AN ACT concerning school districts; relating to religious speech; creating
the Kansas student and educator freedom of religious speech act.

Be it enacted by the Legislature of the State of Kansas:

Section 1. The provisions of sections 1 through 7, and amendments
thereto, shall be known and may be cited as the Kansas student and
educator freedom of religious speech act.

Sec. 2. The legislature hereby finds and declares the following:
(a) The United States supreme court has recognized for almost 50
years that neither students nor teachers "shed their constitutional rights to
freedom of speech or expression at the schoolhouse gate." Tinker v. Des
(b) Academic freedom derives from the right to free speech under the
1st amendment to the constitution of the United States, which also
guarantees the right to free exercise of religion.
(c) The 1st amendment to the constitution of the United States
guarantees that "private religious speech, far from being a first amendment
orphan, is as fully protected under the free speech clause as secular private
expression." Capitol square review & advisory bd. v. Pinette, 515 U.S.
(d) The exercise of 1st amendment rights on public school campuses
in this state is a critical component of the education experience for
students and requires that each public school in this state ensure free,
robust and uninhibited debate and deliberations by students.
(e) While performing their assigned job duties, school employees are
required to maintain a position of neutrality towards religion. However,
when interacting with other school employees or when the context makes
clear that the employee is not speaking on behalf of the school, school
employees are entitled to robust protections for their religious expression.
(f) Public schools are being threatened by out-of-state special interest
groups who demand that schools adopt inaccurate interpretations of the 1st
amendment that unlawfully restrict the freedom of students, teachers and
other public school district employees to engage in religious expression or
otherwise exercise their freedom of religion, leading to a stifling of
constitutional rights.

(g) Clear protection in state law is needed for students, teachers and other public school district employees in public schools, in order to ensure 1st amendment freedoms are protected, to prevent against interference from out-of-state special interest groups and to safeguard academic freedom.

Sec. 3. As used in sections 1 through 7, and amendments thereto:

(a) "Contract time" means that time when a school district employee is required to be on campus or at another designated location for the purpose of fulfilling the duties of such employee's employment, or when a school district employee is otherwise acting as a designated representative of a public elementary or secondary school.

(b) "Model policy" means a local policy adopted by a school district that is substantially similar to the provisions of section 5, and amendments thereto.

Sec. 4. (a) A school district shall not discriminate against any student or any parent or legal guardian of a student on the basis of a religious viewpoint or religious expression. A school district shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject, and shall not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

(b) A student may express such student's beliefs about religion in any coursework, artwork or other written or oral assignment free from discrimination based on the religious content of such submission. All assignments, including any assignment that requires a student to express a viewpoint, shall be judged by ordinary academic standards of substance and relevance to the course curriculum or requirements of the coursework, artwork or other assignment, and against other legitimate pedagogical concerns identified by the school district. A student shall not be penalized or rewarded on the basis of religious content or a religious viewpoint.

(c) A student may pray or engage in religious activities or religious expression before, during and after the school day in the same manner and to the same extent that other students may engage in nonreligious activities or expression. Students may organize prayer groups, religious clubs or other religious gatherings before, during and after school to the same extent that students are permitted to organize other nocrecurricular student activities and groups. Religious groups shall be provided the same access to school facilities for assembling as is provided to other nocrecurricular groups without discrimination based on the religious content of the students' expression. A school district shall not discriminate against groups that meet for prayer or other religious speech with respect to advertising of
such groups and announcements of meetings of such groups. A school
district may disclaim school sponsorship of noncurricular groups and
events in a manner that neither favors nor disfavors groups that meet to
engage in prayer or religious speech. A student may wear clothing,
accessories and jewelry that display religious messages or religious
symbols in the same manner and to the same extent that other types of
clothing, accessories and jewelry that display messages or symbols are
permitted.

(d) (1) To ensure that a school district does not discriminate against a
student's publicly stated voluntary expression of a religious viewpoint, if
any, and to eliminate any actual or perceived affirmative school
sponsorship or attribution to the school district of a student's expression of
a religious viewpoint, if any, the board of education of each school district
shall establish a limited public forum for student speakers at all school
events at which a student is to publicly speak. Each school district shall be
required to:

(A) Provide the limited forum in a manner that does not discriminate
against a student's voluntary expression of a religious viewpoint, if any, on
an otherwise permissible subject;

(B) provide a method, based on neutral criteria, for the selection of
student speakers at school events and graduation ceremonies;

(C) ensure that a student speaker does not engage in obscene, vulgar,
offensively lewd or indecent speech; and

(D) state, in writing, orally, or both, that the student's speech does not
reflect the endorsement, sponsorship, position or expression of the school
district.

(2) The disclaimer required by paragraph (1)(D) shall be provided at
all graduation ceremonies, and at any other event in which a student
speaks publicly for as long as a need exists to dispel confusion over the
district's nonsponsorship of the student's speech.

