was typically small.) HLMs were used to compare all private schools to all public schools, as well as to compare, separately, certain categories of private schools (i.e., those for which sample sizes were sufficient to report reliable estimates) to all public schools. Statistical significance was determined at the .05 level using *t* tests on model results.

## Results From Grade 4

### Reading

In the first set of analyses, all private schools were compared to all public schools. The average private school mean reading score was 14.7 points higher than the average public school mean reading score, corresponding to an effect size of .41 (the ratio of the absolute value of the estimated difference to the standard deviation of the NAEP fourth-grade reading score distribution). After adjusting for selected student characteristics, the difference in means was near zero and not significant. In the second set of analyses, Catholic schools and Lutheran schools were each compared to all public schools. The results, both with and without adjustments, were similar to the corresponding results for all private schools.

### Mathematics

In the first set of analyses, all private schools were again compared to all public schools. The average private school mean mathematics score was 7.8 points higher than the average public school mean mathematics score, corresponding to an effect size of .29. After adjusting for selected student characteristics, the difference in means was -4.5 and significantly different from zero. (Note that a negative difference implies that the average school mean was higher for public schools.) In the second set, Catholic schools and Lutheran schools were each compared to all public schools. The results, both with and without adjustments, were similar to the corresponding results for all private schools.

## Results From Grade 8

### Reading

In the first set of analyses, all private schools were compared to all public schools. The average private school mean reading score was 18.1 points higher than the average public school mean reading score, corresponding to an effect size of .58. After adjusting for selected student characteristics, the difference in means was 7.3 points and significantly different from zero. In

the second set, Catholic, Lutheran, and Conservative Christian schools were each compared to all public schools. The results, both with and without adjustments, were generally similar to the corresponding results for all private schools. The only exception was that the average difference in adjusted school mean scores between Conservative Christian schools and all public schools was not significantly different from zero.

### Mathematics

In the first set of analyses, all private schools were again compared to all public schools. The average private school mean mathematics score was 12.3 points higher than the average public school mean mathematics score, corresponding to an effect size of .38. After adjusting for selected student characteristics, the difference in means was nearly zero and not significant. In the second set, Catholic, Lutheran, and Conservative Christian schools were each compared to all public schools. While the results for Catholic schools, both with and without adjustments, were very similar to the corresponding results for all private schools, the results for the other two types differed.

The initial difference between Lutheran schools and all public schools was substantially larger (19.5 points) than was the case for all private schools. The average difference in adjusted mean mathematics scores between the two types of schools was 4.9 points and significantly different from zero. On the other hand, the initial difference between Conservative Christian schools and all public schools was substantially smaller (5.1 points) and not significant. The average difference in adjusted school means between Conservative Christian schools and all public schools was -7.6 points (i.e., a higher average school mean for public schools) and was significantly different from zero.

## Comparison of Results for Grade 4 and Grade 8

Overall, there were many similarities in the results for the two grades. In both reading and mathematics, analyses employing unadjusted NAEP scores indicated that the average private school mean score was higher than the average public school mean score, and the difference was statistically significant. Including selected student characteristics in the model, however, resulted in a substantial reduction in the difference in all four analyses. The reduction varied from 11 to 15 score points. For grade 4 reading and grade 8 mathematics, the average difference in adjusted school mean scores was no longer significant. For grade 4 mathematics, the difference was significant, and the adjusted school mean was higher for public schools. Only for grade 8 reading was the difference still significant with a higher school mean for private schools. For all four analyses, with student characteristics such as gender and race/ethnicity incorporated in the model, the inclusion of school characteristics (e.g., teacher experience, type of school location, school size) had little impact on the estimate of the average difference between the two types of schools.

Variance decompositions yielded similar results for the four grade-subject combinations. Most of the total variance was due to heterogeneity among students within schools rather than heterogeneity among school mean scores. The combination of selected student and school characteristics accounted for about one-third of the total variance for grade 4 and about two-fifths of the total variance for grade 8.



## Cautions in Interpretation

When interpreting the results from any of these analyses, it should be borne in mind that private schools constitute a heterogeneous category and may differ from one another as much as they differ from public schools. Public schools also constitute a heterogeneous category. Consequently, an overall comparison of the two types of schools is of modest utility. The more focused comparisons conducted as part of this study may be of greater value. However, interpretations of the results should take into account the variability due to the relatively small sizes of the samples drawn from each category of private school, as well as the possible bias introduced by the differential participation rates across private school categories.

There are a number of other caveats. First, the conclusions pertain to national estimates. Results based on a survey of schools in a particular jurisdiction may differ. Second, the data are obtained from an observational study rather than a randomized experiment, so the estimated effects should not be interpreted in terms of causal relationships. In particular, private schools are “schools of choice.” Without further information, such as measures of prior achievement, there is no way to determine how patterns of self-selection may have affected the estimates presented. That is, the estimates of the average difference in school mean scores are confounded with average differences in the student populations, which are not fully captured by the selected student characteristics employed in this analysis.

## Summary

In grades 4 and 8 for both reading and mathematics, students in private schools achieved at higher levels than students in public schools. The average difference in school means ranged from almost 8 points for grade 4 mathematics, to about 18 points for grade 8 reading. The average differences were all statistically significant. Adjusting the comparisons for student characteristics resulted in reductions in all four average differences of approximately 11 to 14 points. Based on adjusted school means, the average for public schools was significantly higher than the average for private schools for grade 4 mathematics, while the average for private schools was significantly higher than the average for public schools for grade 8 reading. The average differences in adjusted school means for both grade 4 reading and grade 8 mathematics were not significantly different from zero.

Comparisons were also carried out with subsets of private schools categorized by sectarian affiliation. After adjusting for student characteristics, raw score average differences were reduced by about 11 to 15 points. In grade 4, Catholic and Lutheran schools were each compared to public schools. For both reading and mathematics, the results were generally similar to those based on all private schools. In grade 8, Catholic, Lutheran, and Conservative Christian schools were each compared to public schools. For Catholic and Lutheran schools for both reading and mathematics, the results were again similar to those based on all private schools. For Conservative Christian schools, the average adjusted school mean in reading was not significantly different from that of public schools. In mathematics, the average adjusted school mean for Conservative Christian schools was significantly lower than that of public schools.

