

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairperson Molly Baumgardner at 1:30 pm on Tuesday, January 26, 2021, in room 144-S of the Capitol.

All members were present

Committee staff present:

Cyndie Rexer, Committee Assistant  
J.G. Scott, Legislative Research Department  
Matthew Willis, Legislative Research Department  
Norma Volkmer, Legislative Research Department  
Tamera Lawrence, Office of Revisor of Statutes

Conferees appearing before the Committee:

Ross Izard, Vice President of Policy and Government Affairs, ACE Scholarships  
Mike McShane, Director of National Research, EdChoice  
Michael Wescott, Executive Director, Support for Catholic Schools  
Libby Knox, Director of Development and Tax Credit Scholarships, Catholic Education Foundation  
Dr. Delia Shropshire, President, Holy Savior Catholic Academy  
Wilfredo Sanchez, parent  
G.A. Buie, Executive Director, USA-Kansas and Kansas School Superintendent Association  
Erin Gould, Member, Game On for Kansas Schools  
Richard Proffitt, Superintendent, USD #250 Pittsburg Community Schools and KSSA Board of Directors Member  
Michael Poppa, Executive Director, Mainstream Coalition  
Mary Sinclair, Advocacy Team, Kansas PTA  
Mark Tallman, Associate Executive Director of Advocacy and Communications, Kansas Association of School Boards  
Mike Fulton, Superintendent, Shawnee Mission School District

Others in attendance:

No list available

**Request for bill introductions**

No bills were introduced.

**Hearing on:**

**SB61- Amending the tax credit for low income students scholarship program act to expand student eligibility.**

CONTINUATION SHEET

MINUTES of the Committee on Education at 1:30 pm on Tuesday, January 26, 2021, in room 144-S of the Capitol.

---

Chairperson Baumgardner opened the Hearing on **SB61**.

Tamera Lawrence, Assistant Revisor, Office of the Revisor of Statutes, provided an overview of the bill. ([Attachment 1](#))

Proponent Testimony

Ross Izard, Vice President of Policy and Government Affairs, ACE Scholarships, believes SB61 accomplishes their goal to improve their ability to serve disadvantaged children. This bill seeks to make two small, yet critical, changes to current statute. The first is by expanding student income eligibility to better reflect student needs in Kansas. This would align more realistically with the disadvantaged communities ACE serves, would better reflect the financial realities faced by families, and better aligns with successful programs in other states. The second would allow participating students to come from ANY Kansas public school, not only those in the lowest-performing 100 elementary schools. The current eligibility requirements are unfair and unable to effectively serve the target population of disadvantaged students and aligns better with successful programs in other states. It also eliminates age restrictions that restrict opportunity for middle and high school students.

This bill does not:

- Alter the annual revenue impact on the state by increasing the \$10mm annual credit
- Change the value of the 70 percent state income tax credit for individuals and corporations
- Alter the \$500,000 limit on how much any single contributor can give each year
- Expand or otherwise alter the value of scholarships given

**SB61** reflects changes that will make the Tax Credit for Low Income Students Scholarship Program fairer, stronger, and better able to serve the intended population of disadvantaged Kansas students. ([Attachment 2](#))

Mike McShane, Director of National Research for EdChoice, spoke in favor of the bill and provided some context around the eligibility changes to the bill. EdChoice offers a detailed description of every private school choice program in the country as well as enrollment information. There are 24 tax credit scholarship programs offered by 19 states across the country. Of those, 16 have income limits. Of those with income limits, Kansas has the most stringent income limits for participating families. When it comes to public school performance as an eligibility criterion, of the 24 tax credit scholarship programs, 20 do not take public school performance into account. Only four do and only two (KS and one of PA's two tax-credit scholarship programs) use it as a determining factor. This data shows the Kansas Tax Credit for Low Income Students Scholarship Program is an outlier both in how stringent its income eligibility is set and to the degree that it relies on a child's zoned public school performance.

