Date

#### MINUTES OF THE HOUSE EDUCATION COMMITTEE

The meeting was called to order by Chairman Clay Aurand at 9:00 a.m. March 15, 2011, in Room 784 of the Docking State Office Building.

#### All members were present except:

Representative Ward Cassidy, excused

#### Committee staff present:

Sharon Wenger, Kansas Legislative Research Department Reagan Cussimanio, Kansas Legislative Research Department Eunice C. Peters, Kansas Revisor of Statutes Norm Furse, Kansas Revisor of Statutes Jason Long, Kansas Revisor of Statutes Dale Dennis, Deputy Commissioner, Kansas State Department of Education Jan Johnston, Committee Assistant

#### Conferees appearing before the Committee:

Jeff Reed, Foundation for Educational Choice Kathleen O'Hara, Superintendent Catholic Archdiocese, Kansas City Dave Trabert, Kansas Policy Institute Mark Tallman, Kansas Association of School Boards Dr. Gary George, Assistant Superintendent Olathe School District John Koepke, Kansas Families for Education

#### Written testimony:

Derrick Sontag, American for Prosperity Adam Schaffer, CATO Institute We The People of Osage County

Others attending, see attached sheet.

#### HB 2367 - Schools; authorizing a tax credit to be used for educational scholarships

Chairman Aurand opened the hearing on **HB 2367**.

Eunice Peters, Office of the Revisor of Statutes, explained the purpose of the bill to the committee.

Jeff Reed, Foundation for Educational Choice, spoke to the committee as a proponent via telephone conference on <u>HB 2367</u>. What are tax-credit scholarships, and how do they work? Florida Tax – Credit Scholarship Program. Fiscal savings, according to the Florida Legislature's Office of Program Policy Analysis and Government Accountability. FY2007-08 – net savings reached \$38.9 million. FY2008-09 – net savings reached 36.2 million. (Attachment 1)

Stacy Davis, spoke to the committee as a proponent on <u>HB 2367</u>. This bill will help low income students and give tax credit. I know this will work. We did not pull this bill out of the air. This has the best of every program. Kansas will have the broadest program in America. Here in Kansas, 60 years ago, we told America, everybody has a right to an education. We can do this by saving taxpayers dollars. We can change the way we think about education. Our teachers complain about lack of parental involvement. It is your right as a parent to help your child succeed. (No written testimony was provided to the committee)

Dr. Kathy O'Hara, Superintendent of Catholic Schools, Archdiocese of Kansas City in Kansas, spoke to the committee as a proponent on <u>HB 2367</u>. Catholic schools are a vital part of Kansas's education system, enrollment more than 25,000 K-12 students throughout the state. For a variety of reasons, each year thousands of Kansas families make the financial sacrifice necessary to place their children in our schools.

That is why parents should have the opportunity to choose the school that best fits their children's needs. Giving parents greater freedom in pursuing educational opportunities for their children can only strengthen Kansas' overall educational system. Kansas needs both strong public schools and strong

#### **CONTINUATION SHEET**

Minutes of the House Education Committee at 9:30 a.m. on March 15, 2011, 2010, in Room 784 of the Docking State Office Building.

private schools for the state to be competitive in the coming years. We believe that public policies that support both will serve the state, its families, and its future workforce well. (Attachment 2)

Dave Trabert, President, Kansas Policy Institute, spoke to the committee as a proponent on **HB 2367**. The purpose of **HB 2367** is to provide eligible students with an opportunity to attend qualified schools of their parents' choice by receiving scholarships funded by taxpayer contributions, a portion of which is eligible for a tax credit.

<u>HB 2367</u> is an important piece of the education reform tapestry needed in Kansas and we strongly encourage its passage. (Attachment 3)

Adam Schaffer, CATO Institute, provided written testimony to the committee as a proponent of **HB 2367**. (Attachment 4)

Derrick Sontag, State Director, Americans for Prosperity Kansas, provide written testimony to the committee, as a proponent on <u>HB 2367</u>. (Attachment 5)

Members of "We the People of Osage County" provided written testimony to the committee as proponents to <u>HB 2367</u>. (Attachment 6)

A question and answer session followed all proponents' testimony.

Mark Tallman, Kansas Association of School Boards, spoke to the committee as an opponent on **HB 2367.** First, here is the statement adopted by the KASB Delegate Assembly:

L.E. Tuition Tax Credit, Voucher Systems and Choice Plans

KASB opposes legislation that would use tuition tax credits, voucher systems or choice plans to aid private elementary or second schools which are not subject to the same legal requirements as public school districts. However, KASB supports voluntary efforts to experiment with public school choice plans, such as charter and magnet schools, provided those plans are approved by the local school board. (Attachment 7, 8)

Dr. Gary George, Assistant Superintendent of Schools, Olathe Public Schools, spoke to the committee as an opponent on <u>HB 2367</u>. I am present today to express our opposition to <u>HB 2367</u>. This bill provides tax credits for an organization which uses the money to grant scholarships to students. The bill provides preference for students of poverty and special needs students prior to others. The tax credit gradually increases to 50 percent over a period of years. The total cost of the tax credits is capped at \$10M in forgone tax revenue as written in the bill. These types of programs are essentially back door approaches to private school vouchers. We oppose this program on a number of grounds. (Attachment 9)

John Koepke, Kansas Families for Education spoke to the committee as an opponent on <u>HB 2367</u>. We stand firm in our belief that public tax dollars should be used to support public institutions. We oppose a tax credit for private schools just the same as we would oppose a tax credit for private fire protection or for private police protection. Public Schools are open to every one of our citizens, and private institutions, even with tax credits, will not be open to every student. (Attachment 10)

A question and answer session followed all opponents' testimony.

Chairman Aurand closed the hearing on **HB 2367**.

Chairman Aurand announced there might be an appointment of a sub committee on this Bill. He asked if anybody would like to serve on this committee, to let him know.

The meeting was adjourned at 10:45 a.m. The next meeting would be March 16, 2011.

### HOUSE EDUCATION COMMITTEE **GUEST LIST**

DATE: 3/15/11

NAME	REPRESENTING
Bob Weeks	None
Hom Henry	I latte Achards
Life Startin	KS BAE
John Rayble	KFE
Well talle	Myt
Tom Kruh	Kasa
Dave Trabel	KP1
AlTermelo	LPKS
DOUG SORDERSEN	ST FIRE MORSHAL
STACEY DAVIS	KELA/
Kathy O'HARA	Azutiocere of K.C. ni K.S
Red Ferradovicis	RELA
Edward Larson	KS Catholic Conference
Bornis walken	Education
SHARON DUROIS	KELA
Fari Pres en	Kearrey & Associates
LARRY CARE	Kacci
Charl Raynold	CHECK
Eper Cunti-	FOURTESUS
Shari Helme	KFB