**U.S. Department of Education**

Margaret Spellings

*Secretary*

**Institute of Education Sciences**

Grover J. Whitehurst

*Director*

**National Center for Education Statistics**

Mark Schneider

*Commissioner*

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July 2006

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21-5

## Expanded school choice doesn't improve student performance

*KASB Issue Paper – December 6, 2005*

New Kansas Education Commissioner Bob Corkins has made expanding school choice and competition his top priority, saying that private school vouchers and more public charter schools would improve education in the state.

However, the states with the highest percentage of students in charter schools, as well as those which provide state funding for private school vouchers, generally performed well below Kansas on national reading and math tests.

Student performance can be compared by examining results from the 2005 National Assessment of Education Progress. NAEP reports the percent of public school students who score basic or above in reading and math at grades four and eight. For each state, a NAEP test total can be determined by adding the percent at that level in each of the four tests. A “perfect score” would be 400.

Table 1						
How Kansas Compares to “High Choice” States						
	Charter School Enrollment as Percent of Total Public School Enrollment	2005 National Assessment of Education Progress Number is the combined percent of students scoring Basic and Above for Reading and Math, Grades Four and Eight (Maximum score 400)				Current Expenditures per Pupil, 2003
		(1) All Students	(2) Low Income Students	(3) Students with Disabilities	Average of Columns 1-3	
<b>Kansas</b>	<b>0.3%</b>	<b>309</b>	<b>259</b>	<b>175</b>	<b>248</b>	<b>\$7,454</b>
<b>Ten “High Choice” States:</b>						
Delaware	5.3%	309	253	183	248	\$9,693
Ohio	3.3%	305	237	184	242	\$8,632
Wisconsin	3.0%	304	229	163	232	\$9,004
Colorado	4.6%	295	223	148	222	\$7,384
Michigan	4.4%	283	211	169	221	\$8,781
Florida	3.0%	278	233	176	229	\$6,439
Alaska	3.3%	274	206	143	208	\$9,870
Arizona	5.4%	251	193	120	188	\$6,282
Hawaii	2.8%	240	185	72	166	\$8,100
California	2.8%	238	215	104	175	\$7,552
<b>“High Choice” State Average</b>		<b>278</b>	<b>215</b>	<b>175</b>	<b>227</b>	

Kansas has consistently scored among the top-performing states. For 2005, Kansas tied for 10th place with a score for all students tested of 309.

Ten states have at least 2.8 percent of total public school enrollment in charter schools. Three of those states (Wisconsin, Ohio and Florida) also have some form of state-funded voucher for students attending private schools. Among the 10 “high choice” states, one (Delaware) tied with Kansas, with all others scoring lower. The average score of the high choice states was 278, which was 31 points LOWER than Kansas.

The Commissioner proposed targeting vouchers to low income and disabled students because these groups are the focus of the constitutional challenge to the Kansas school finance system. However, “high choice” states also fall below Kansas in serving these groups. The combined NAEP scores for Kansas students eligible for free or reduced lunch was 259. Every single “high choice” state had a lower score for low income students. The average of these states was 215, or 44 points LOWER than Kansas.

For students with disabilities, three “high choice” states had a higher NAEP score than Kansas (Delaware, Ohio and Florida by a single point), but the average of all 10 states was 146, or 29 points LOWER than Kansas.

This data also reinforces another fact: higher spending per pupil on public education usually (but not always) makes a positive difference. The “high choice” states with the best overall performance (Delaware, Ohio and Wisconsin) each spent between \$1,000 and \$2,000 per pupil more than Kansas. In other words, the “high choice” states that came closest to the level of student achievement in Kansas spent considerably more money per pupil.

Overall, a higher percent of students in charter schools as opposed to traditional public schools actually seems to correspond to LOWER student performance. As noted above, the average combined NAEP score for the 10 “high choice” states was 278. The average score for the 12 states with charter school enrollment between 1.0 and 2.8 percent was 290. The average score for states with less than 1 percent charter enrollment was 285. The highest average score was for the eleven states with NO charter school enrollment: 295.

Table 2				
Average Test Scores for States Based on Charter School Enrollment				
	Percent of Public School Enrollment in Charter Schools			
	2.8 Percent or more	1.0 to 2.7% Percent	Less than 1 Percent	No charter schools
Number of States	10	12	17	11
Average Combined 2005 NAEP score (All students)	278	290	285	295

These national test results refute the notion that expanding school choice improves public education. It is easy to understand why: public schools must educate every child under a host of state and federal mandates. “Choice” really means allowing certain schools to educate a small number of students under “different rules” – or no rules at all. If “choice” schools are allowed to choose the students they want, public schools are responsible for educating the students “choice” schools do not want. If “choice” schools are required to operate the same as public schools, student results are no different.

Sources:

- National Assessment of Education Progress: “Mathematics 2005” and “Reading 2005”
- National Charter School Research Project; Indicator Reports; Number of Students
- Nation Center for Education Statistics: Current Expenditures for Pupil 2002-03

KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS

# DIFFERENT Rules

**What Choice and Competition  
Mean for Public and Private  
Schools in Kansas**

House Education Committee

Date 2-15-07

Attachment # 22

**DIFFERENT RULES**  
**WHAT CHOICE AND COMPETITION MEAN FOR**  
**PUBLIC AND PRIVATE SCHOOLS IN KANSAS**

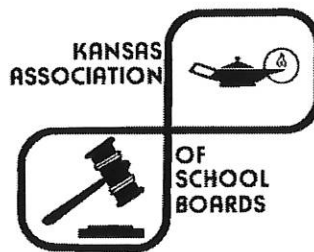
**TABLE OF CONTENTS**

Introduction ..... 5

Who are Public and Private Schools Required to Serve? ..... 6

What are Public and Private Schools Required to do?

- 1. Instruction and General Education..... 7
- 2. Special Education and Other Special Needs Programs..... 8
- 3. Instructional Support and Assessment ..... 9
- 4. Student Support Services ..... 10
- 5. Textbooks, Transportation and Food Service ..... 11
- 6. Employee Rights and Teacher Tenure ..... 12
- 7. Collective Bargaining ..... 13
- 8. Governance Authority ..... 14



22-2

## INTRODUCTION

“Choice” and “competition” sound as American as apple pie. For over the past 15 years, there have been calls for more parental choice and competition in elementary and secondary education. But competition is only fair and effective when the competitors are working under the same rules.

