

SESSION OF 2012

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2767

As Amended by House Committee on Education
Budget

Brief*

HB 2767 would establish the Kansas Education Liberty Program Act which would provide eligible students with an opportunity to attend qualified schools of their parents' choice by receiving scholarships, which are funded by taxpayer contributions. Taxpayer contributions for these scholarships would be eligible for a state income tax credit. The bill would define eligible students as any student who is: 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; a resident of Kansas while receiving the scholarship; and a student enrolled in a public school in the previous school year or eligible to enter a public school in the year that an educational scholarship is first sought for the child and the child is under the age of six years and is a resident of an eligible public school district. The bill would require the State Board of Education to adopt rules and regulations necessary to implement and administer the Program.

Scholarships would be awarded through scholarship granting organizations (SGO) which are created by the bill and would be required to meet various requirements in order to participate in the program. The SGO must be exempt from federal income tax, file a surety bond payable to the state in amount equal to the aggregate amount of the contributions expected, or provide financial information demonstrating the ability to pay an amount equal to the aggregate amount of

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

contributions expected to be received during the school year. In addition, the SGO must ensure that contributions would not be commingled with other funds and have the organization's accounts examined and audited annually by a certified public accountant. SGOs also would ensure that each qualified school is in compliance with 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. SGOs must issue a receipt, in a form prescribed by the Secretary of Revenue, to each taxpayer making a contribution for the program. When awarding scholarships, the SGO would be required to provide notice of its intent to provide scholarships to students attending qualified schools to the State Board of Education and the Secretary of Revenue and also report to the State Board of Education when a scholarship has been granted. The SGO would be required to receive written verification from the State Board that a student qualifies for the Program and whether the student qualified as a nonproficient pupil or low-income eligible student or special education eligible student, with permission of the student's parent.

Scholarships would be awarded to each first-time recipient in the following priority and in the following amounts:

- Low-income or special education students in a number not less than the proportion to the percentage of at-risk pupils in the district where the residence of the low-income eligible 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, except if the eligible student is under the age of six years upon which the monetary amount is proportional to the eligible student's attendance at the qualified school; and
- Any remaining educational scholarships would be provided to eligible students in an amount not less than 75.0 percent of the base state aid per pupil,

unless the child is under the age of six in which the monetary amount would be proportional to attendance.

New scholarships to students under the age of six would be limited to 8.0 percent of the total number of scholarships available in the current school year and would require the scholarships be reasonably reflective of the composition of the district in which the eligible student was enrolled in the previous school year. A scholarship may continue to be provided to low income or special education eligible students who received scholarships in the year immediately preceding the current year but would be limited to the amount received in the immediate preceding school year or 75.0 percent of the product of the adjusted enrollment multiplied by the base state aid per pupil, whichever is greater. In addition, if the student received one of the remaining educational scholarships, the scholarship may be continued but the amount would be limited to an amount equal to the amount received in the year immediately preceding the current school year, or 75.0 percent of the base state aid per pupil, whichever is greater.

If a student transfers to a public elementary or secondary school operated by a school district and enrolls in the school after September 20, the SGO would be required to direct a prorated payment to the original qualified school and the public school based on the student's attendance.

The bill would provide for an income tax credit beginning in tax year 2013 in an amount equal to 100.0 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.

Background

The bill was introduced by Representative Clay Aurand, who provided testimony in favor of the bill. Other proponents included Bob Voboril, Superintendent of Catholic Schools of Wichita and written testimony from Dave Trabert, Kansas Policy Institute. Opponents of the were Mark Tallman, Kansas Association of School Boards; Vickie Sandell-Stangel, Great Plains Chapter of the Americans United for Separation of Church and State; and written testimony from Holly Weatherford, American Civil Liberties Union.

The Education Budget Committee amended the bill to reduce the age of eligibility from seven to six years and included language requiring the district, with the parents' permission, to provide verification of whether the student qualified as a nonproficient pupil or low-income eligible student or special education eligible student to the scholarship granting organization. The Committee also amended the bill to make an exception for awarding scholarships to eligible students under the age of six, requiring the amount to be proportional to attendance at the school. Language limiting scholarships to 2.0 percent of the previous year's enrollment, if the district did not have declining enrollment and 1.0 percent if the district did have declining enrollment was removed and the requirement that scholarships be reasonably reflective of the composition of the district was added. The bill was also amended to include language to continue scholarships to low income or special education eligible students, as those students receiving the remaining scholarships, but limited the amount to be received. In addition, the Committee amended the bill to allow funds to follow the student if the student transfers to a public elementary or secondary school operated by a unified school district.

The fiscal note provided by the Division of the Budget on the original bill indicates that the enactment of the bill would reduce revenues to the State General Fund as a result of the new income tax credit. In addition, the bill, in its original form,

would require \$180,600 from the State General Fund in FY 2014 for administrative costs associated with the implementation of the new income tax credit program and to modify the automated tax system.

The Department of Education estimated the program would require a new .5 accountant II position, at a cost of \$38,723 from the State General Fund, to administer the program and conduct follow up audits with scholarship granting organizations.