# Testimony for the House Education Committee State of Kansas

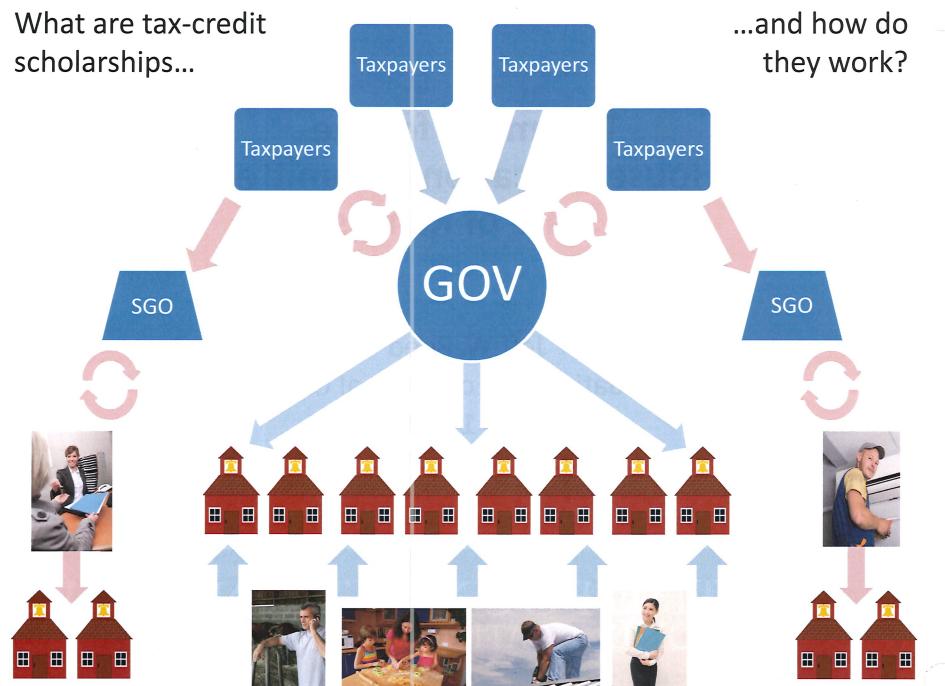
Jeff W. Reed Foundation for Educational Choice March 15, 2011



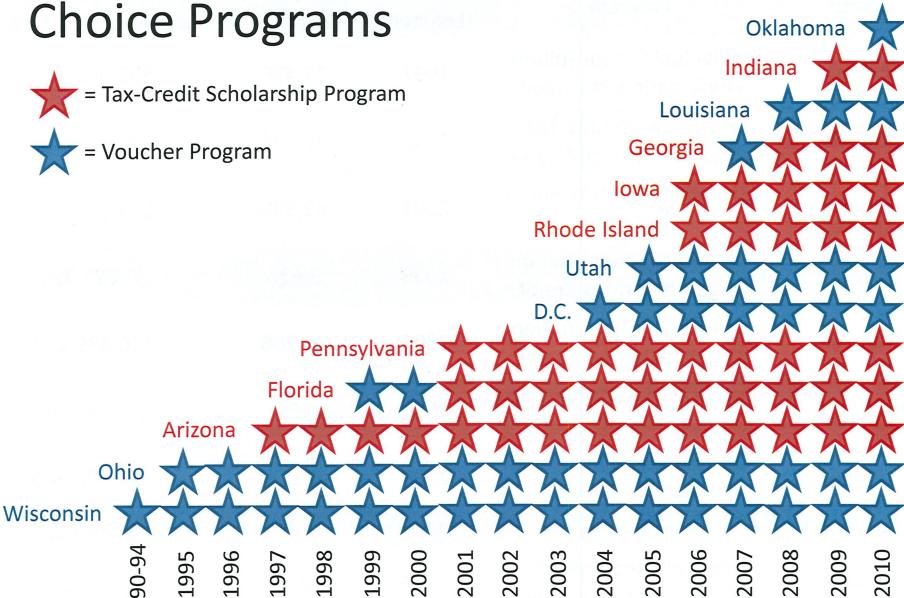
# THE FOUNDATION FOR EDUCATIONAL CHOICE



Solely dedicated to advancing Milton and Rose Friedman's vision of school choice for all children.



# Growth in States with Private School Choice Programs



## **Tax-Credit Scholarship Programs in the United States**

State	Program	Year Enacted	Students in 2010-11	Funds Expended or Donated in 2010-11
Arizona	Individual School Tuition Organization Tax Credit	1997	27,476	\$52,091,718
Florida	Corporate Income Tax- Credit Scholarship Program	2001	32,946	\$140,000,000
Pennsylvania	Educational Improvement Tax Credit	2001	42,339	\$51,800,000
Arizona	Corporate School Tuition Organization Tax Credit	2006	3,626	\$7,881,787
lowa	Individual School Tuition Organization Tax Credit	2006	10,208	\$10,839,257
Rhode Island	Corporate Scholarship Tax Credit	2006	460	\$1,254,376
Georgia	Corporate and Individual Scholarship Tax Credit	2008	6,125	\$24,500,000
Arizona	Lexie's Law	2009	145	\$625,335
Indiana 4	Corporate and Individual Scholarship Tax Credit	2009	219	\$435,050

## Florida Tax-Credit Scholarship Program

- Fiscal savings, according to the Florida Legislature's Office of Program Policy Analysis and Government Accountability
  - For FY2007-08, net savings reached \$38.9 million
  - For FY2008-09, net savings reached \$36.2 million
- Academic improvement for affected public schools (by private school competition)
  - David Figlio and Cassandra Hart (of Northwestern University) found "a positive relationship between private school competition and student performance in the public schools, even before any students leave for the private sector. That is, these results provide evidence that public schools responded to the increased threat of losing students to the private schools."

# HB 2367 Similarities to Other States' Tax-Credit Scholarship Programs

- Program Type: corporate and individual tax credits
  - Arizona, Georgia, Indiana
- Student Eligibility: 3.5 times the income eligible to qualify for federal free meals and previously enrolled in public school or new to public school
  - Arizona (corporate and Lexie's Law), Florida, Georgia,
     Indiana, Pennsylvania
- Scholarship Granting Organization Requirements
  - All states with tax-credit scholarship programs

# HB 2367 Similarities to Other States' Tax-Credit Scholarship Programs

- School Requirements: financial and academic transparency, employee background checks, health and safety regulations, anti-discrimination policies
  - All states with tax-credit scholarship programs
- Scholarship Cap: 90% of base state aid
  - Arizona (Lexie's Law)
- Tax-Credit Value: 20% in 2011 (up to 50% in 2014)
  - Indiana
- Tax-Credit Cap: \$10,000,000 (in any one year)

## 8-1

# HB 2367's Estimated Uptake Rate Based on Other States' Programs

### Arizona

 Six years in, 2% of all Arizona students were participating

### • Florida

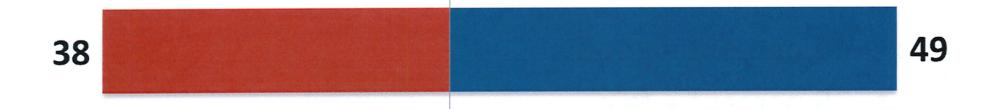
 Ten years in, it is estimated that 2.5-3.0% of eligible students are participating

## Pennsylvania

 Two years in, 1.2% of all Pennsylvania students were participating

## Polling Data on School Choice

Q: Do you feel things in K-12 education in Kansas are generally going in the right direction, or do you feel things have generally gotten off on the wrong track?



- A: 49 percent = right direction
  - 38 percent = wrong direction

## 01-1

## Polling Data on School Choice

Q: How would you rate Kansas's public school system?