The purpose of this publication is to help policy-makers and the public understand two very important facts. First, public schools were established to provide education for all children, regardless of needs or ability, while private schools can be selective in the children they serve. It is the private school, not the parent, which really has the “choice.” Second, public schools are perhaps the single most regulated public service in the United States, while private schools are almost completely independent of public regulations.

In November 2005, the new Commissioner of Education proposed that the State Board of Education endorse these expanded school choice proposals as part of the Board’s legislative agenda. One proposal would provide public funding for vouchers or “state scholarships” which would give parents of children who attend private schools a public subsidy to help pay for tuition. Another would allow independent “charter schools” to operate free from many laws and regulations governing traditional public schools, outside of the authority of elected local school boards.

These proposals raise a number of questions:

- Will schools under any expanded choice plan be required to accept all children, regardless of needs or ability? If not, is it appropriate to use tax dollars to support educational programs that can exclude the children of those taxpayers?
- Will private or charter schools under expanded choice be required to meet the entire curriculum, student service and staff requirements imposed on public schools? If not, how will public schools be able to adopt innovative new practices under the spur of “competition?”
- Will private or charter schools have to comply with the same assessment, parental notification and public accountability requirements, such as internet-based reporting, open meetings and open records? If not, how can families make informed choices? How can the public know what education dollars are being spent?
- Will public schools be exempted from rules and regulations in order to compete with private schools? If not, how can public schools change their operation? If market forces can be trusted to meet the needs and desires of parents, why should public schools continue to be regulated more than private schools? If public charter schools are exempted from regulations, why not other public schools?

For every “school choice” proposal presented to the Kansas Legislature in the past 15 years, the answer to the first questions in each group above has been “no.” That raises another question: is school choice really about competition, or is it about allowing some students to move to private schools, while making public schools the “choice of last resort” for students that selective private schools do not want? That concern has led the Kansas Association of School Boards to oppose proposals that purport to offer choice and competition, but really mean something very different.

The following pages give detailed examples of the different requirements imposed on public schools, both by state law (K.S.A.=Kansas Statutes Annotated) or regulations of the Kansas State Board of Education (K.A.R.=Kansas Administrative Regulations).

# Who are Public and Private Schools Required to Serve?

*PUBLIC SCHOOLS* must provide a free education to any school-aged child who resides in the district, and may suspend or expel students only in specific cases for limited periods of time.

## **Admission of Children**

---

Public school boards must accept for enrollment any child who has attained the age of eligibility and who lives with parents or "person acting as parent" who are residents of the district. "Person acting as parent" is very broadly defined. *K.S.A. 72-1046*

## **Free Public Schools**

---

Public school boards must establish a system of free public schools for all children residing in the district. *Kansas Constitution, Art. 6*

## **Age of Admission**

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Public school boards may not admit into kindergarten students younger than the age of eligibility (five years old before September 1). *K.S.A. 72-1107*

## **Reasons for Exclusion from School**

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Public school boards may exclude students from school only for reasons stated in statute. These reasons are limited to serious disciplinary violations. Students may not be excluded for poor academic performance or lack of attendance. *K.S.A. 72-8901*

## **Length of Exclusion**

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Public school boards may not exclude students beyond limits set by state law. Students may be given a short term suspension for a maximum of 10 days; an extended suspension for a maximum of 90 days; and an expulsion for a maximum of 186 days. *K.S.A. 72-8902*

## **Disciplinary Due Process**

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Public school boards must provide due process hearings before students may be suspended or expelled. State and federal laws place limitations on disciplining special education students. *K.S.A. 72-8901 et seq.*

*PRIVATE SCHOOLS* are free to accept or reject children as they choose, impose any cost or conditions they wish, and exclude children for any reason, as long as no civil rights laws are violated.

## **Admission of Children**

---

Private schools are not required to accept any children. They may adopt whatever admissions criteria they wish, subject only to federal and state civil rights laws.

## **Free Public Schools**

---

Private schools may charge tuition, and have no legal obligation to serve any area or group of children.

## **Age of Admission**

---

Private schools may admit children of any age.

## **Reasons for Exclusion from School**

---

Private schools may exclude students from schools for any reason that does not violate civil rights law, including academic performance, attendance or failure to abide by the rules. They have the flexibility to set admissions criteria and terminate education opportunities at any time.

## **Length of Exclusion**

---

Private schools may exclude students for any behavior for any length of time, including permanent expulsion.

## **Disciplinary Due Process**

---

Private schools are not required to provide a due process disciplinary hearing before excluding students.



# What are Public and Private Schools Required to do?

## 1. Instruction and General Education Curriculum

*PUBLIC SCHOOLS* must offer specific courses and programs at grade levels and students ages, and provide a minimum school term, as required by state laws.

### **Grades and Units of Instruction**

---

Public school boards must offer grades kindergarten through 12 in each district, and must offer at least 30 units of instruction in each high school (or contract with another high school to provide these units). *K.S.A. 72-8212*

### **Minimum School Term**

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Public schools must offer a minimum school term of 186 days or 1,116 hours.  
*K.S.A. 72-1106*

### **Elementary Curriculum**

---

Public elementary schools must teach reading, writing, arithmetic, geography, spelling, English grammar and composition, history of the United States and Kansas, civil government and the duties of citizenship, health and hygiene, and other subjects required the State Board of Education: computer literacy, fine arts, physical education and science.  
*K.S.A. 72-1101, K.A.R. 91-31-32(c)(9)*

### **Secondary Curriculum**

---

Public high schools must offer courses required by the State Board of Education for graduation, plus the requirements of qualified admission to state universities and the school scholarship program, which include the following units: four years of English/language arts, three years of history/government (including U.S. government), three years of science, four years of math, one year of physical education, and six years of electives, which must include computer technology and foreign language.  
*K.S.A. 72-116, 72-6810 et seq., 72-1103, 72-1117 and K.A.R. 91-31-35(a)*

*PRIVATE SCHOOLS* have much more flexibility in determining how to organize instructional programs and must meet fewer state requirements.

