

March 6, 2012

The Honorable Lana Gordon, Chairperson
House Committee on Education Budget
Statehouse, Room 151-S
Topeka, Kansas 66612

Dear Representative Gordon:

SUBJECT: Fiscal Note for HB 2767 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2767 is respectfully submitted to your committee.

HB 2767 would establish the Kansas Education Liberty Program Act. The program would provide eligible students with an opportunity to attend qualified schools of their parents' choice by receiving scholarships, funded by taxpayer contributions. Eligible students would be defined as: (1) a member of a household whose total annual income during the prior year of receiving a scholarship does not exceed 3.5 times the income standard used to qualify for free meals under the National School Lunch Act; (2) resides in Kansas while receiving the scholarship; and (3) a student who is enrolled in a public school in the previous school year or is eligible to enter a public school in the year that an educational scholarship is first sought for the child.

The State Board of Education would adopt rules and regulations necessary to implement and administer the program. Taxpayer contributions for these scholarships would be eligible for a state income tax credit. Each scholarship granting organization would issue a receipt, in a form prescribed by the Secretary of Revenue, to each taxpayer making a contribution for the program. The taxpayer would be required to provide a copy of the receipt when claiming the tax credit.

To be eligible to participate in the program, the scholarship granting organization would be required to:

1. Notify the State Board of Education and the Secretary of Revenue of the intent to provide scholarships to students attending qualified schools;
2. Report to the State Board of Education that an educational scholarship has been granted to an eligible student;

3. Provide evidence that the organization is exempt from federal income taxation;
4. File a surety bond payable to the state in an amount equal to the aggregate amount of contributions expected to be received during the school year or provide financial information demonstrating its ability to pay an amount equal to the aggregate amount of contributions expected to be received during the school year;
5. Ensure that contributions would not be commingled with other organization funds;
6. Ensure that each qualified school is in compliance with the program requirements and is accredited by the State Board of Education, Independent Schools Association of the Central States, or Independent Schools Association of the Southwest;
7. Have its accounts examined and audited by a certified public accountant on an annual basis to make sure educational scholarships were distributed to eligible students; and
8. Provide a list of names of qualified schools that plan to issue scholarships.

The scholarship granting organization would be required to distribute 90.0 percent of contributions received to eligible students within 36 months of receiving the contributions. If 90.0 percent of contributions are not distributed in this time, the organization could not accept new contributions until this requirement has been met.

The bill requires that the educational scholarships would first be awarded to low-income or special education eligible students in a number not less than the proportion to the percentage of at-risk pupils in the district where the residence of the student is located, plus 10.0 percent; and in an amount equal to 75.0 percent of the product of the adjusted enrollment multiplied by the base state aid per pupil. The remaining scholarships would be awarded to eligible students in an amount equal to 75.0 percent of the base state aid per pupil. By June 1 of each year, each scholarship granting organization is required to submit a report to the State Board of Education of the scholarships provided for the past 12 months.

The total number of new scholarships awarded each school year would be limited to the following:

1. If the district does not have a declining enrollment, the total number of educational scholarships would not exceed an amount equal to 2.0 percent of the previous year's enrollment of the district where the residence of the eligible student is located;
2. If the district has a declining enrollment, the total number of scholarships would not exceed an amount equal to 1.0 percent of the previous year's enrollment of the district where the residence of the eligible student is located; and

3. Educational scholarships provided to eligible students who are under seven years of age would not exceed an amount equal to 8.0 percent of the total number of educational scholarships provided in the current school year.

The bill includes requirements on providing scholarships to eligible students, submitting reports to the State Board of Education, and the requirements of a qualified school. The bill provides for an income tax credit beginning in tax year 2013 in an amount equal to 90.0 percent of the amount contributed to the scholarship granting organization. The tax credit would be nonrefundable, but may be carried over for three tax years after the contribution was made. No tax credit would be allowed to a taxpayer who can be claimed as a dependent by another taxpayer.

According to the Kansas Department of Revenue, enactment of HB 2767 would reduce revenues to the State General Fund as a result of providing a new income tax credit. The bill allows for a 90.0 percent Kansas income tax credit for contributions to a scholarship granting organization that is exempt from federal income tax under section 501(c)(3) of the federal Internal Revenue Code. However, the agency does not have information available to estimate the amount and number of contributions that would be made to scholarship granting organizations. A taxpayer could receive a 90.0 percent Kansas income tax credit plus itemize the charitable contributions made to the organization. A taxpayer in the 25.0 percent federal marginal bracket and the 6.45 percent Kansas marginal bracket could get back about 121.45 percent of their contributions in Kansas credits and federal and state charitable deductions. Generally, tax credits claimed in tax year 2013 would be paid in FY 2014. For illustrative purposes, if 2,500 taxpayers would contribute \$5,000 per year, the 90.0 percent tax credit claimed in tax year 2013 would be \$11,250,000 (2,500 taxpayers X \$5,000 X 90.0 percent).

Currently a family of four can qualify for free meals under the National School Lunch Act if the family's income is below \$29,055 or 130.0 percent of the national poverty level. An eligible student under this bill can be from a household whose total annual income does not exceed 3.5 times the income standard used to qualify for free meals, which is estimated to be \$101,700 in 2012.

The Department of Revenue indicates the bill would require \$180,600 from the State General Fund in FY 2014 for administrative costs to implement the new income tax credit program and to modify the automated tax system. The required programming for this bill by itself (3,100 hours of in-house programming and 3,000 hours of implementation) would be performed by existing staff of the Department of Revenue. However, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Department of Education estimates that it would require a new 0.50 Accountant II FTE position to administer the program and conduct follow-up audits with scholarship granting organizations at a cost of \$38,723 from the State General Fund in FY 2014. This estimate would

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include \$30,815 for salaries and wages, and \$7,908 for other operating expenditures, including rent, office supplies, equipment, and travel. The Department did not estimate the number of students who would no longer be attending public school as a result of this bill.

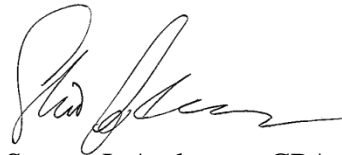
The Division of the Budget estimates that for every student who receives a scholarship, the state would eventually have a reduction in required State General Fund base state aid per pupil of approximately \$3,800 to that school district, assuming no additional weightings. The savings would not occur for several years with the declining enrollment provision in the school finance formula. For illustrative purposes the following chart is provided:

Amount of Scholarship Dollars using the Dept. of Revenue example	\$12,500,000
Average Scholarship Amount per year	\$8,000
Number of Scholarships Assuming 90% Rule per year	1,406.25
State General Fund Savings per year before tax credits/expenses	\$5,343,750

In addition, it should be noted that the public school district from which the student transferred would retain all local funds that would have been spent on that student and is still available for the local public school, resulting in an increase in available funds per student at the local district level.

Combined with the Department of Revenue and the Department of Education estimates of expenditures, the Division of the Budget calculates the state could eventually anticipate a net reduction of approximately \$5,686,927 from the State General Fund. This estimate is based on the assumptions in the illustration. Any fiscal effect resulting from enactment of HB 2767 is not accounted for in *The FY 2013 Governor's Budget Report*.

Sincerely,



Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Dale Dennis, Education
Steve Neske, Revenue