10 25 49 14

- A: 49 percent = good
  - 25 percent = fair
  - 14 percent = excellent
  - 10 percent = poor

# Polling Data on School Choice

Q: Some states give tax credits to individuals and businesses if they contribute money to nonprofit organizations that distribute private school scholarships. This policy supports a "tax-credit scholarship system." In general, do you favor or oppose a tax-credit scholarship system?

29 56

- A: 29 percent = oppose
  - 56 percent = support

## Polling Data on School Choice

Q: If it were your decision and you could select any type of school, what type of school would you select in order to obtain the best education for your child?



- A: 40 percent = regular public schools
  - 13 percent = charter schools
  - 1 percent = virtual schools
  - 35 percent = private schools
  - 9 percent = home schools

58 percent of Kansans would like to choose something other than a regular public school



Dr. Kathy O'Hara Superintendent of Catholic Schools Archdiocese of Kansas City in Kansas

Testimony before House Education Committee March 15, 2011 9:00 AM

Chairman Aurand and Members of the Committee:

My name is Kathy O'Hara, and I serve as superintendent of Catholic Schools for the Archdiocese of Kansas City in Kansas. While our name indicates Kansas City, the Archdiocese actually spans 12,500 square miles across northeast Kansas. We have 44 Catholic schools located in 65 public school districts. Thank you for the opportunity to appear before you today.

Catholic schools are a vital part of Kansas's education system, enrolling more than 25,000 K-12 students throughout the state. For a variety of reasons, each year thousands of Kansas families make the financial sacrifice necessary to place their children in our schools.

Catholic schools not only provide an important service to parents and children. They are also an asset to the state. Catholic schools relieve the financial burden that would fall upon the state were it obliged to fund the education of every student in Kansas. Were Kansas' Catholic schools to close, thousands of students would suddenly require placement in public schools, but no new funding would come with them. The state clearly has an interest in encouraging the long-term viability of the Catholic school option. Furthermore, I think if you were to ask our public school counterparts, you would find that we (public school and Catholic school educators) operate in a spirit of mutual respect and collaboration.

We believe that we are in a position to serve even more Kansas families. We support the expansion of educational opportunities for all children in Kansas and wish to be a partner with the state in that effort.

Undeniably, different children have different needs, and different schools are better suited to meet those varying needs. A child who might be struggling in his or her current educational situation could well prove to be successful in a changed environment. This is oftentimes not the "fault" of the original school, but rather a reflection of the fact that one size does not fit all. It is not always a question of finding a "better" school, but rather a matter of determining which circumstances are best suited for that particular child.

That is why parents should have the opportunity to choose the school that best fits their children's needs. Giving parents greater freedom in pursuing educational opportunities for their children can only strengthen Kansas' overall educational system. Kansas needs both strong public schools and strong private schools for the state to be competitive in the coming years. We believe that public policies that support both will serve the state, its families, and its future workforce well.



### KANSAS POLICY INSTITUTE

Advocating for free markets and the protection of personal liberty

# Testimony Submitted to House Education Committee HB 2367 Kansas Education Liberty Program Act March 15, 2011 Dave Trabert, President, Kansas Policy Institute

Chairman Aurand and Members of the Committee,

Thank you for the opportunity to testify today. It is an honor and privilege to be able to answer your questions and provide assistance as you examine alternate learning opportunities to improve education achievement in Kansas.

The purpose of HB 2367 is to provide eligible students with an opportunity to attend qualified schools of their parents' choice by receiving scholarships funded by taxpayer contributions, a portion of which is eligible for a tax credit.

There are three fundamental issues that must be addressed relevant to HB 2367: (1) the necessity or merit of providing parents and eligible students with such opportunity, (2) the benefits of providing the opportunity and (3) the mechanics of doing so. As there will likely be considerable discussion of the mechanics of the bill, I'd like to address my comments to the first two issues.

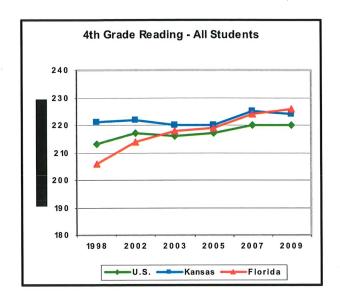
Some parents have the means to send their children to a private school or move to a neighborhood with public schools that they believe are best able to meet their children's educational needs. Many Kansas parents, however, are forced to send their children to the public school in the neighborhood where they can afford to live, as dictated by the government. No child's educational opportunity should be limited by their parents' income. There are ways to provide parents of all means with educational choice. We believe parents, not government, should choose where their children attend school and HB 2367 is appropriately designed to first benefit low income families.

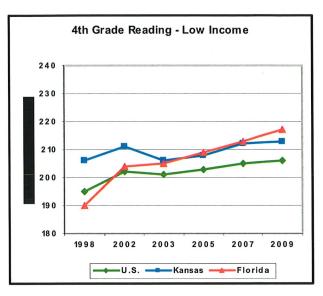
Providing low income parents with a choice could alone justify this legislation, but there are also significant education achievement benefits associated with school choice.

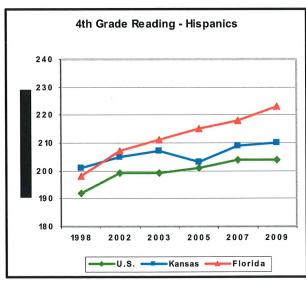
Many education professionals recognize there is no single 'silver bullet' that drives student achievement, but that a broad array of reforms working in conjunction is what truly makes the difference. The best example is found in Florida, where state officials implemented multiple reforms beginning in 1999 that they credit for remarkable gains in student achievement. Greatly expanded school choice is one of the key elements of Florida's plan, including one of the nation's

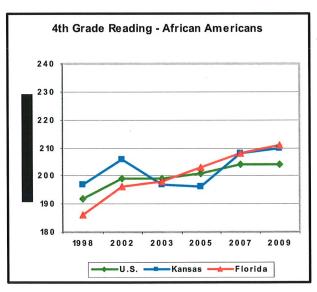
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broadest tax credit scholarship plans. When they began implementing their plan in 1999 Florida had some of the worst performances in the nation, and especially so with minorities and low income students. Like all states, Florida is still far from where they'd like to be but unlike most states, Florida students have made remarkable progress on the National Assessment of Educational Progress (NAEP).









Gains are also occurring in later years, as evidenced by the change in 8<sup>th</sup> grade reading scores:

- All students: U.S. +1 point; Kansas -1 point; Florida +9 points.
- Low Income: U.S. +4 points; Kansas +1 point; Florida +14 points.
- Hispanic: U.S. +7 points; Kansas +9 points; Florida +13 points.
- African American: U.S. +3 points; Kansas -1 point; Florida +14 points.

Where Florida students once trailed most national averages, they now exceed the national average in each of the above 8<sup>th</sup> grade categories. Florida trailed Kansas by 13 points for all 8<sup>th</sup> graders before implementing their reforms but has closed the gap to just 3 points; Florida now ties Kansas for low income students and Florida Hispanic and African American students now outscore Kansas by 10 points and 2 points, respectively.

Kansas state assessment scores reflect similar results, showing some degree of progress but still well below what most citizens would consider acceptable levels. State assessment results classify students in five categories: Academic Warning, Approached Standard, Meets Standard, Exceeds Standard and Exemplary. The Kansas Department of Education (KSDE) equates proficiency with Meets Standard but the definition of Meets Standard is well below what most parents would consider proficient.