### **Grades and Units of Instruction**

---

Private schools may be organized with any numbers of grades. Only half as many students attend private high schools as elementary schools. Private high schools are not required to offer a minimum number of instructional units.

### **Minimum School Term**

---

Private schools are required to offer instruction for a period of time "substantially equivalent" to the term of the school district in which the private school is located. For non-accredited schools, this requirement is not monitored and is practically unenforceable.

### **Elementary Curriculum**

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Only private schools that choose to seek accreditation must meet these same standards.

### **Secondary Curriculum**

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Only private high schools that choose to seek accreditation must meet these same standards.

# What are Public and Private Schools Required to do?

## 2. Special Education and Other Special Needs Programs

*PUBLIC SCHOOLS* must provide programs for special needs students, including special education for any child in the district who meets the definition of one or more of thirteen special education categories, regardless of cost.

### **Special Education Services**

---

Public school districts provide special education services for all exceptional children in the district. The scope of these services is defined by the State Board of Education. These services must be provided even if the federal or state government does not provide funding. Local boards may contract for providing these services, but these contracts must be approved by the Commissioner of Education.

*K.S.A. 72-966*

### **Special Education Procedures**

---

Public schools must follow specific procedures for identification, placement and determining the scope of services for students. These procedures include the right to a full quasi-judicial hearing. Schools cannot significantly change the services or placement of special education students without the parent's written permission, or pursuing a due process hearing.

*K.S.A. 72-973 et seq.*

### **Bilingual Education**

---

Public schools are required to provide bilingual education under Title IV of the federal Civil Rights Act. *K.S.A. 72-9501 et seq.*

### **Programs for At-Risk Students**

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Public schools are required to provide special services for students at-risk of failing to master basic skills or dropping out of schools.

*K.S.A. 72-7534, 72-6407, 72-6414*

### **Vocational Education**

---

Public schools provide vocational education under the provisions of the federal Carl D. Perkins Vocational and Technical Education Act. *K.S.A. 72-4408 and, 72-4411*

*PRIVATE SCHOOLS* are not required to provide these services. If private school students qualify for special education services, the public school district - not the private school - must provide them.

### **Special Education Services**

---

Private schools are not required to provide special education services. However, public schools are required to provide these services to students attending private schools, at the public school district's expense. *K.S.A. 72-5393*

### **Special Education Procedures**

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Private schools that choose to provide special education services are not required to follow these procedures, or go through due process hearings to determine identification, placement or scope of services for special education.

### **Bilingual Education**

---

Private schools are not required to provide bilingual education programs.

### **Programs for At-Risk Students**

---

Private schools are not required to provide special services to at-risk students, or to accept or continue to enroll students who have not mastered academic requirements.

### **Vocational Education**

---

Private schools are not required to offer vocational education programs.

# What are Public and Private Schools Required to do?

## 3. Instructional Support and Assessment

*PUBLIC SCHOOLS* must provide programs to assist and evaluate teachers, assess instruction and student achievement and provide information to parents and the public.

### **Library and Media Services**

---

Public schools are required to provide library services for both elementary and secondary schools. *K.A.R. 91-31-32*

### **Professional Development Program**

---

Public school boards must provide a staff development program for certificated employees, approved by the State Board, and include formal training on state standards and assessments. *K.S.A. 72-9604, K.A.R. 91-31-32*

### **Evaluation of Personnel**

---

Public school boards must adopt personnel evaluation procedures. Every certified employee must be evaluated by the 60th day of each semester in the first two years; and by Feb. 15 of the third and fourth years; and at least once every three years thereafter. Public schools must negotiate with the teacher's representative and agree upon evaluation procedures. *K.S.A. 72-9001 et seq.*

### **Staff Certification**

---

Public school boards may not pay any employee who does not have a valid professional certificate. For accreditation, 100% of teachers in core academic areas and 95% of all other teachers must be fully certified. Schools must notify parents if their students do not have a fully certified teacher. *K.S.A. 72-1390, K.A.R. 91-31-32*

### **District Testing Program**

---

Public schools must receive an annual report on the district testing program, which must include both state and local assessments. Each school must demonstrate that a prescribed percentage of students are performing proficiently on state tests in reading and math and reach 100% proficiency by 2012. At least 95% of students must take the assessments. State assessments must be reported to the public and are available at the State Education Department Web site. *K.S.A. 72-8231, K.A.R. 91-31-32*

*PRIVATE SCHOOLS* are not required to provide such services, and are not required to provide public accountability.

### **Library and Media Services**

---

Private schools are not required to provide library services.

### **Professional Development Program**

---

Private schools are not required to provide professional development programs.

### **Evaluation of Personnel**

---

Private schools are also required to follow this statute. However, for non-accredited private schools, there are no sanctions and little practical ability to enforce it.

### **Staff Certification**

---

Private schools are not required by state law to employ certificated teachers. Private schools which choose to be accredited must employ appropriately certified teachers. They are not required to notify parents about teacher qualifications.

### **District Testing Program**

---

There are no similar requirements for private schools. Private schools are not required to test, meet NCLB proficiency requirements, or make student performance information available to the public. Only accredited private schools are required to participate in state assessments.

# What are Public and Private Schools Required to do?

## 4. Student Support Services

*PUBLIC SCHOOLS* are required to offer many health and social services to students.

*PRIVATE SCHOOLS* are not required to offer many of these services, and in some cases, public schools must provide them to private school students.

### **Hearing Tests**

---

The board of each school district must provide hearing tests for all students they enroll, and upon request, provide such tests for students in accredited nonpublic schools who live in the district. *K.S.A. 72-1205*

### **Hearing Tests**

---

Private schools are not required to provide hearing tests, and private school students may receive such tests at the expense of the public school.

### **Dental Inspections**

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Public school boards are required to offer free dental inspection annually for all children. *K.S.A. 72-5201 et seq.*

### **Dental Inspections**

---

Private schools are not required to provide dental inspections.

### **Vision Screening**

---

Public school boards are required to offer free vision screening at least every two years to every pupil in public schools. *K.S.A. 72-5204 et seq.*

### **Vision Screening**

---

Private schools are also required to provide vision screening.

