



Testimony before the House K-12 Education Budget Committee

in opposition to

House Bill 2218 – Concerning education; establishing the sunflower education equity act; providing education savings accounts for students; establishing the sunflower education equity scholarship fund

by

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Madam Chair, Members of the Committee:

[Game On for Kansas Schools](#) is a nonpartisan grassroots effort among Kansans who share a belief in high-quality public education as a right of all Kansas students. We advocate for Kansas public schools to ensure our teachers, principals, superintendents, and school board members have the resources necessary to deliver quality education to all Kansas students. We inform communities across the state about issues and legislation affecting their students, and our membership extends statewide.

We oppose HB 2218 because it is unconstitutional, does not further the educational interests of the children of the state of Kansas, and provides public funding for private schools and home schools without requiring academic standards or any meaningful oversight. It will also create a large new financial burden for the state as it provides funding for students already obtaining their education outside the public schools.

The opening of this bill references parents rights, but fails to acknowledge that parents already have the right to choose the educational environment of their children. They just don't get the state to pay for that choice if they opt out of public education. Similarly, the state provides libraries for our citizens to enjoy, but we don't get to decide to shop at Amazon and have the state give us money to help us pay for our own books.

UNCONSTITUTIONALITY

We believe this bill unconstitutionally usurps the role of the State Board of Education by establishing a parallel system of (minimal) oversight by a politically-appointed board. Article 6 Section 2 of the Kansas Constitution says the State Board of Education “**shall** have general supervision of public schools, educational institutions and **all** the educational interests of the state, except educational functions delegated by law to the state board of regents.” This bill provides for a separate board to promulgate rules and regulations and exercise authority over educational interests paid for by the state but not overseen by the State Board of Education. This is not only bad policy, it is unconstitutional.

ELIGIBILITY AND FISCAL IMPACT

The eligibility criteria for this bill is too broad and without condition. The definition of Qualified Student includes any student who is eligible to attend Kansas schools, whether or not they are already in private or homeschools. The financial implications of this new inclusion are

significant. Data from other states show that voucher programs largely end up paying for students who were already in the private school system, adding a new financial obligation for the state. Additionally, the 2021 version of this bill at least purported to be targeted to at-risk students. This bill makes no mention of at-risk students. The program is wide open to any student anywhere who, for any reason or no reason, would prefer to enroll in a private school or home school. As written, this bill will likely be used by private schools to choose students with ESAs who are easier and less expensive to teach, leaving the most challenging students to the public schools and leaving less funding to educate those students. On Monday, January 30th, 2023 this committee heard from a conferee representing The Independent School in Wichita who told you exactly this - his school does not accept students more than one or two levels behind in reading. This bill could also turn into a private school recruiting tool for strong athletes or other categories of recruits.

FINANCIAL ABUSE

We meet regularly with public education supporters from multiple states, including some from Arizona. They have provided us with screen shots of excited discussions of numerous improper purchases with ESA funds. One parent boasted of her purchase of a \$750 coffee machine for her son to do barista training. Once the training was done, the family gets to keep the coffee machine. Others purchased an annual pass to Legoland, a permanent gazebo, a chicken coop, kitchen supplies, trips to Barnes and Noble, games, circus arts classes, horseback riding lessons, and gardening beds. They explain to other parents you can just use a “how-to” guide as the curriculum. The Arizona ESA has ballooned to over \$2 million in unbudgeted costs as of last week. Despite all of the available information about how bad this and other ESA bills have been, there is no attempt in this bill to protect against this abuse.

LACK OF ACADEMIC OVERSIGHT

We also oppose this bill because it gives state funds to private schools and home schools that are not held to the same fiscal or academic standards we require for public schools. This bill is eleven and a half pages, but provides virtually no oversight. It appears to remove even the minimal current requirement that home schools register with the state. Our most vulnerable students could literally disappear under this bill.

It only requires schools to provide instruction in reading, grammar, math, science, and social studies. The failure to require any other instruction that benefits students and/or is required by Kansas law including art, music, physical education, civics, and character development is troubling. What is even more troubling is that Section 11 also exempts children with disabilities from even those basic provisions. There are absolutely no requirements for educating children with disabilities. This is unacceptable.

Section 13 very clearly states, “Nothing in this act shall be construed to permit any governmental agency to exercise control or supervision over any nonpublic school or home school.” It is completely inappropriate to force Kansas taxpayers to provide the funding for this and yet have absolutely no say about who gets accepted, who gets retained and how and even whether the children of Kansas are being educated.

This bill could but does not require participating schools to

- be accredited under KESA
- hire college-educated teachers
- use legitimate curriculum
- have adequate and safe facilities
- provide transportation or lunch
- ensure students receive all the special education services they would receive in public schools
- accept students regardless of religion, sexual orientation, academic standing, or behavioral issues
- accept students unable to pay tuition beyond the amount of their ESA
- participate in standardized testing
- track or report academic progress of students utilizing the program
- publicly report their finances and academics.