For example, the definition of Meets Standard in Reading is less than full comprehension of grade-appropriate material:<sup>1</sup>

Meets Standard – When independently reading grade-appropriate narrative, expository, and technical text, a proficient student has *satisfactory* comprehension.

Exceeds Standard – When independently reading grade-appropriate narrative, expository, and technical text, an advanced student has *full* comprehension:

The definition of Meets Standard in Mathematics does not even require consistent accuracy:<sup>2</sup>

Meets Standard – The proficient student uses some problem-solving techniques and is unable to explain the process he/she uses when solving mathematical problems.

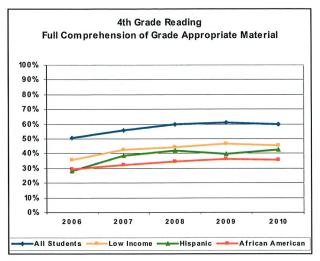
Exceeds Standard – The advanced student effectively uses multiple problem-solving techniques and explains the reasoning process he/she uses when solving mathematical problems. A student scoring at the advanced level is likely to perform accurately at all cognitive levels on most elements of the four areas of emphasis. The student demonstrates effective content knowledge and application skills.

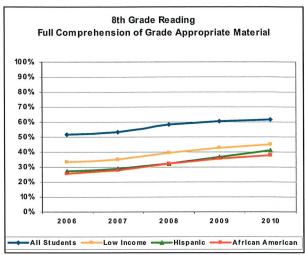
KSDE says their significant changes to standards in 2006 invalidate comparison to prior years, so the following charts reflect changes from that point forward for Exceeds Standard (reading with

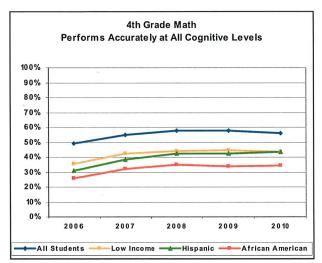
<sup>&</sup>lt;sup>1</sup> Kansas Department of Education, Performance Level Descriptor Guidelines, http://www.ksde.org/Default.aspx?tabid=159#RPLD.

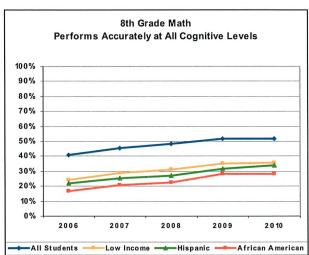
<sup>&</sup>lt;sup>2</sup> Ibid

full comprehension of grade-appropriate material and performing accurately at all cognitive levels in Math).  $^{\rm 3}$ 









It's good that some progress has been made but Kansas students are still far below acceptable levels of achievement. It's also noteworthy that the achievement gap for low income and minority students, who would most likely benefit from tax credit scholarships, is relatively unchanged.

HB 2367 would allow low income parents some measure of freedom to choose the school best suited for their child, rather than be forced to attend a school dictated by their economic status. It also only applies to students currently enrolled in a public school and the scholarship amount is

<sup>&</sup>lt;sup>3</sup> Data collected from Kansas State Department of Education Report Card, <a href="http://svapp15586.ksde.org/rcard/">http://svapp15586.ksde.org/rcard/</a>, accessed February 20, 2011.

less than state taxpayers would otherwise spend on each recipient, so state taxpayers would actually save money by providing low income parents with this measure of choice. Accordingly, the question before the committee is not whether to allow low income parents some degree of the choice that parents of greater means currently enjoy, but WHY NOT allow them that freedom.

- WHY NOT allow low income parents the freedom to choose the school they feel is best suited for their children?
- WHY NOT allow taxpayers of means to fund scholarships for low income students in a manner that would have a positive impact on the state budget?
- WHY NOT begin to enact reforms that education officials in other states credit for significant gains in student achievement when Kansas students are nowhere near achieving their full potential?

HB 2367 is an important piece of the education reform tapestry needed in Kansas and we strongly encourage its passage.

### **Effective Education Tax Credit Policy**

Testimony for the Kansas House Education Committee Hearing on HB 2367

Adam B. Schaeffer, Ph.D.
Center for Educational Freedom
Cato Institute
March 14, 2011

#### Introduction

We're wasting far too much money in public education. We can't afford to waste more taxpayer dollars. But we can't stop investing in our children. We need more effective, efficient investment in education.

We need to encourage more private investment in education because we're out of public funds. Education tax credits will save money while improving education and encouraging more private investment in education.

Education tax credits are a proven way to improve public school performance, save money, and increase choice. They are supported by Democrats and Republicans across the country because they work, and what works for our children isn't a partisan issue.

Citizens and businesses want to invest directly in our education system, and we should encourage them to do so. Education tax credits can improve public schools and student achievement all while saving money.

#### What Are Education Tax Credits?

Education tax credits reduce the amount a taxpayer owes the government for each dollar he spends on his child's education or scholarships for children who need them.

For instance, if a business owed the state \$4,000 in taxes and donated \$4,000 for scholarships, for instance, it would pay \$0.00 in taxes – and it would get to choose the organization that receives the donation.

Similar benefits can also be applied to individuals for donations and for their own child's education expenses. Personal-use credits would allow families to take a credit against their tax liability for money they spent on their own child's education.

Tax credits for donations to scholarship organizations can help support school choice for lower-income families, and personal-use credits can help middle-class families.

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#### **Education Tax Credits Are NOT Vouchers**

Education tax credits, to be clear, are NOT vouchers.

Education vouchers use *government* funds to support private school choice. Taxpayers send their money to the state, which pools those funds and then distributes the money to families.

Education tax credits are *private* funds. The taxpayer who earned that money can choose to donate money to a scholarship program supporting the choice of low-income students, support their own child's education, or to not claim a credit and send more of her earnings to the government.

This distinction between vouchers and tax credits is extremely important. A number of state courts have struck down voucher programs because they use government funds. Tax credits have been explicitly upheld because they are not government funds. The Arizona state supreme court recently overturned two voucher programs on that basis but gave a strong legal approval of a state education tax credit program.

In addition to legal considerations, education tax credits, unlike vouchers, provide choice and accountability to the taxpayer who earned the money in the first place in addition to the parents who choose the school for their child. No taxpayer is compelled to support any education that she feels is ineffective.

#### Structural Considerations for Effective Education Tax Credit Policy

- 1. Dollar-for-dollar, 100 percent credit, no state deductions.
- 2. 7-10 percent overhead for Scholarship-Granting Organizations.
- 3. Business and *individual* taxpayers can claim donation credits.
- 4. Allow personal-use credits.
  - Parents should be able to claim credits against their own tax liability for private education expenses.
- 5. Automatic program cap increase
  - Each year that 90% of cap is donated, increases by 25% -- if the program is capped at \$100 million the first year and \$90 million is donated, then the program cap in the second year increases to \$125 million.
- 6. No additional requirements for private schools or homeschool options
  - If state accreditation is not required for private educational options, then none should be imposed on choices backed by credit funds.
- 7. New students (kindergarten or first graders) are eligible for credits.
- 8. Phase-in to cover children currently not in public schools.