### **Health Assessments**

---

School boards must notify parents or guardians of all known pupils in the district about required health tests and inoculations, and keep records of compliance. *K.S.A. 72-5208 et seq.*

### **Health Assessments**

---

Private schools are also required to notify parents about required health tests and inoculations.

### **Services to Private School Students**

---

Upon request, public schools must provide special education services to private school students on an equal basis with students attending public schools in the district. If not provided at the private schools, the public school must pay the cost of transporting private school students to the services. *K.S.A. 72-5393*

### **Services to Private School Students**

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Private schools are not required to provide these services because the public schools are required to do so.

### **Attendance and Graduation**

---

Public schools are required to report students who are not in compliance with the compulsory attendance law. For accreditation, they must have an attendance rate and a graduation rate equal to or higher than the prescribed by the State Board. *K.A.R. 91-31-32*

### **Attendance and Graduation**

---

Only private schools seeking accreditation must comply with attendance and graduation rate requirements established by the state.

22-8

# What are Public and Private Schools Required to do?

## 5. Textbooks, Transportation and Food Service

*PUBLIC SCHOOLS* are required to provide free textbooks, transportation and meals to qualifying students.

### **Free Textbooks**

---

Public school boards must provide free textbooks to children who cannot afford to rent or purchase them. *K.S.A. 72-4107*

### **Free Transportation**

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Public school boards must provide or furnish transportation for students living more than two and a half miles from school. *K.S.A. 72-8302*

### **Transportation of Private School Students**

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Public school boards must allow students attending accredited nonpublic schools to ride on the same bus routes as provided for public school students.  
*K.S.A. 72-8306*

### **Use of Buses**

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The use of public school buses for purposes other than transporting students is limited by the state. *K.S.A. 72-8316*

### **Food Service**

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Public schools must enter into agreements with the State Board to provide meals under federal acts relating to food service. *K.S.A. 72-5113*

### **Breakfast Programs**

---

Public school boards must offer breakfast programs in any buildings in which 35% or more of the students are eligible for free lunch, and in every other building that is not granted a waiver by the Kansas State Board of Education.  
*K.S.A. 72-5125*

*PRIVATE SCHOOLS* are not required to provide free textbooks or transportation.

### **Free Textbooks**

---

Private schools are not required to provide free textbooks to any children.

### **Free Transportation**

---

Private schools are not required to provide transportation for any children.

### **Transportation of Private School Students**

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Transportation for private school children on public school bus routes is provided at the expense of the public school district.

### **Use of Buses**

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If private schools own school buses, they may use them for any legal purpose, but are not required to do so.

### **Food Service**

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Private schools are not required to participate in food service programs.

### **Breakfast Programs**

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Private schools are not required to offer breakfast programs.

# What are Public and Private Schools Required to do?

## 6. Employee Rights and Teacher Tenure

*PUBLIC SCHOOLS* are required to follow special laws concerning their employees. These laws have a significant impact on the ability of boards to remove tenured teachers.

### **Continuing Contracts**

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Kansas law automatically renews the contracts of certified teachers and administrators each year unless the board of education acts and the employee is given written notice by May 1. *K.S.A. 72-5411 and 72-5437*

### **Supplemental Teacher Contracts**

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Public school boards must provide supplemental contracts for duties not part of the "primary contract," such as coaching, supervision, activity sponsorship, committee meetings, etc. Teachers cannot be required to accept supplemental contracts. *K.S.A. 72-5412a*

### **Teacher Tenure (Due Process)**

---

Public school boards must comply with the Kansas Due Process Procedures Act. Teachers receive tenure after three years in the district, or two years if they previously received tenure in another district. If a board intends to remove a tenured teacher, it must give written reasons. The teacher has a statutory right to a due process hearing, where each party has the right to counsel and to call and cross-examine witnesses. The board must pay all costs of the hearing officer, of witnesses and of a court reporter, and its own attorney fees. The hearing officer may reverse the board's decision to terminate the teacher even if that decision is found to be reasonable and supported by the evidence. The board may appeal to the court system but the scope of appeal is limited. *K.S.A. 72-5436 et seq.*

### **Administrator Nonrenewal**

---

If a public school board non-renews a district administrator who has completed two years in the district, the administrator other than the superintendent may request a meeting with the board in executive session. The board must give reasons for the nonrenewal, and the administrator may respond to those reasons. *K.S.A. 72-5451 et seq.*

*PRIVATE SCHOOL* teachers and staff are "employees at will." They do not have the special rights granted by Kansas law to tenured teachers.

### **Continuing Contracts**

---

Private school teachers are "employed at will." There are no state laws governing private school employment contracts.

### **Supplemental Teacher Contracts**

---

Private schools may assign any extra duties including supplemental duties to teachers as part of the primary contract or condition of employment.

### **Teacher Tenure (Due Process)**

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Private schools are not required to follow the Teacher Due Process Act and can hire and terminate staff without adhering to any statutory procedures.

### **Administrator Nonrenewal**

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There are no legal requirements for non-renewal of private school administrators.

# What are Public and Private Schools Required to do?

## 7. Collective Bargaining

*PUBLIC SCHOOL* districts are required to collectively bargain with teacher unions over salaries and other terms of employment.

### **Professional Negotiations**

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Public school boards must comply with the Professional Negotiations Act. This act requires boards to bargain with “professional employee organizations” over specified “terms and conditions of professional employment.” The board must also bargain over certain privileges granted to the professional employee organizations. *K.S.A. 72-5413 et seq.*

### **Teacher Bargaining Units**

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Public school boards must bargain with an “exclusive representative” if chosen by a majority of teachers and other professional (but not administrative) employees. *K.S.A. 72-5414 et seq.*

### **Impasse and Fact-Finding Procedures**

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If the board and teachers’ association fail to reach agreement by June 1, the board must participate in mediation. If a mediator appointed by the Secretary of Human Resources cannot bring the parties to an agreement, both sides must prepare memoranda on issues at impasse. If the parties cannot reach agreement following mediation, the board must participate in a fact-finding process. The parties must meet at least once to consider the recommendations. The board may then offer unilateral contracts to employees, but not until the entire process has been completed. *K.S.A. 72-5426 et seq.*

### **Prohibited Practices**

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Public school boards (and teachers associations) are forbidden from engaging in a number of specific “prohibited practices.” If the board is charged with such a practice, it must respond to the charge at a hearing conducted by the Kansas Department of Human Resources, which can result in sanctions against the board. *K.S.A. 72-5430*

*PRIVATE SCHOOLS* are not required to bargain under the Professional Negotiations Act.