(e) Student expression on an otherwise permissible subject shall not
be excluded from the limited public forum because the subject is expressed
from a religious viewpoint.

(f) The board of education of each school district shall adopt and
implement policies regarding the establishment of a limited public forum
and voluntary student expression of religious viewpoints. If a board of
education adopts the model policy set forth in section 5, and amendments
thereto, the school district shall be considered to be in compliance with the
provisions of sections 1 through 7, and amendments thereto.

Sec. 5. The following is a model policy governing limited public
forums and voluntary religious expression in public schools:

ARTICLE I

STUDENT EXPRESSION OF RELIGIOUS VIEWPOINTS
The school district shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

ARTICLE II

STUDENT SPEAKERS AT NONGRADUATION EVENTS

The school district hereby creates a limited public forum for student speakers at all school events at which a student is to publicly speak. For each speaker, the district shall set a maximum time limit reasonable and appropriate to the occasion. Student speakers shall introduce:

(a) Football games;
(b) any other athletic events designated by the district;
(c) opening announcements and greetings for the school day;
and
(d) any additional events designated by the district, which may include, without limitation, assemblies and pep rallies.

The forum shall be limited in the manner provided by this article. Only those students in the highest two grade levels of the school and who hold one of the following positions of honor based on neutral criteria are eligible to use the limited public forum: Student council officers, class officers of the highest grade level in the school, captains of various sports teams and other students holding positions of honor as the school district may designate.

An eligible student shall be notified of the student's eligibility, and a student who wishes to participate as an introducing speaker shall submit the student's name to the student council or other designated body during an announced period of not less than three days. The announced period may be at the beginning of the school year, at the end of the preceding school year so student speakers are in place for the new year, or, if the selection process will be repeated each semester, at the beginning of each semester or at the end of the preceding semester so speakers are in place for the next semester. The names of the volunteering student speakers shall be randomly drawn until all names have been selected, and the names shall be listed in the order drawn. Each selected student will be matched chronologically to the event for which the student will be giving the introduction. Each student may speak during the course of a week at a time for all introductions of events that week, or rotate after each speaking event, or otherwise as determined by the district. The list of student speakers shall be chronologically repeated as needed, in the same order.

The subject of the student introductions must be related to the
purpose of the event and to the purpose of marking the opening of the
event, honoring the occasion, the participants and those in attendance,
bringing the audience to order and focusing the audience on the purpose of
the event. The subject must be designated, a student must stay on the
subject and the student may not engage in obscene, vulgar, offensively
lewd or indecent speech. The school district shall treat a student's
voluntary expression of a religious viewpoint, if any, on an otherwise
permissible subject in the same manner the district treats a student's
voluntary expression of a secular or other viewpoint on an otherwise
permissible subject and may not discriminate against the student based on
a religious viewpoint expressed by the student on an otherwise permissible
subject.

For as long as there is a need to dispel confusion over the
nonsponsorship of the student's speech at each event in which a student
will deliver an introduction, a disclaimer shall be stated in written or oral
form, or both, such as, "The student giving the introduction for this event
is a volunteering student selected on neutral criteria to introduce the event.
The content of the introduction is the private expression of the student and
does not reflect the endorsement, sponsorship, position or expression of
the school district."

Certain students who have attained positions of honor in the
school have traditionally addressed school audiences from time to time as
a tangential component of their achieved positions of honor, such as the
captains of various sports teams, student council officers, class officers,
homecoming kings and queens, prom kings and queens and the like, and
have attained their positions based on neutral criteria. Nothing in this
policy eliminates the continuation of the practice of having these students,
irrespective of grade level, address school audiences in the normal course
of their respective positions. The school district shall create a limited
public forum for the speakers and shall treat a student's voluntary
expression of a religious viewpoint, if any, on an otherwise permissible
subject in the same manner the district treats a student's voluntary
expression of a secular or other viewpoint on an otherwise permissible
subject and may not discriminate against the student based on a religious
viewpoint expressed by the student on an otherwise permissible subject.

ARTICLE III

STUDENT SPEAKERS AT GRADUATION CEREMONIES

The school district hereby creates a limited public forum
consisting of an opportunity for a student to speak to begin graduation
ceremonies and another student to speak to end graduation ceremonies.
For each speaker, the district shall set a maximum time limit reasonable
and appropriate to the occasion. The forum shall be limited in the manner
provided by this article.
Only students who are graduating and who hold one of the following neutral criteria positions of honor shall be eligible to use the limited public forum: Student council officers, class officers of the graduating class, the top three academically ranked graduates or a shorter or longer list of student leaders as the school district may designate. A student who will otherwise have a speaking role in the graduation ceremonies is ineligible to give the opening and closing remarks. The names of the eligible volunteering students will be randomly drawn. The first name drawn will give the opening and the second name drawn will give the closing.