#### State and Local Governments Need To Invest More Efficiently and Effectively in Education

I just wanted to run through some comparisons between Medicaid and education spending with you, because many people think of increasing Medicaid costs as the biggest budget problem.

However, the key structural problem in state and local finances is education, not health care. And a fundamental shift in our K-12 investment strategy is the only way to avoid defaulting on the promise of a public education.

The proportion of resources devoted to education has ballooned over the past two decades. Education spending as a share of tax revenue jumped 90% from 1992 to 2011 at the state level and 73% at the local level. This means governments have few options in responding to our current fiscal crisis.

In 2011, state and local governments will spend 46 cents out of every tax dollar they raise on public K-12 education. Medicaid/ CHIP spending pales in comparison at just 17 cents of every tax dollar. Public education, in other words, consumes a shocking 2 1/2 times the resources devoted to Medicaid at the height of recession-driven health care increases.

#### **Spending Surge**

Add in payments needed to meet the approximately \$800 billion in underfunded commitments to teacher pension plans over the next 30 years and K-12 education gobbles up 50% of all state and local tax revenue.

Compounding the problem, a massive surge in federal education spending (the "stimulus") will recede this year while the recession drags on. Troubled local governments and school districts will call for more state aid to fill their budget gaps, but it's unlikely states will be willing or able to rescue distressed municipalities as they have in the past. States face a huge reduction in the federal share of Medicaid funding while enrollment in the program expands.

If there is a spike in municipal bankruptcies in 2011 and 2012, a primary cause will be the massive costs public schooling was already imposing when the Great Recession hit.

We face a situation analogous to that of a large number of American families who have been struggling with unsustainable budgets: a house payment that was excessive even at the best of times, the loss of income when a spouse becomes unemployed and rising health care costs.

When a budget doesn't come close to adding up, the biggest expenditure usually has to give. That has meant foreclosure for many homeowners; and it means a serious restructuring of K-12 education spending for public officials. State and local governments need immediate relief from the financial demands of public schooling, and a long-term solution to the system's profligacy.

Teacher pension plans should be based on defined contributions rather than defined benefits to alleviate growing and unsustainable commitments. Public school employees must share a substantial portion of their own health-care costs. And school district finances must be made more transparent so waste can be identified and eliminated.

#### **Tax Credits**

While these measures would lessen the immediate pain, they would do nothing to reverse the system's propensity for increasing real spending over time. Inflation-adjusted expenditures per student have more than doubled to around \$12,000 over the last three decades, about 50% more than the typical private school spends. The extra resources have delivered no increase in student achievement by the end of high school.

We need a more effective and efficient means of investing in education.

Nine states have begun using education tax credits to encourage more private spending in lieu of government funds we simply do not have. Unlike vouchers, tax credit programs encourage individuals and businesses to invest their own funds, rather than government money, in K-12 education.

Like all private-school choice programs, these tax credits save large sums — more than \$500 million a year in Pennsylvania, up to \$180 million in Arizona, and potentially billions of dollars over the first five years for many states if they adopt a broad-based education tax credit program. They are also a proven way to increase academic achievement in public schools.

Citizens and businesses want to invest directly in the effort to educate the public, and we should encourage them to do so through K-12 education tax credits. Given our state and local financial outlook, we have no promising alternative.

#### The School Choice Solution

A relatively small amount of money invested in private educational choice can save hundreds of millions of dollars a year.

We spend around 13,000 per student on average in this country. The typical private school *spends* around \$8,000 and *charges* around \$6,000 in tuition. The government spends about 60 percent more on what are often worse outcomes.

#### **Overview of School Choice Program Savings**

#### Wisconsin

• The Milwaukee voucher program has been estimated to save about \$32 million in 2008. http://educationnext.org/who-gains-who-loses/  Andrew Coulson estimated that a large-scale public education tax credit program in Wisconsin would save about \$8 billion over the first five years. <a href="http://www.cato.org/pubs/pas/pa-618.pdf">http://www.cato.org/pubs/pas/pa-618.pdf</a>

#### Arizona

Charles North, a Baylor University economist, estimated in testimony before a state
House committee the programs' savings between \$44 and \$186 million in 2008.
 <a href="http://www.azcentral.com/news/articles/2009/11/17/20091117sto-gopmeeting1117.html">http://www.azcentral.com/news/articles/2009/11/17/20091117sto-gopmeeting1117.html</a>;
 <a href="http://www.azpolicy.org/sites/azpolicy.org/files/downloads/ArizonaSTOTaxCreditCMNorth.pdf">http://www.azpolicy.org/sites/azpolicy.org/files/downloads/ArizonaSTOTaxCreditCMNorth.pdf</a>

#### Pennsylvania

The REACH Foundation estimates that the tax credit program saved \$531.6 million in 2007-2008. <a href="http://www.paschoolchoice.org/reach/lib/reach/Fiscal Impact - 06-09 FINAL.pdf">http://www.paschoolchoice.org/reach/lib/reach/Fiscal Impact - 06-09 FINAL.pdf</a>; p.2

#### Florida

OPPANGA, an official program oversight arm of the Florida legislature, published the
finding that its <u>scholarship tax credits save taxpayers \$1.49 for every \$1 they reduce</u>
<u>state revenue</u>--basically a 50% annual rate of return, which dwarfs even the highest
estimated returns from highly targeted and less generalizable pre-K programs.

#### Indiana

Savings have been estimated to Indiana's tax credit program at \$4.7 million in the first year and \$8.8 million in the second year.
 <a href="http://www.edchoice.org/newsroom/ShowNewsReleaseItem.do?id=20125">http://www.edchoice.org/newsroom/ShowNewsReleaseItem.do?id=20125</a>

#### Nevada

• Andrew Coulson estimated that a large-scale public education tax credit program in Nevada would generate between **\$590 million and and \$1.3 billion** over the first ten years of the program. <a href="http://www.npri.org/publications/choosing-to-save">http://www.npri.org/publications/choosing-to-save</a>

#### **New York**

 Andrew Coulson estimated that a large-scale public education tax credit program in New York would save more than \$8.3 billion over the first five years.
 http://www.cato.org/pubs/pas/pa-618.pdf

#### South Carolina

• Andrew Coulson estimated that a large-scale public education tax credit program in South Carolina would save more than \$300 million over the first five years. http://www.cato.org/pubs/pas/pa-618.pdf

#### Texas

 Andrew Coulson estimated that a large-scale public education tax credit program in Illinois would save more than \$14 billion over the first five years. <a href="http://www.cato.org/pubs/pas/pa-618.pdf">http://www.cato.org/pubs/pas/pa-618.pdf</a>

#### Illinois

• Andrew Coulson estimated that a large-scale public education tax credit program in Illinois would save more than **\$1.6 billion** over the first **five** years. http://www.cato.org/pubs/pas/pa-618.pdf



# AMERICANS FOR PROSPERITY

March 15, 2011

House Bill 2367 House Education Committee

Mr. Chairman and members of the committee,

I am proud to provide testimony on behalf of the more than 41,000 members of Americans For Prosperity Kansas in support of HB 2367, regarding educational choice. The bill before the committee is a good start in that at the very least, it provides an opportunity to seriously debate school choice in Kansas.