### **Professional Negotiations**

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Private schools are not required to comply with the Professional Negotiations Act. Private schools would only be required to collectively bargain under private sector labor laws.

### **Teacher Bargaining Units**

---

Private schools are not required to recognize or bargain with professional employees under state law.

### **Impasse and Fact-Finding Procedures**

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Private schools may determine terms and conditions of employment without participating in negotiations, impasse or fact-finding.

### **Prohibited Practices**

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Private schools cannot be charged with prohibited practices under the Professional Negotiations Act.

22-11

# What are Public and Private Schools Required to do?

## 8. Governance Authority

*PUBLIC SCHOOL* governing authority and operations are controlled by state law, which also requires specific administrative procedures and structures.

### **Board Meetings and Authority**

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School boards must meet at least monthly in regular session, and take all action in public meetings that are subject to the Kansas Open Meetings Act. *K.S.A. 72-8205, 75-4317*

### **Board Officers and Administrators**

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Public school boards must appoint a superintendent, clerk and treasurer. State law limits the length of contracts for district administrators. *K.S.A. 72-8202b*

### **Site Councils**

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Public schools are required to have a site council to provide "advice and counsel" to the board of education. *K.S.A. 72-6439*

### **Student Privacy**

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Public school boards must adopt policies to protect the privacy of pupil records. *K.S.A. 72-6214*

### **School Finance Limitations**

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Expenditures by public school districts are limited and audited by the school finance act. *K.S.A. 72-6407 et seq.*

### **Bidding Requirements**

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Public schools must take bids for expenditures greater than \$20,000 for construction and purchase of materials, and award the bids to the "lowest responsible bidder." *K.S.A. 72-6760*

### **General Obligation Bonds**

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Public school boards must receive voter approval before issuing general obligation bonds. *K.S.A. 72-6761*

### **Public and Financial Records**

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Public school boards are subject to the Kansas Open Records Act. Boards must maintain various financial records for prescribed numbers of years. *K.S.A. 45-215 et seq., 72-5369*

*PRIVATE SCHOOLS* are independent of state controls.

### **Board Meetings and Authority**

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The governing entities of private schools are not required to conduct regular meetings, and are not subject to the Kansas Open Meetings Act.

### **Board Officers and Administrators**

---

Private schools are not required to operate under any particular structure and are not limited in administrative appointments.

### **Site Councils**

---

Private schools are not required to have site councils.

### **Student Privacy**

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State law does not require private schools to adopt student privacy policies unless they receive federal funds.

### **School Finance**

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Private schools may expend whatever funds they are able to raise through tuition, gifts, church support or other sources.

### **Bidding Requirements**

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Private schools are not required to take bids for any purchases.

### **General Obligation Bonds**

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Private schools may borrow in the private capital markets without public approval.

### **Public and Financial Records**

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Private schools are not subject to the open records act, and must only maintain records that are required for other private organizations.





# Kansas City, Kansas Public Schools

Unified School District No. 500

## HOUSE EDUCATION COMMITTEE February 15, 2007 TESTIMONY – HB 2253

The Kansas City Public Schools have several concerns regarding HB 2253.

Special needs students already have the option to attend non-public schools of their choice. Under current law, parents may enroll students in non-public schools and request the public school to provide the special education and related services. The bill offers little to enhance what is currently available except to transfer the funds to a non-public school, which may or may not have the capacity to serve the student.

The bill allows the non-public school to select students who will attend their school. We would have great concerns about a receiving school accepting some students but deciding not to serve a certain group or class of students. If we are going to have "choice", the choice should be with the parents, not the potential receiving school.

We are also concerned that the bill specifically states the parents and the non public school would determine the services to be provided without the input from the current multi-disciplinary team of qualified individuals. We think this would risk violation of the basic tenants of IDEA.

The bill states that transportation would be provided by the resident district following the same provisions now in place. Currently, districts are not required to transport students outside of their boundaries. Additionally, some special ed students require highly specialized transportation vehicles.

Furthermore, the bill appears not to hold the participating non public school accountable for the student's progress by allowing that state assessments be administered by the resident district if the participating school does not offer such assessments. If the participating school is not accountable for the progress of the student's state assessment scores, how will it be determined that this form of "choice" has merit?

The idea of choice is worthy of consideration. We feel, however, that the provisions currently in Kansas law regarding choice for special ed students, choice provided by NCLB, and choice provided by charter schools should be reviewed and enhanced if deemed necessary before the Legislature seriously entertains vouchers to produce additional choice.

Thank you for listening to the concerns of the Kansas City School District.

Bill Reardon

USD 500 Lobbyist



Testimony  
House Education Committee – HB 2253  
February 15, 2007  
Kathy Cook, Executive Director  
Kansas Families United for Public Education

Mr. Chairman and Members of the Committee:

Thank you for the opportunity this morning to address the committee with regards to House Bill 2253. We have testified before this body many times asking that the state provide 100% of the excess cost of special education to school districts and to ask that the state base funding on the “actual costs” of educating our students. We would agree that the state can and should do more for students with Individual Education Plans, but we adamantly oppose this legislation as a solution.

In no way does House Bill 2253 guarantee a greater quality of education for any student. Furthermore, it does not even guarantee a student with special needs admission to a particular private institution. This legislation will NOT assist students with the greatest needs because those students are the ones most likely to be turned away from the private institution of their “choice.”

What this bill really does is spend our tax dollars with no oversight. In a democracy, the expenditure of taxpayer dollars should always be done --- subject to government oversight. Otherwise, you have “taxation without representation” --- the very tyranny that our American founding fathers fought to prevent. We do not allow tax-payer dollars to be spent on public schools without oversight, yet this legislation is proposing that we send tax dollars to a private institution which may not even be accredited.

