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**MEMORANDUM**

To: Chairman Aurand  
Members of the House Committee on Education

From: Jason B. Long, Senior Assistant Revisor

Date: March 23, 2017

Subject: HB 2374 – Expansion of the Tax Credit for Low Income Students  
Scholarship Program.

House Bill No. 2374 (HB 2374) makes various amendments to the tax credit for low income students scholarship program (Program). The Program was first enacted in 2014. Under the Program, eligible students may receive a scholarship to cover the cost of attending a nonpublic school. An eligible student is one that is eligible for free lunch under the National School Lunch Act, and attends, or will attend if under age 6, a title I focus or priority school as described by the State Board of Education under the ESEA flexibility waiver as amended in January of 2013. The scholarships are provided by participating scholarship granting organizations (SGO). The SGOs receive private taxpayer contributions and use at least 90% of such contributions to fund the scholarships. The private contributions are generally made by corporate taxpayers as the Program only provides a tax credit for such contributions against the corporate income tax liability of the taxpayer. The tax credit may be claimed for up to 70% of the contribution amount.

Under HB 2374, attendance at a title I focus or priority school would no longer be a requirement for receiving a scholarship. Section 1 amends K.S.A. 72-99a02 with respect to the definition of "eligible student." An eligible student would be: (1) a student who is eligible for free lunch and was enrolled in a school district the immediately preceding school year; (2) a student who is eligible for free or reduced lunch and was enrolled in a school district the immediately preceding school year; or (3) a student who has already been eligible to receive a scholarship under the program.

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Section 2 of the bill amends K.S.A. 72-99a03 to change the limit on the scholarship amount. Under current law the limit is \$8,000 per scholarship. HB 2374 would set the limit at 90% of the at-risk state aid amount. The at-risk state aid amount is equal to the base state aid per student amount for the student's resident school district, plus such district's at-risk education funding, plus such district's high-density at-risk education funding.

Section 3 of the bill amends K.S.A. 72-99a04 to impose conditions on the awarding of scholarships. New subsection (b) would require SGOs to award at least 82% of its scholarships to students eligible for free lunch. The remaining 18% could be awarded to any eligible student. This section would also require that an SGO could not award scholarships to more than 1% of a school district's student enrollment in any one school year. Finally, by May 1<sup>st</sup> of each school year, the SGO must notify each school district that has a student that will be receiving a scholarship the following school year of the number of students residing in that school district that will be receiving a scholarship.

Section 4 of HB 2374 amends K.S.A. 72-99a07 to allow individual taxpayers to make contributions to SGOs and receive a tax credit for such contributions. The individual tax credit may be claimed for up to 90% of the contribution amount. Additionally, if the individual contribution is by April 15<sup>th</sup> then the taxpayer may claim the tax credit in the tax year in which it was made. If the contribution is made after April 15<sup>th</sup> then the taxpayer cannot claim the tax credit until the following tax year. HB 2374 makes a conforming amendment to K.S.A. 79-32,117 to add back to the taxpayer's adjusted gross income contributions made to SGOs. This is to prevent the taxpayer from receiving the tax benefit of both a charitable deduction and a tax credit.

If enacted the provisions of HB 2374 would be effective on July 1, 2018.