AFP believes that a properly structured school choice option would actually increase per pupil funding in public schools while potentially decreasing the total cost to Kansas taxpayers. The costs of U.S. private schools are, on average, 60 percent of public school costs. That means Kansas can provide a voucher which parents can use to switch their children to private schools and pay less than what the state spends to educate them in the local public school. The state and the locality would continue collecting the same tax revenues for schools that they currently do but with fewer students. Even after the removal of the voucher amount from the funding stream there will be a significant increase in available funding for public schools on a per pupil basis. This is crucial to meeting the Court's funding goals. For example, a school choice voucher for private schools of \$5,000 per year would be a savings of over \$6,000 per pupil over the current amount of \$11,289 per pupil spent by K-12 public education. Leaving this excess in the revenues for the public school system would increase funding as each student leaves public school by transferring to one of Kansas' many fine private schools. If enough students eventually accept the vouchers legislators could cut total expenditures to K-12 education while still meeting the requirements of *Montoy v. State of Kansas*.

And the welcome byproduct is education scores may actually go up. A recent study of school Choice, published by Harvard economist Caroline Hoxby asked the question "Do public schools respond constructively to competition induced by school choice, by raising their own productivity?" Contrary to the claim that private schools would cherry-pick students, leaving public schools with only the lower performing students, the study found the benefits were actually greatest where large numbers of students were eligible for choice.

This study was particularly interesting in that it looked at those school choice programs which have existed for some time and which were large enough to have produced real competition. In Milwaukee, where children received vouchers worth up to \$5,783, the improvement in the public schools was substantial. Students in public schools where at least two-thirds of students were eligible for vouchers scored 8.1, 13.8, and 8.0 national percentile rank points higher in math, science and language, respectively. Michigan and Arizona had similar results with public schools raising achievement in

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response to competition. Hoxby found the largest achievement gains were in public schools that faced the most competition.

Consumers have long seen the benefit the competition our economic system generates among businesses has had on the technology, quality and prices of products. It should be no surprise that when public schools improve due to competition, school choice benefits reach beyond those students who take advantage of the opportunity to attend a private school with a voucher or tax credit scholarship. The fact that competition has the same potential benefits for public schools – not just students who switch to private schools – makes school choice a win-win for parents.

An education voucher program for all children for private school tuition and an education tax credit for donations to scholarship funds for low-income children to attend private schools would ensure every child who wished to attend a private school could do so. For every dollar of education voucher or education tax credit allowed, one dollar would be removed from education's SGF appropriations, making it a revenue neutral program.

Interestingly a properly structured education tax credit scholarship program creates a unique opportunity to stimulate economic growth in Kansas. Built in within the scholarship program is a federal tax deduction for charitable contributions that makes the program a win-win for individuals and corporations. Not only would they receive the Education Tax Credit to use against their state tax liability, but they would receive a charitable deduction on their federal tax return to maximize the incentive to give to these scholarship programs. If the program were structured to mirror an incredibly successful Pennsylvania program, corporations or individuals in Kansas could give 50 percent of their state tax liability to a scholarship program, receive the federal deduction for the gift and have a net reduction in their total tax bill that actually approaches their contribution. This powerful financial incentive is coupled with the positive public relations providing scholarships for private school for the underprivileged gives a company. This combination will actually encourage companies to locate or do business in Kansas and reduce the disincentive of a high marginal tax rate which encourages companies to minimize their state tax liability in Kansas by transferring it to lower tax states.

Thank you for consideration of this important matter.

Derrick Sontag State Director Americans For Prosperity Kansas

#### Testimony – HB 2367 House Education Committee – March 15, 2011

Dear Mr. Chairman and members of the House Education Committee,

Thank you for the opportunity to submit written testimony as proponents of HB 2367 – "The Kansas Education Liberty Act", on behalf of the members of our citizen group, "We the People of Osage County". Our group formed around the cause of liberty in our country. We are residents of Osage County who meet on the 3<sup>rd</sup> Tuesday of every month to discuss relevant issues and proposed solutions for our city, county, state and federal governments. Although our group is loosely knit in terms of formal organization, we are closely tied to the principles in our US Constitution and have a membership roster of approximately 50 people. Collectively, our members support the independent thinking and components of HB2367. We believe in limited government, the strength of free markets and individual liberty. Therefore, we appear in written form before you today to advocate for the passage of HB 2367.

One of the most significant efforts undertaken by local government includes that of providing a nurturing and educational environment for our children's education. In fact, it can be documented that currently over 50% of all local, state and federal taxes collected are spent providing K-12 education in the form of public schools across our state. In our own county alone, we have calculated that amongst the 5 school districts whose geographic boundaries lie within Osage County, we as citizens through our elected school board members authorize the expenditure of over \$1,000 per child per month for 10 months of K-12 public school operations. That is \$10,000+ per child per year.

So how can the proposed course of action in HB 2367 address the education of our children? By focusing on the very core of the principles upon which our country was founded. The answer lies in that famous phrase, "life, liberty and the pursuit of happiness". We all know that it takes parents partnering with teachers to raise responsible and competently educated children who can read, write and perform accurate mathematics. We understand and agree that this is an opportunity for learning that we want to provide to all children. So we propose that this committee consider this legislation which has been designed to both improve educational outcomes in K-12 learning environments and also relieve our state budget strain of ever mounting expenditures.

With the passing of this legislation and the implementation of its parameters, all Kansas children will be positively impacted with improved education outcomes for learning in both public and private education. Students who are currently failing in public education will have a mechanism to find an educational setting that meets their learning style and personal interest. Students and parents will enjoy life and the liberty to pursue their interests in a learning environment that recognizes each student's unique gifts. Pupils who are currently progressing and growing in our public education K-12 system will find smaller classes and more resources available per student. Different students require

#### We the People of Osage County Testimony – HB 2367 pg 2 – March 15, 2011

a variety of educational environments to reach learning goals. This proposed legislation allows each individual student to pro-actively select their educational learning environment.

This bill turns to the citizens of Kansas to both help improve our children's educational outcomes as well as impact our taxpayer expenditures toward that of limited government, a balanced state budget and also to alleviate the deficit spending done in recent Kansas legislative history. Increased parental and community involvement in K-12 education ensures that our students' learning capacity is at an optimum level. This increased involvement is facilitated by creating educational scholarships to be utilized by parents to enroll their children in school settings that meet their individual student's needs.

HB 2367 creates a vehicle to fund scholarships to Kansas K-12 students so they can attend qualified public and non-public schools selected by the student's parent or guardian. The scholarships are funded by state tax credit eligible donations from both individual and corporate contributors throughout Kansas. Taxpayers give donations directly to independent not-for-profit Scholarship Granting Organizations (SGOs) that will in turn grant educational scholarships to eligible students. Within specific limitations enumerated within this legislation, every dollar a taxpayer donates has a tax credit of one dollar to apply towards that taxpayer's Kansas Income Tax liability. With HB 2367, the legislatively mandated limits on individual donations and individual scholarships are monetarily projected to be less than what is currently spent by taxpayers in the Base State Aid Per Pupil (BSAPP – currently approximately \$4,000 per pupil). Remember, we related that in Osage County alone, we authorize over \$10,000 per student per year of taxpayer funds to be spent on children enrolled in our K-12 public schools.