We understand that we have “some” students who are not achieving their full potential within “some” of our public schools. But, this legislation contains no magic-cure. And, in fact, this legislation would only serve to further exacerbate the problem by taking funds from the public schools --- where the majority of students with special needs, will inevitably remain and further languish should this legislation pass.

It is our opinion that this legislation is simply an attempt to introduce school vouchers into the state of Kansas. Parents may think they are being allowed a so-called “choice;” however, there is nothing in this bill which guarantees parents that their children will be admitted to any participating private institution. In reality, the only “choice” they have is the choice of where there may fill-out an application. In reality, that choice may also be uninformed, since private institutions have no requirement to provide information on teacher qualifications or parental involvement. In fact the private institutions don’t even have to be accredited.

For these reasons, our organization adamantly opposes this bill. And, as a parent of a child with an Individual Education Plan, I personally oppose this bill.

We urge you to continue to strengthen the current public education system of Kansas and retain oversight of our tax dollars.

15941 W. 65<sup>th</sup> St., #104 House Education Committee  
Shawnee, KS 66217 Date 2-15-07  
(913) 825-0099 Attachment # 24



Olathe School District  
 Testimony provided by Dr. Gary George  
 February 15, 2007

Regarding House Bill 2253

My name is Gary George and I am an assistant superintendent in the Olathe School District. Thank you for allowing me to testify in opposition to House Bill 2253, which would provide vouchers for special needs students.

Our district staff works very hard to meet the needs of special needs students and their parents. In October 2005, we surveyed 943 parents of special education students. Our parents reported between 95.2 percent and 98.3 percent being satisfied or highly satisfied with the IEP, its implementation, their child's progress, their IEP team's ability to work together, team responsiveness to parent questions, adequate resources for special education, overall quality of special education staff, and quality of the district's special education program.

Survey Question	% Highly Satisfied and Satisfied
1. How satisfied are you with your level of input into your child's IEP?	98.3%
2. How satisfied are you with the clarity of your child's IEP?	97.6%
3. How satisfied are you that your child's IEP is being implemented?	98.3%
4. How satisfied are you with the communication you receive about your child's progress on his/her IEP?	97.2%
5. How satisfied are you with the overall IEP team's ability to work together?	97.8%
6. How satisfied are you with your school's response to your special education related questions/issues?	97.5%
7. How satisfied are you that the District provides adequate resources to meet the need of students with exceptionalities?	95.2%
8. Overall, how satisfied are you with the quality of the special education staff that provides services to your child?	97.8%
9. How satisfied are you that the District's special education program is a quality program?	97.7%

We believe that one of the reasons the data is so positive is the process of providing supports for students. Before a district ever begins the special education process, a number of general education interventions have already been tried through the Student Intervention Team which includes parents, teachers, student (when appropriate), and other building staff. This process involves identifying targeted interventions that address the specific concerns of the student. As active members of this team, parents and students remain vital members of this team as we continually check for understanding and buy-in along the way. Should the interventions provide positive results, an intervention plan is implemented to provide that necessary support. If due to the intensity of the interventions, the team feels it is appropriate to consider a formal request to determine special education eligibility parents help the team determine what their student's evaluation will include. A high level of value is placed on parent input as the team determines eligibility, develops the individualized education plan (IEP), and determines appropriate placement. Parents are continually informed of their parental rights and are invited to seek clarification of these rights throughout the process and at any time when addressing the student's special education services. In most cases, simply following the process generates high levels of parent involvement and satisfaction.

House Education Committee  
 Date 2-15-07  
 Attachment # 25

In addition to participation in the problem solving process, parents receive a minimum of quarterly updates regarding their student's progress on their IEP goals. Many teams also schedule regular meetings throughout the school year in order to come together for updates and to problem solve any unique situation at hand. The value placed on parent participation is also evidenced through the monthly workshops aimed at providing parents with opportunities to learn more about the special education process, best teaching practices, and various interventions.

It should also be pointed out that although some people believe that the public schools are doing a poor job and an alternative should be found to improve the quality of education, such an approach is not supported by the data. The 2006 Phi Delta Kappan Poll indicated that 71 percent of the respondents favored reforming the public schools versus the 24 percent who wanted to find an alternative (vouchers) to reforming the public schools. The data from these sources does not support House Bill 2253.

Additionally, The Olathe Board of Education has adopted a legislative position against vouchers or choice plans to aid private elementary or secondary schools which are not subject to the same legal requirements as public school districts.

In reviewing House Bill 2253, I see that a participating private school is not required to have certified /licensed teachers. Surely if certification is required for public school teachers who are paid with public money, then it seems appropriate that a private school should also be required to employ certified/licensed teachers when they accept public money.

In paragraph 10, it is clear that financial viability is necessary if the participating school receives \$50,000 or more during the year from the state. Does this mean that schools that do not receive \$50,000 do not have to demonstrate financial viability?

In paragraph 12, it indicates that a "... participating (private) school is autonomous and shall not be deemed to be an agent of the state or federal government." Further, the "state may not in any way regulate the educational program" of a participating school. This would appear to mean that the money could flow to a private school with no compliance with the open records act, no compliance with the open meetings laws, and no special education audit to which all public schools are subject. This section of the bill amounts to the abandonment of the state's oversight role in ensuring the public that tax dollars are used responsibly.

It appears that this bill is really about starting a voucher program in Kansas. Under House Bill 2253, the initial program is a special needs scholarship. We suspect that if you start this program, it will create its own constituency and will be difficult if not impossible to shut down. In fact, you will probably have requests to expand it. Vouchers programs have been struck down by the courts and have been rejected by voters in several states. It is also difficult to understand why some would have us go down this road when our parent data and the special education process for parent/district partnering do not support the need for House Bill 2253.

We believe that if the Legislature wants to improve the quality of special education in our state, it should call on the federal government to fully fund its share (40 percent) of special education costs, increase state funding to provide more technical assistance for special education programs for schools, provide funds for intensive staff development for special education staff, provide mentors for new teachers, and share best practices among the state's special education community.

House Bill 2253 is seriously flawed and would open a voucher program in our state; a program to which the Olathe School District is strongly opposed.