Arizona parents are openly discussing how great their ESA program is because it doesn't require any attendance, any testing, or any standard curriculum. One boasted that they can print their own diplomas. If this program were really about helping children it would provide safeguards that ESA funds would pay for an education at least as strong as that provided by their local public schools and would impose measures of oversight on the private schools receiving public funds. It would also insist upon a level of fiscal transparency commensurate with the standard used for public schools. As parents and community members, we are troubled by both the complete lack of financial and academic oversight to ensure children in this program will not face irreparable harm to their educational futures.

Voucher advocates sometimes claim that there is no need for oversight because parents won't leave their children in an inadequate private school. If that were the case, voucher programs across the country would have ended years ago. The reality is that parents often lack information needed to make informed choices. This bill omits requirements that could change that. Parents also might want to avoid the trauma of moving schools again. (Research shows that changing schools is, in fact, a traumatic experience for students.) They also might choose a school for reasons other than academics. These choices become more problematic when that choice is being funded by public tax dollars. Under this bill, a student could use a voucher to leave a high performing public school and pay tuition to a lower-performing private school. Taxpayer-funded vouchers should not be used for such purposes. School choice already exists for families in Kansas - home schooling, virtual schools, accredited and non-accredited private schools are allowed under existing state law. Public subsidies should not be used for inferior educational options.

SCHOOL CHOICE

As with the tax credit scholarship program, we believe schools receiving public funds should accept and retain all students who apply, but this bill does nothing to curb "school" choice. The schools get to choose their students. The open enrollment legislation states, "A school district shall not accept or deny a nonresident student transfer based on ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language, measure of

achievement, aptitude or athletic ability.” That same language is glaringly omitted from this bill. Many private schools in Kansas require items such as Baptismal and First Communion Certificate, report cards, IEP/ILP documentation, number of years family has belonged to parish, successful completion by the student of a screening assessment. They reserve the right to refuse admittance to any student whose academic needs and behavioral needs are greater than the school can accommodate. None of this becomes subject to scrutiny until tax dollars are sued to fund such restrictive and discriminatory policies.

In the past several years, there has been written and in-person testimony of parents saying that private schools would not admit their children. Additionally, in a hearing on a similar bill last year, one of the conferees admitted that the private schools he worked with counseled out high school students who were not academically successful. They send those students back to the public schools. As private schools, they have the right to recruit athletes, to choose not to accept students who don't have the same religious beliefs or academic backgrounds as their other students, and to send children back to their local public school if they don't want to keep them, but we vehemently dispute their ability to retain those rights when they accept public funds.

DAMAGING

Our concern about academic damage is not hypothetical. We have been doing our homework on voucher programs for over a decade, and the data have repeatedly shown that voucher programs do not generally lead to educational gains in students using them and often lead to learning loss. We have also seen that voucher programs tend to continue to expand, despite their growing impact on public school funding and despite their lack of success. While these programs are often sold as money following the child instead of funding the public school system, the bottom line is that the money doesn't stay with the child but goes to private schools with no oversight. When speaking with parents in other states, they tell us how disastrous their voucher bills have been in their states and how they wish they had pushed back against them when their voucher programs originated. In Florida, it has been well-documented that there are voucher schools in strip malls. As we have seen in other states, those are the types of schools that proliferate under an expansive voucher program. There are residents of states with large voucher programs whose school choice is between a substandard private school and an under-resourced public school. That is not the type of choice we want for Kansas families.

PREFERENTIAL TREATMENT FOR ESA USERS

We also note that this bill allows private and home school students, but not public school students, to use ESA funds to pay for AP exams, ACT and SAT exams, tutoring, and post-secondary tuition. It also allows them to purchase laptops, printers, microscopes and telescopes. While one can see the academic benefit of those purchases, students in public schools use items like that when they attend the school, but they belong to the school. ESA students and their families get to keep those items beyond the end of their primary and secondary educations, or they can sell them and keep the proceeds. This is not an efficient or appropriate use of taxpayer funds.

PUBLIC EDUCATION ASSAULT

We must explicitly state that we believe this bill, especially when taken in context with the KSHSAA bill, the part-time enrollment bill, and the tax credit scholarship bill, is designed to seriously undermine support for public education in the State of Kansas. This committee is following lock step the anti-public education plan that is being orchestrated by people like Chris Rufo. From CRT misinformation to the refusal to acknowledge the challenges our schools have faced due to years of underfunding and the COVID pandemic to regular attempts to expand ways to siphon taxpayer funds to private schools, we are witnessing an orchestrated assault on public education across the country. Just last week a lobbyist in Utah promoting their latest voucher plan was recorded saying that her goal is “to destroy public education.” She explained that legislators can’t say that because citizens would get angry with them. We believe that the majority of Kansas citizens would also be angry if they learned their legislators were working to destroy public education in our state. Public schools are essential to the children of Kansas and a constitutional requirement and should be supported and not undermined.

For all of the many reasons outlined in this testimony, we urge you to vote no on HB 2218.

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