---

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

## CONTINUATION SHEET

MINUTES of the Committee on Education at 1:30 pm on Tuesday, January 26, 2021, in room 144-S of the Capitol.

---

If the purpose of the scholarship program is to empower families to choose the school that's the right fit for their child, then the average performance of their zoned school should matter. EdChoice recommends that school choice policies do NOT make a child's eligibility contingent on the overall performance of the school that just happens to be located nearby. ([Attachment 3](#))

Mike Wescott, Executive Director of Support for Catholic Schools (SGO), offered support of this bill. SGO is currently in its 4th year of providing scholarships to students and are currently funding 281 children. This program has been transformative for the schools and students. There are two limiting factors that causes the inability to fully serve more kids and families, both of which are addressed in **SB61**.

The first limits eligibility to those qualifying for the federal free lunch program, 130% of federal poverty guidelines. Expanding this to include reduced price lunch or 185% of federal poverty guidelines would be a game changer. And especially if the second limiting criteria is families being required to live in the public school attendance area of a low performing public school was lifted. This change would give us 187 more students we could serve. And that's only the first year's reality. Each year, on average, 125 kindergartners would benefit from this program. ([Attachment 4](#))

Libby Knox, Director of Development and Tax Credit Scholarships for Catholic Education Foundation (CEF), stated that this bill would create equity of opportunity by ensuring all low-income students who meet the income qualifications are eligible, regardless of their address and making the income eligibility requirements consistent with federal free *and* reduced-price lunch guidelines.

The Committee was asked to consider 3 things. First to recognize that many low-income children are deprived of these scholarships because of their street address. Second, recognize that students are being deprived of scholarships because of how their family qualifies for federal low-income assistance. And third, recognize the outstanding effectiveness and impact of this program.

Current scholarship students are overcoming odds and thriving in the classroom, all because their families found a learning environment better suited to their child's needs. CEF has awarded an average of 95% of these scholarships to minority students. More than 200 families who have applied to CEF were denied by the state because they lived outside the boundaries of the 100 schools or they were eligible for reduced lunch but not free lunch.

Committee Members were also asked to recognize the current legislation's inequities and unintended consequences. ([Attachment 5](#))

Dr. Delia Shropshire, President of Holy Savior Catholic Academy in the Diocese of Wichita, spoke on behalf of school choice and what it has meant to their inner core Catholic school. The impact on families has been tremendous in that families who would not normally have the opportunity to enroll

---

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES of the Committee on Education at 1:30 pm on Tuesday, January 26, 2021, in room 144-S of the Capitol.

---

their children in a Catholic school now have a choice.

In the Adverse Childhood Experience Study (ACES), it has been identified that children who live in poverty experience more stress and trauma than children who do not. School choice is necessary for families to match a learning environment with their child's need so they can learn and be successful. Every child who becomes a successful contributing member of society saves the state millions of dollars. Imagine how many more students can be helped if the law is expanded to families who qualify for reduced lunches. Imagine how much more successful schools can be when we share the enormous tasks of educating today's youth. ([Attachment 6](#))

Wilfredo Sanchez, parent, told of his desire for his three boys to attend Christ the King parish school in Kansas City. He was told because they qualified for free lunch they were told about the tax credit scholarship. They applied but only one son was accepted and that was because he was a Kindergartner. They learned that their twin boys in the 7th grade could not get the scholarship because the school they went to the prior year was not on the list.