**Mark Desetti, Testimony  
House Education Committee  
February 15, 2007**

**House Bill 2253**

Mr. Chairman, members of the committee, thank you for the opportunity to come before you today to discuss House Bill 2253.

Our public schools have been working under the requirements of the Individuals with Disabilities Education Act since the 1970's to meet the needs of students with special needs. 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. If the child is gifted or severely handicapped, 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 set admissions criteria to turn away students who are likely not to meet high standards and HB 2253 allows this. The private school can turn away a child with a discipline history or expel a child for a disciplinary infraction and HB 2253 allows this. A private school can cap its enrollment and turn children away and HB 2253 allows this. The private school can charge tuition above and beyond the voucher granted and HB 2253 allows this. Then, HB 2253 takes money away from public schools to do all this.

**Is there a fiscal note?**

***This bill is carefully crafted to ensure that you can never get an accurate fiscal note.*** On page 2, lines 11 through 13, it says the Department of Education shall determine the voucher amount by looking at the IEP – every voucher is different. Lines 16 through 19 on the same page say the amount shall be “equivalent to the cost of the educational program that would have been provided for the student in the resident school district.” It goes a little further though on lines 20 and 21 to say that, while the voucher is equivalent to the cost of implementing the IEP, the private school has no obligation to honor the IEP at all. The school gets paid for all the services, but is obligated to provide none of them.

***The proponents I am sure will argue that there is no fiscal note to the state.*** I suppose that's because the money for the voucher comes from the resident school district, not the state. The child is enrolled in the resident school district but it is not clear whether the district would get just Base State Aid or also receive special education funding for the child. It does imply that the resident district will get base state aid but the voucher can be significantly more than that amount. On page 2, lines 30 through 32, the bill says, “the funds needed to provide a scholarship shall be subtracted from the state financial aid payable to the student's resident school district.” The cost of this voucher is drained directly off the general education program of the resident district.

**There's a big fiscal note to the resident school district.**

HB 2253 lays out at least four additional areas where the resident school district will be left to pick up the expenses of the child.

House Education Committee

Date 2-15-07

Attachment # 26

- Section 5 (c) bills the resident school district for transportation. Yes, the district gets transportation weighting for the child but the costs could significantly outweigh the funding if one considers that transporting one student to a distant private school could require private transportation arrangements. Perhaps a private school bus, a taxi, or a daily ride from a district employee is the solution. (p3, lines 4-9)
- Section 5 (d) bills the resident school district if the parent wants the child to take the state assessment. (p3, lines 10-14)
- Section 8 (c) says that participation in this program is "a nonpublic placement for purposes of the individuals with disabilities education act." You know that public schools, under IDEA, must provide special education services to resident students in private schools. This bill drains the money away from the resident school district, giving it to the private school, and then holds the public school responsible for providing services. (p5, lines 4-6)
- If the private school wants to give the student assessments to determine his or her needs, the public school must foot the bill; "the costs of any assessment by the participating school of the student's special needs may be included in the scholarship amount." (p2, lines 26-28)

**All those resources and no accountability.**

Surely with this dramatic amount of resources being drained from the resident school district for the benefit of a private school, the accountability measures must be great. That's what one would think, however, the opposite is true.

Section 7 (a) beginning on page 3, line 35, spells out what a school must do to be eligible. There are 12 requirements. And there is one telling omission. **The school does not have to be accredited.** We assumed that back in section 5 (d) in which we learned these schools were under no obligation to give state assessments (p3, lines 10-14). Accredited schools must give state assessments.

This is further spelled out in section 7 (b) where the authors say, "The department and any other state agency may not in any way regulate the educational program of a participating school that accepts a special needs scholarship."

And how will the state know this is a successful program. That is assured by the carefully crafted "study of the program."

Four of the six issues to be assessed are designed to show perfect results.

1. Are the students satisfied?
2. Are their parents satisfied?
3. "The percentage of participating students who were victimized because of their special needs status at their resident school compared to the percentage so victimized at their participating school."
4. "The percentage of participating students who exhibited behavioral problems at their resident school compared to the percentage exhibiting behavioral problems at their participating school." That one is easy to calculate since section 8 (b) allows the voucher school to throw out any student who does not "comply fully with a participating school's written code of conduct." We can tell you now, it will be 0% at the voucher school.

House Bill 2253 is a terrible idea. Its sole purpose is to drain funds from public schools under the guise of helping special needs students. And those funds will go to unaccredited, unaccountable private schools – perhaps home schooling parents who wish to bring in a few extra gifted children and their accompanying state aid. It is bad public policy and we urge you to reject House Bill 2253.



*The Historic Lackman-Thompson Estate*

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TO: Representative Clay Aurand, Chair  
Members, House Education Committee

FROM: Ashley Sherard, Vice President  
Lenexa Chamber of Commerce

DATE: February 15, 2007

RE: **HB 2253—Special Needs Scholarship Program**

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We appreciate the opportunity to express our concerns regarding HB 2253, which would create a “special needs scholarship program” to provide publicly-funded vouchers to allow students with emotional, behavioral, or physical impairments to attend the public or nonpublic school of their choice.

The Lenexa Chamber of Commerce has historically opposed voucher programs. While we understand the desire to provide every individual child with an optimal learning environment for their needs, we are concerned such a plan would funnel already limited financial resources away from public schools where the majority of Kansas children will continue to be educated and threaten the quality public education that has been a cornerstone of the state’s economic prosperity.

Further, while proponents claim that increased competition among schools is the major benefit brought about by voucher programs, we believe the competitive “playing field” created in HB 2253 is not nearly level. Nonpublic institutions are not subject to the same mandates, regulations, and reporting as public institutions supported by public tax dollars. To ensure public funds are being appropriately spent, we believe any nonpublic institution that may accept publicly-funded vouchers should be subject to the same public accountability and mandates as public institutions. Sections 7(b) and (c) of HB 2253, however, specifically attempt to prevent any such regulation or oversight – a position with which we strongly disagree.

For all of these reasons, the Lenexa Chamber of Commerce urges the committee not to recommend HB 2253 favorable for passage. Thank you for your time and attention to this very important issue.

House Education Committee  
Date 2-15-07  
Attachment # 27