HB 2367 truly provides a tested mechanism for liberty in educating our young students. By allowing Kansas taxpayers to become actively involved in Kansas education through direct funding, we return a sense of educational ownership to all Kansans. HB 2367 allows taxpayers to contribute to independent scholarship granting organizations of their choice and makes those donations a direct tax credit towards their Kansas Income Tax liability. This will restore liberty and give all Kansans an active role in the education of our youth who are by state statute required to be schooled from age 7 to 18 yrs.

Another component of this legislation to be considered favorably is the fostering of independent thinking which cultivates innovation. Innovation translates into improved educational outcomes for students. The people of Kansas value their capacity for self-direction and pass that quality to future generations. Just as government control and intervention have historically produced stagnation in our economy, so does a monopoly on thinking transfer to a negative outcome in the education of K-12 students. The broader perspective of thinking which allows for differences in educational solutions for our children is contained in the parameters of HB 2367 . . . it promotes liberty and innovative thinking.

#### We the People of Osage County Testimony - HB 2367 pg 3 - March 15, 2011

We the People of Osage County proudly support our local students and schools. We want our students schooled in an environment of nurture where parents partner with teachers to raise responsible citizens within the boundaries of our communities. We honor citizens' liberty to select their own learning environments and applaud such a proposed legislative mechanism which allows tax credits and citizen involvement to accomplish the goal of educational access for all Kansas children.

We the People of Osage County thank you for your time and attention to this legislation. We ask you to give HB 2367 your favorable consideration and pass it out of this committee for further debate in the Kansas Legislature.

Sincerely, Members of "We the People of Osage County"

Submitted by Jane Falley, Secretary 205 S. Osage, Burlingame, KS 66413 785-654-3413

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

### Testimony before the **House Committee on Education**

on

HB 2367 – Tax Credits for Private School Scholarships

by

Mark Tallman, Associate Executive Director for Advocacy

Kansas Association of School Boards

#### March 15, 2011

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to comment on **HB 2367**, which would create a system of Kansas income tax credits for contributions to "scholarship granting organizations" that provide "scholarships" to students attending private schools. KASB appears in opposition to this bill.

First, here is the statement adopted by the KASB Delegate Assembly:

#### I.E. Tuition Tax Credit, Voucher Systems and Choice Plans

KASB opposes legislation that would use tuition tax credits, voucher systems or choice plans to aid private elementary or secondary schools which are not subject to the same legal requirements as public school districts. However, KASB supports voluntary efforts to experiment with public school choice plans, such as charter and magnet schools, provided those plans are approved by the local school board.

This is not a statement that opposes private education. KASB believes in the right of parents to choose non-public schools for their children. However, we disagree that those schools should receive the *benefits* of public funding like public schools, but without any of the *obligations* the Legislature places on public school, such as the requirement to serve all children, the obligation for financial transparency, the lack of regulation and oversight.

Public and private schools must play by entirely different rules. We are providing to the committee a KASB publication detailing those differences. It is understandable that private schools can operate independently of public regulation when their funding is entirely private. It is not appropriate when those schools become subsidized by the taxpaying public, without public oversight.

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Our basic concern is this: private schools can pick and choose the students they wish to serve, and leave the students they do not wish to educate for the public schools. Again, that is appropriate when they do so with private funding voluntarily provided. But under this bill, or any similar system, the taxpayer is told: you must help fund schools your child may never be able or even eligible to attend.

Let's be perfectly clear: any school can get better results when it can pick its students. Any school can operate more efficiently went it can choose what programs and services it wants to offer. Public schools have neither choice. KASB believes that **HB 2367**, however well intentioned – and we believe many of the proponents of school choice *are* well intentioned – represents the first step toward a two-tiered education system of selective schools for some, and what will be at least perceived as second-class schools for the children no one else wants. That is not the American way, and it is certainly not the Kansas way.

Here are some specific concerns we would ask you to consider.

The program is called the educational liberty program. Parents *already* have the "liberty" to send their child to any private school that accepts them and they can afford. This bill doesn't change that. Nothing requires the eligible private school to accept your child, and nothing limits private school tuition, fees and other costs. Even with the proposed scholarship, the cost of attending the preferred school may be out of reach. This bill would simply provide a subsidy for private education. The "liberty" provided by this bill is entirely created by state funding – which at least supports KASB's position that money makes a difference in education.

As we understand the bill, these scholarships would not be provided to students who are currently attending private schools, which suggests the cost of the program would be offset by reduced funding for public schools as fewer students are enrolled. But public school districts are given a "declining enrollment" provision, which allows them to use the previous year's enrollment. There are compelling reasons for that: it is extremely difficult for schools to reduce costs as fast as they lose students. Therefore, this program may be a net cost to the state at a time when the entire school finance system is funded far below the state's previous commitments.

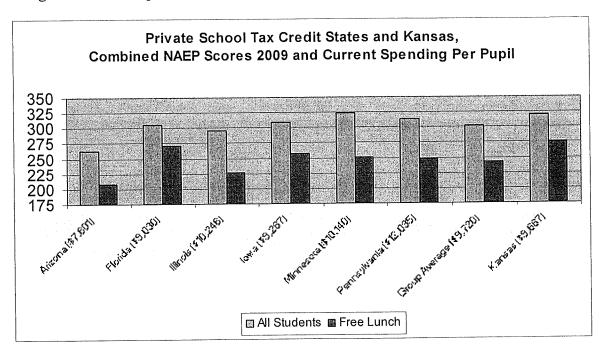
HB 2367 would require a scholarship granting organization to allocate scholarships among free lunch eligible students in proportion to the percentage of such students in the school district where a majority of the scholarships are provided. This is problematic for several reasons. First, what if the organization's scholarships are distributed so that no district receives a majority? Second, as we have previously discussed with the committee, free lunch eligibility is an indicator of a student being at-risk, not a guarantee. There is nothing in the bill to ensure that lower income students receiving the scholarship would actually be academically at-risk. The scholarships could be entirely limited to academically successful students from both low and higher income families, leaving the most challenged students in public schools that will have fewer resources due to the students who have left. Since the amount of scholarship is less than base state aid per pupil, and abundant evidence indicates at-risk students cost significantly more to educate, it is difficult to see how private schools could serve these students if they want to.

HB 2367 also provides for a higher scholarship for special education students, up to 150% of the base budget per pupil. However, there is no requirement that *any* special education students be served. Most evidence indicates that average special education costs are closer to *twice* the cost of regular education students, which means the scholarship would only cover the cost of relatively less expensive exceptionalities, leaving the higher cost students in public schools. Finally, state law requires that public

schools provide special education services to students in private schools, so the private school could benefit from the higher scholarship without having to provide *any* additional services.

Most people instinctively understand that students are more likely to be successful with engaged parents. Parents choosing to use these scholarships are almost by definition the more involved parents, and their children are more likely to be successful. Therefore, the proposed program is most likely to be an incentive for involved parents with the resources and commitment to handle the cost of private schools not covered by the scholarship. Subsidizing the movement of these parents and children from public schools will mean a loss of parent involvement, leadership, participation and positive role models for the most at-risk children families.

Finally, let's look at the evidence of tax credit programs in other states. We are aware of six states with a private school tax credit program. We have prepared a chart showing their National Assessment of Education Progress scores compared to Kansas.