He asks that the scholarship be changed so that families with children in school can get these scholarships for all their children. ([Attachment 7](#))

Written proponent testimony was submitted by:

Zach Eckert, Regional Legislative Director, ExcelinEd in Action ([Attachment 8](#))

Evangelina Abril, Parent ([Attachment 9](#))

Nick Anderson, Principal, Holy Family Catholic School ([Attachment 10](#))

Lynee Habiger, Principal, Sacred Heart Cathedral Catholic School, Dodge City, Kansas ([Attachment 11](#))

Brandon D. Relph, Principal, St. Patrick Catholic School, Wichita, KS ([Attachment 12](#))

Dr. Jamie Finkeldei, Superintendent, Catholic Diocese of Wichita ([Attachment 13](#))

Gerry Hamilton, Principal, St. Anne Catholic School, Wichita, KS ([Attachment 14](#))

Elizabeth Patton, State Director, American's for Prosperity-Kansas ([Attachment 15](#))

James Franko, President, Kansas Policy Institute ([Attachment 16](#))

---

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES of the Committee on Education at 1:30 pm on Tuesday, January 26, 2021, in room 144-S of the Capitol.

---

Rachelle Engen, Educational Choice Fellow, Institute for Justice ([Attachment 17](#))

Toni James, Parent ([Attachment 18](#))

Chuck Weber, Executive Director, Kansas Catholic Conference ([Attachment 19](#))

Bob Corkins, Chief FPA Lobbyist, Frontier Peace Advisors ([Attachment 20](#))

Opponent Testimony:

G.A. Buie, Executive Director, USA-Kansas and Kansas School Superintendents Association, provided testimony opposing this bill stating that when this bill was originally placed into law it was promoted as a bill to support financially challenged students to attend a private school if their home (public) school was one of the lowest performing schools in the state. As this bill is amended, it completely removes the provision of a student attending one of the lowest 100 performing schools. It would allow any student attending a public school, including leaving a higher achieving school, to attend a private school. It is USA-Kansas' belief it transforms a tax scholarship provision to a state supported private school voucher.

Low income students on average do worse in schools with high poverty than low income students in low poverty schools. This is one reason studies have justified "high density" weighting in Kansas. There are two possible reasons. One is a difference in the capacity of the school system and the other could be student characteristics. High poverty schools could be more likely to have students in deeper generational poverty with more severe needs.

Several charts were included in this testimony.

There is no strong evidence in Kansas that private schools are out performing their public-school counterparts. We have both public and private schools who are showing strong growth. ([Attachment 21](#))

Erin Gould, Member, Game On for Kansas Schools, stated that Game On concerns regarding this bill are extensive. Often tax credit scholarships are a combination of donor philanthropy and state altruism, but donating money only to receive 70% that is given back is not philanthropy, it is tax avoidance.

Game On has always disagreed with the original bill's claim that tax credit scholarships allow poor children to "escape failing schools". So called "failing" schools tend to be schools with high numbers of disadvantaged students whose challenges of poverty, food and housing insecurity, homelessness, and trauma cannot be overcome by the schools alone.

---

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

## CONTINUATION SHEET

MINUTES of the Committee on Education at 1:30 pm on Tuesday, January 26, 2021, in room 144-S of the Capitol.

---

If the stated purpose of Kansas' tax credit scholarship program is to serve students "at-risk", then this bill's expansion of eligible students from those who qualify for free lunch to include those who qualify for reduced-price lunch is problematic. Students who receive reduced-price lunch are not automatically "at-risk". This seems an inappropriate expansion of the program to allow tax-credit scholarships for students beyond the target population.

Justification for this program and this bill has been largely based on the alleged superiority of private schools. Unfortunately, the voucher/tax credit scholarship experiment has been underway for decades in other cities and states, and research shows that these programs do not lead to improved student performance. There is also substantial research documenting ways in which private schools utilizing vouchers in other states have shown a lack of accountability, higher attrition rates, fiscal mismanagement, fraud and a lack of adequate academic services.

Game On opposes this bill because it is discriminatory. Private schools can discriminate and turn away students they find undesirable. Scholarship-receiving schools do not have to accommodate learning disabilities, emotional disabilities, physical handicaps, behavioral challenges or any situation they find too difficult or too expensive.