The topic of the opening and closing remarks must be related to the purpose of the graduation ceremony and to the purpose of marking the opening and closing of the event, honoring the occasion, the participants and those in attendance, bringing the audience to order and focusing the audience on the purpose of the event.

In addition to the students giving the opening and closing remarks, certain other students who have attained positions of honor based on neutral criteria, including, without limitation, the valedictorian, will have speaking roles at graduation ceremonies. For each speaker, the school district shall set a maximum time limit reasonable and appropriate to the occasion and to the position held by the speaker. For this purpose, the district creates a limited public forum for these students to deliver the addresses. The subject of the addresses must be related to the purpose of the graduation ceremony, marking and honoring the occasion, honoring the participants and those in attendance and the student's perspective on purpose, achievement, life, school, graduation and looking forward to the future.

The subject must be designated for each student speaker, the student must stay on the subject and the student may not engage in obscene, vulgar, offensively lewd or indecent speech. The school district shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

A written disclaimer shall be printed in the graduation program that states, "The students who will be speaking at the graduation ceremony were selected based on neutral criteria to deliver messages of the students' own choices. The content of each student speaker's message is the private expression of the individual student and does not reflect any position or expression of the school district or the board of trustees, or the district's administration, or employees of the district, or the views of any other
graduate. The contents of these messages were prepared by the student
volunteers, and the district refrained from any interaction with student
speakers regarding the student speakers' viewpoints on permissible
subjects."

**ARTICLE IV**

**RELIGIOUS EXPRESSION IN CLASS ASSIGNMENTS**

Students may express the students' beliefs about religion in
homework, artwork and other written and oral assignments free from
discrimination based on the religious content of the students' submission.
Homework and classroom work shall be judged by ordinary academic
standards of substance and relevance and against other legitimate
pedagogical concerns identified by the school. Students may not be
penalized or rewarded on account of religious content. If a teacher's
assignment involves writing a poem, the work of a student who submits a
poem in the form of a prayer, such as a psalm, should be judged on the
basis of academic standards, including literary quality, and not penalized
or rewarded on account of its religious content.

**ARTICLE V**

**FREEDOM TO ORGANIZE RELIGIOUS GROUPS AND
ACTIVITIES**

Students may organize prayer groups, religious clubs and other
religious gatherings before, during and after school to the same extent that
students are permitted to organize other noncurricular student activities
and groups. Religious groups must be given the same access to school
facilities for assembling as is given to other noncurricular groups, without
discrimination based on the religious content of the group's expression. If
student groups that meet for nonreligious activities are permitted to
advertise or announce the groups' meetings, for example, by advertising in
a student newspaper, putting up posters, making announcements on a
student activities bulletin board or public address system, or handing out
leaflets, school authorities may not discriminate against groups that meet
for prayer or other religious speech. School authorities may disclaim
sponsorship of noncurricular groups and events, provided they administer
the disclaimer in a manner that does not favor or disfavor groups that meet
to engage in prayer or other religious speech.

Sec. 6. (a) During contract time, school district employees may:
(1) Engage in religious expression and discussions and share religious
materials with other school district employees at the same times and in the
same manner that faculty and employees are permitted to engage in secular
expression and discussions;
(2) discuss religious topics and use religious materials in the
classroom when presented in a neutral manner that serves a valid, secular
educational purpose;
(3) serve as a sponsor of student religious clubs and assist the students in planning meetings, activities and events to the same extent that faculty sponsors of secular clubs are so permitted;

(4) permit and be present for student-initiated, student-led religious expression;

(5) participate in voluntary student-initiated, student-led prayer, such as prayer before a sporting event, when invited to do so by the students, provided that the participation is in the employee's personal capacity and not as a representative of the school;

(6) wear religious clothing, symbols or jewelry, provided that such items otherwise comply with any dress code implemented by the school district; and

(7) decorate such employee's desk and other personal space in such employee's office or classroom with items that reflect the religious beliefs of such employee to the same extent that other employees are permitted to decorate such other employees' desk and other personal space.

(b) During non-contract time, school district employees may engage in religious expression and share religious materials to the same extent as other individuals.

Sec. 7. (a) Nothing in sections 1 through 7, and amendments thereto, shall be construed to authorize the state or any political subdivisions thereof to:

(1) Require any person to participate in prayer or any other religious activity; or

(2) violate the constitutional rights of any person.

(b) Nothing in sections 1 through 7, and amendments thereto, shall be construed to limit the authority of any school district to:

(1) Maintain order and discipline on the campus of any school operated by such district in a content and viewpoint neutral manner;

(2) protect the safety of students, employees and visitors of any school operated by such district; or

(3) adopt and enforce policies and procedures regarding student speech at any school operated by such district provided that the policies and procedures do not violate the rights of students as guaranteed by the constitution of the United States, the constitution of the state of Kansas, and federal and state law.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.