Senate Education Committee

March 22, 2011

Ladies & Gentlemen,

My name is Thomas A. Sage, I am a resident of Houston, Texas, a partner at Andrews Kurth LLP and I am offering this testimony with regard to Senate Bill No. 597. I have served as bond counsel to charter schools throughout the State of Texas, serving is such capacity on approximately 95% of the charter school bonds ever offered by Texas charter schools.

As I will summarize below, Senate Bill 597 allows the most credit-worthy charter schools to borrow at AAA rates while preserving the bulk of the Permanent School Fund for Independent School Districts. This will have the effect of keeping more State funds within Texas classrooms rather than sending them to investors.

Senate Bill 597 will significantly reduce the cost of capital for qualifying Charter Schools.

Prior to applying for PSF guaranty, this bill requires a school to complete all of the diligence that is customary to issuing bonds into the public markets and actually receive an investment grade rating from a national ratings agency.

Senate Bill 597 does not threaten the capacity of the Permanent School Fund for Independent School Districts.

The allocated portion of the Permanent School Fund is restricted to only that percentage of students enrolled in Charter Schools in the State of Texas. Further, charter school facility needs pale in comparison the volume of issuers and debt for Independent School Districts. According to the Municipal Advisory Council of Texas, ISDs issue approximately $7-10 Billion in bonds every calendar year. Over the last 10 years, charter schools have issued a total of $600MM in bonds.

In my experience, charter schools face tremendous challenges in establishing a student body, locating initial campuses and creating a sustainable educational environment. In pursuing these goals, the charter school must properly account for both the state funding as well as the educational results they achieve.

Successful charter schools reach a point at which permanent facilities are necessary. Regardless of the source of financing, the charter school takes on the additional challenge of paying interest on the borrowed funds. The primary goal in this financing is to reduce the cost of that capital to the school. This is achieved by borrowing at the lowest interest rates possible, thereby keeping more State funds in Texas classrooms rather than paying them out to investors.

Most schools pursue commercial bank loans because only very few can access the US Capital Markets through the issuance of Bonds

The schools that do issue bonds have to endure a tremendous amount of scrutiny in all aspects of their operations. The Ratings Agencies investigate their financial health and governance. The Underwriters and the investors require interviews, document production and significant informational requests. Counsel will ensure continued compliance with the requirements of Section 501c-3 of the Tax Code as well as mortgaging the school's facilities to the investors and the Texas Attorney General's office must review and approve the Bonds.

Due to these substantial hurdles and demand for credit quality, only 24 Texas charter school organizations have issued bonds.