Game On believes this bill defies logic to tell our public schools they must be transparent, evidence-based, efficient and must minimize administration and then allow the diversion of public dollars to exclusive, less-accountable schools with their own buildings and administrators.

Throughout Kansas' history, parents have had the choice about where to send their children to school. The question at hand is whether, in a time of limited resources, it makes sense to divert some of those funds to a separate program of education without evidence of their value. ([Attachment 22](#))

Richard Proffitt, Superintendent of Schools, USD #250 Pittsburg Community Schools and KSSA Board of Directors Member, stated that he believes the central reason for choosing a private education in Pittsburg is due to the religious component to the education that cannot be received in the public school. He also believes the reason for students to change their enrollment from one school to another is based on available courses or activities for the child. He has not seen a change of enrollment based on the quality of education.

Yet the playing field for educational institutions is not equal. The purpose of public education is to provide a high-quality education to every student regardless of their socio-economic status, race, religion, capacity or disability. Public schools cannot be selective. The same is not true for private schools.

There is no requirement that a student who chooses to receive a scholarship is truly failing in their current setting. Simply it offers a choice without solid reasoning. Mr. Proffitt is fearful that this bill will

---

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES of the Committee on Education at 1:30 pm on Tuesday, January 26, 2021, in room 144-S of the Capitol.

---

open opportunities for private, for-profit, schools to be able to take advantage of public tax dollars and persuade students and families to attend.

In the end, there is no strong evidence in Kansas that private schools are out performing their public school counterparts. Implementing a program that would reduce general revenues, resulting in a decreased ability to focus on students with the greatest needs seems to be counterproductive.

[\(Attachment 23\)](#)

Michael Poppa, Executive Director, Mainstream Coalition, opposes making further changes to expand the Tax Credit for Low Income Students Scholarship Program because public tax money should not be spent on private, often parochial schools, that do not face the same scrutiny, requirements, or oversight as public schools. The proposed measure would expand the pool of students eligible for the program from at risk students in low performing elementary schools to students in any public school.

The Mainstream Coalition espouses the separation of church and state as one of our founding principles and regrets the proponents of this bill feel Kansas taxpayers should pay for private, religious schools with no regard for student outcomes. [\(Attachment 24\)](#)

Mary Sinclair, PhD, Advocacy Team, Kansas PTA, stated the legislative platform and priorities of Kansas PTA affirms the opposition of the use of voucher-type programs for the tuition of non-public schools, including the tax credit scholarship program. The opposition stems from a number of concerns, including that non-public schools are not required to accept all students, can discriminate in admissions, can operate under different rules of transparency and accountability, can ask parents to waive their children's access to special education services and can require religious instruction to the exclusion of all but one.

The objectives of SB61 also appear to run contrary to the original rationale used by those who advocated to establish the program in the first place. First, current law targets struggling schools as a proxy for struggling students. Second, no data has been reported on state assessment scores and such of participating scholarship students to warrant expansion of this program, in part, because non-public schools are not held to the same level of accountability and transparency as public schools.

[\(Attachment 25\)](#)

Mark Tallman, Associate Executive Director, Kansas Association of School Boards, reported that KASB opposes any proposal to use public funding to aid private schools, directly or indirectly because it believes the potential benefits some students might realize from increased access to private schools are outweighed by the potential harm to our system of public education.

We respect private schools and the choice some parents make for them. However, the purpose and goal of public education has always been to provide every child access to a high-quality education,

---

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.



## CONTINUATION SHEET

MINUTES of the Committee on Education at 1:30 pm on Tuesday, January 26, 2021, in room 144-S of the Capitol.

---

regardless of wealth or family status, location, race, religion, aptitude, or disability. Public schools are open to all children, they are funded by all taxpayers and they are accountable to all voters. Private schools are free to select the children and families they serve, the terms of attendance, the programs they offer and the requirements they impose. Our concern is that public schools will be responsible for educating students that nonpublic schools decide they will not or cannot educate.

