VOTE NO!
HB 1371 - Ford

OPPOSE THE SCHOOL CHOICE ACT

HB 1371 would allow public schools to pay taxpayer funds to private religious schools, by means of tuition vouchers to certain parents. This bill establishes a pilot School Choice Program which would create a voucher program for 1000 students living in one of the 20 zip codes that generate the greatest amount of State lottery sales in 2010. Eligible students would receive a scholarship to leave a public school and enroll in an non-public school.

GOVERNMENT FUNDING OF RELIGIOUS SCHOOLS: EXCESSIVELY ENTANGLING CHURCH AND STATE

This bill would undermine religious liberty, and excessively entangle church and state. It would cause government to pay substantial taxpayer funds to private religious schools. Those schools would be free to use these funds to pay for religious indoctrination, including the construction of worship spaces, the purchase of religious books, and the hiring of religious instructors. As a result, every taxpayer will be forced to pay for religious indoctrination. Further, the inevitable competition for scarce public dollars will tend to aggravate religious tensions.

While the U.S. Supreme Court by a narrow 5-4 majority held that such voucher programs do not violate the Establishment Clause of the U.S. Constitution, *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002), the Illinois General Assembly should heed the better-reasoned arguments of the four dissenting Justices (Stevens, Souter, Ginsburg, and Breyer). First, citing founding fathers Thomas Jefferson and James Madison, the dissenters argued that these voucher programs violate "freedom of conscience," by forcing taxpayers against their will to underwrite religious indoctrination. Second, the dissenters argued that "competition for the money will tap sectarian religion's capacity for discord." Among other reasons, people of one faith will object to the state-subsidized teachings of other faiths.

The Illinois Constitution, unlike the U.S. Constitution, contains an explicit ban on government aid to religious organizations. Specifically, the "No-Aid Clause" provides that state and local government shall not "make any appropriation or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any" religious school. At the 1970 Illinois Constitutional Convention, at least three delegates (Parker, Patch, and Weisberg) stated that the No-Aid Clause means what it says and should be enforced. While some jurists have indicated that the Illinois No-Aid Clause should be read in lockstep with the federal Establishment Clause, *Toney v. Bower*, 318 Ill. App. 3d 1194 (4th Dist. 2001) (holding that tuition tax credits do not violate the No-Aid Clause), the better argument is that the Illinois No-Aid Clause is more protective of religious liberty than the federal Establishment Clause, see, e.g., *Board of Education v. Bakalis*, 54 Ill. 2d 448 (1973) (Justice Ryan, concurring). Whether or not Senate Bill 2494 would violate the Illinois No-Aid Clause is at best an open question. Even if HB 1371 passes legal muster, it remains bad public policy for the reasons discussed above.

Finally, every child has a fundamental right to an adequate public education. Too many Illinois children are being denied that right. A lack of sufficient funds is a serious barrier to fixing this problem. HB 1371 would make matters worse, by diverting scarce taxpayer funds away from our already under-funded public schools.

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