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Opponent Testimony

SB 128 - AN ACT concerning income taxation; relating to tax credits for education expenses; providing an ad astra opportunity tax credit for taxpayers with eligible children not enrolled in public school.

Presented to the Senate Committee on Assessment and Taxation

Thursday, February 9, 2023

by

Dr. Deena Horst and Ann Mah, Legislative Liaisons

Kansas State Board of Education

Chair Tyson, Vice-Chair Peck, and Ranking Minority Member Holland and Committee Members:

SB 128 provides tax credits to taxpayers with dependent children enrolled in an accredited nonpublic private school or a nonaccredited non-public school registered with the Department of Education. The tax credit shall be for the Base Aid for each qualified dependent child.

The bill requires the provision of a valid social security number for each dependent child for which the taxpayer is seeking a tax credit and allows the Department of Revenue to consult with the Department of Education to determine whether the child being claimed is enrolled in a public school. The Department of Revenue must report by January 14th of each year to the Legislature regarding the number of tax credits claimed as well as the number of fraudulent claims. Anyone making a false claim for the tax credit will be subject to a civil penalty.

The fiscal cost for this bill will result in less funds available for the general fund which in lean years could lower the funds available for the general fund obligations.

We have concerns beyond the funding losses. First, it is possible that tax credits may be determined to be funding of a school with tax dollars. Given the number of court cases that have dictated how public schools must operate because they are funded by tax dollars, it is surprising that nonpublic schools would be interested in tax dollars.

In addition, if the amount of the tax credit exceeds the tax liability of the taxpayer, the excess amount will be refunded to the taxpayer. A taxpayer with several children could claim enough tax credits to nearly support the family financially if they home school. If the committee passes

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this bill, the credit should only cover the school-related expenses without any refund related to the excess credit.

Again, this is a situation where tax dollars, albeit through credits, would fund nonpublic schools without the same accountability measures that are imposed on public schools. Nonpublic schools have enjoyed complete autonomy under Kansas Law, with the exception of being required to register with the State Department of Education, because they are not funded by tax dollars.

Because they receive tax dollars, public schools must serve every child while nonpublic schools can deny enrollment or retention of the student based on such things as academic performance and special needs. We ask the committee to consider non-public schools that accept students whose parents receive funds through tax dollars now be required to serve that student regardless of learning issues.

We believe that tax dollars should only be used to fund public schools because they are the only schools required to accept every child regardless of circumstance. Therefore, the Kansas State Board of Education opposes this bill supporting tax dollars being sent to nonpublic schools.

Thank you for allowing us to share our thoughts and concerns regarding SB 128.