As this chart indicates, the only tax credit state with higher overall scores than Kansas is Minnesota, which spent about \$500 more per pupil than Kansas. No state had higher scores for low income students than Kansas. Kansas scores significantly higher than two tax credit states that have significantly more (Illinois and Pennsylvania). The evidence strongly indicates that tax credits for private schools do not result in higher academic achievement.

Individuals, corporations and foundations are already perfectly free to contribute to private schools to create scholarship. There is no need for state involvement; in fact, history suggests that state funding inevitably leads to more state control.

Thank you for your consideration.





Nowwar

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

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# **DIFFERENT RULES**

# WHAT CHOICE AND COMPETITION MEAN FOR PUBLIC AND PRIVATE SCHOOLS IN KANSAS

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### 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).

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**

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**

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

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**

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.

### 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**

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**

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

### **Secondary Curriculum**

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

### 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**

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**

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.

### 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.

### 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

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**

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

### **Dental Inspections**

**Hearing Tests** 

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**

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.

### 5. Textbooks, Transportation and Food Service

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

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

### **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**

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

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**

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

#### **Food Service**

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

### **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

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

#### **Use of Buses**

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

#### **Food Service**

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

### **Breakfast Programs**

Private schools are not required to offer breakfast programs.

### 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**

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**

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)**

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**

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

### 7. Collective Bargaining

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

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

### **Professional Negotiations**

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.

### **Professional Negotiations**

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**

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.

### **Teacher Bargaining Units**

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

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

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.

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

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

### **Prohibited Practices**

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

### **Prohibited Practices**

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

### 8. Governance Authority

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

PRIVATE SCHOOLS are independent of state controls.

### **Board Meetings and Authority**

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**

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**

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**

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

### **School Finance Limitations**

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

### **Bidding Requirements**

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**

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

### **Public and Financial Records**

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

### **Board Meetings and Authority**

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**

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

#### School Finance

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

### **Bidding Requirements**

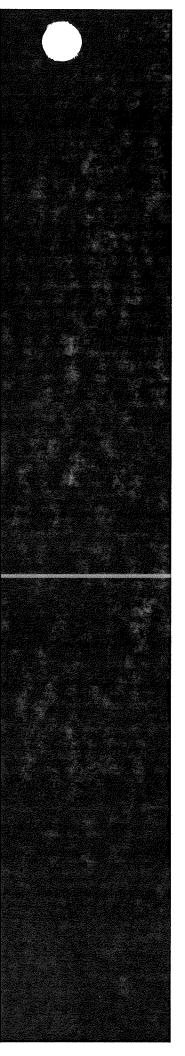
Private schools are not required to take bids for any purchases.

### **General Obligation Bonds**

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

### **Public and Financial Records**

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



A REPORT FROM THE:

KANSAS ASSOCIATION OF SCHOOL BOARDS

1420 SW Arrowhead Road, Topeka, Kan. 66604

785-273-3600 ♦ www.kasb.org



March 15, 2011

TO: Representative Clay Aurand, Chair, and Members of the House Standing Committee on Education

FROM: Gary George, Ed.D., Assistant Superintendent of Schools Olathe Public Schools

SUBJECT: House Bill 2367 – Educational Scholarships

I am present today to express our opposition to House Bill 2367. This bill provides tax credits for an organization which uses the money to grant scholarships to students. The bill provides preference for students of poverty and special needs students prior to others. The tax credit gradually increases to 50 percent over a period of years. The total cost of the tax credits is capped at \$10M in forgone tax revenue as written in the bill. These types of programs are essentially back door approaches to private school vouchers. We oppose this program on a number of grounds:

- The program indicates it is for children of poverty. However, it allows families with incomes of 3.5 times the free lunch eligibility criteria to qualify. For a family of 4, two adults and two children, the income limit would be \$100,327.50. That is very high to be considered a program for the poor in the state.
- The program indicates children who have attended a public school the year before they seek a scholarship, or who were eligible to attend public school, can apply. This means the scholarship could go to students who are already attending private school and have never attended public school. To the extent that this happens, the program amounts to a grant of assistance to private school families.
- The program indicates that special needs children are eligible to attend a private school, but the bill does not make clear if the IEP developed by the public school must be followed. It also is conceivable that a special needs student could be admitted and the private school would expect the public school to continue to provide services.
- The bill outlines criteria for scholarship granting organizations to consider when grant applications are submitted. However, such an organization is not required to provide the state with an audit of it finances as are public schools. These organizations are not required to disclose donors, comply with the Open Records Act, the Open Meetings Law, or other elements of transparency even though they are using tax money for a public purpose. Further, private schools are not required to give state assessments, make AYP, or have teachers who meet certification/licensure requirements.
- The private schools in the program may discriminate on the basis of academic ability, religion, or severity of special need.

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- For special needs students, the scholarship is 150 percent of base state aid, or \$ 6,018, for at least part of 2010-2011. This will preclude a huge number of special needs students who cost more than that to educate. The more costly students may be sent back to the public schools to educate or denied admission to the scholarship program.
- For regular education students, the amount of the scholarship is \$3,610. This means more affluent families can take the \$3,610 and add money to attend more selective and expensive private schools. For poor families not able to match the \$3,610, the scholarship may simply be lost.

Finally, this program allows private schools to skim some of the brightest students and leave the public schools with a more challenging population. This is no way to promote school reform. Kansas has a long history of great public schools which have served their communities very well. We need to build on that tradition and not launch a new experiment. Our ACT scores and graduation rates are high and our dropout rates are low. This new proposal is costly and not in the best interests of the state. We urge you to reject House Bill 2367.

Thank you.

# **Kansas Families for Education**

Demanding Excellent Public Schools for ALL

John Koepke, Board Member Kansas Families for Education House Education Committee – March 15, 2011 HB2367

Mr. Chairman, members of the committee, thank you for the opportunity to come before you today. I am John Koepke and I appear before you on behalf of Kansas Families for Education to oppose HB2367.

We stand firm in our belief that public tax dollars should be used to support public institutions. We oppose a tax credit for private schools just the same as we would oppose a tax credit for private fire protection or for private police protection. Public schools are open to every one of our citizens, and private institutions, even with tax credits, will not be open to every student.

Kansas public schools are accountable to the taxpayers; private institutions under this bill will be allowed to use tax dollars with virtually no accountability. This diversion of tax dollars also will leave less money for our public schools where the majority of Kansas kids are and will remain in school. Our public schools are struggling to meet the needs of our students and this bill will take needed tax dollars away from them.

We believe that a tax credit will put us at least at odds and perhaps in violation of Article 6 of the Constitution, which states "No religious sect or sects shall control any part of the public educational funds." We believe it is likely this bill will be challenged in court if it passes.

We contend that even those families who seek a scholarship under this bill will not really be given a choice, because the grantor will decide which students receive the scholarships.

We have not seen a fiscal note, other than we know that we will not divert more than \$10 million a year through 2014, but what is the cost of this bill after 2014? We are allowing tax credits to be carried forward for three years, thereby shrinking state revenues to support public schools over and over again.

We believe that the education committee should be focused on how to help our public schools, where again most of our students are and will remain enrolled. We should be looking to make our public schools the best they can be to serve the needs of ALL Kansas students, instead of looking how to benefit a few students while jeopardizing the majority of students.

We urge you to reject HB2367. Thank you for your consideration and your time.

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