The current scholarship program bases student eligibility on two things: if they receive free lunch and whether they attend one of the 100 "lowest performing" public elementary schools. What the program has done is allow a small number of students to transfer from some of the higher poverty school systems in the state to some of the lowest. It is unclear how this helps the tens of thousands of high needs students remaining in those districts, since a loss of students eventually means a loss of funding.

Under this bill many more students would become eligible for scholarships but on average those students would be less likely to have higher academic, social or emotional needs. KASB suggests the bill require participating schools to meet the same requirements for admission, retention, and services as public schools and accept all students that apply and require that scholarships supported by tax credits be limited to students who are actually struggling.

This program reduces state general fund revenues, would be changed to be less focused on students likely to have the greatest needs. ([Attachment 26](#))

Mike Fulton, Superintendent, Shawnee Mission School District, presented testimony in opposition to this bill stating the elimination of statutory compliance with the Kansas School Equity and Enhancement Act in this bill eliminates the "at-risk" as defined by statutory requirement and replaces that provision with assertion the student is "eligible for free or reduced-priced meals under the school lunch act." The first concern is the qualitative and measurable difference between complying with the law and a simple assertion that a student is eligible and the language muddies the meaning of at-risk by removing the connection in law between "eligible for free meals" and the additional requirement in the law for participating in a district "that maintains an approved at-risk student assistance program.

Kansas taxpayers should expect that accountability and transparency be accomplished by amending the bill to include the following provisions:

- Amend to add provisions that would include as an eligibility requirement that "qualified schools" must adhere to antidiscrimination laws.
- Add an additional requirement to the required KSDE performance accountability report to include specific data reported by both public school districts and "qualified schools" or home school programs. The annual reports beginning in 2022 should include reporting the total number and percentage of students with either an IEP or at-risk status as defined in KSA 75-5232.

---

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.



CONTINUATION SHEET

MINUTES of the Committee on Education at 1:30 pm on Tuesday, January 26, 2021, in room 144-S of the Capitol.

---

- Add a Division of Legislative Post Audit for the 2023 school year as was done for other components of the school finance formula. ([Attachment 27](#))

Written Opponent testimony was submitted by:

Patty Logan, Chair, Stand Up Blue Valley: Families for Our Schools ([Attachment 28](#))

Dr. Steve Noble, Superintendent, USD #345 Seaman School District ([Attachment 29](#))

Wayne Burke, Superintendent, Spring Hill School District ([Attachment 30](#))

Megan Peters, Parent and Chair, Education First Shawnee Mission ([Attachment 31](#))

Nathan Grebowiec, President of Schools for Quality Education and Board Member USD 270-Plainville ([Attachment 32](#))

Mark Desetti, Legislative and Political Advocacy, Kansas National Education Association ([Attachment 33](#))

John Allison, Superintendent, Olathe Public School ([Attachment 34](#))

Deena Horst and Ben Jones, Legislative Liaisons, Kansas State Board of Education ([Attachment 35](#))

Gail Jamison, Representative, USD 265 Goddard School District ([Attachment 36](#))

Pam Stranathan, Superintendent, USD 231 Gardner Edgerton School District ([Attachment 37](#))

Dr. Tonya Merrigan, Superintendent, USD 229 Blue Valley Schools ([Attachment 38](#))

Discussion followed. The Committee requested Kansas Department of Education to respond to the following questions.

- How much does it cost to educate a child for a year?
- How much does it cost to educate a child at free and reduced lunch for a year?
- How much does it cost to educate a child who chooses private school?
- How much tax credit do people get for donating to these private school foundations?
- So what is the difference there?

The Chair closed the hearing on **SB61**.

---

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES of the Committee on Education at 1:30 pm on Tuesday, January 26, 2021, in room 144-S of the Capitol.

---

The meeting was adjourned at 2:36 PM.

The next meeting is scheduled for January 27, 2021, 1:30 PM in Room 144-S.