



Oral, opponent testimony

Before the House K12 Education Budget Committee

On

SB 61 - Amending the tax credit for low income students scholarship program act to expand student eligibility

By Mark Tallman, Associate Executive Director for Advocacy

February 23, 2021

Madam Chair, Members of the Committee:

Thank you for the opportunity to provide opposition testimony on **SB 61** for the record. This bill is the same as **HB 2068**. We previously testified in opposition to that bill, and the same testimony would apply for **SB 61**.

If you have any new questions about our position, please feel free to contact me. Also attached to this testimony is a set of questions and answers we have prepared about the tax credit scholarship program and this bill.

Thank you for your consideration.

Questions about the State Tax Credits for Low Income Student Scholarship Program – as amended by SB 61 and HB 2068.

Do private schools have to be accredited and provide performance information to participate in the tax credit program?

Partially. Private schools must be accredited by either the State Board of Education or a national or regional accrediting body approved by the State Board of Education for teacher licensing purposes. The difference is that State Board accredited schools participate in state student testing program and report information on achievement, enrollment and demographics to the state which is made available on the department website. Schools accredited by other bodies do not have to report this information and it is not available through KSDE.

The state’s Catholics and Lutheran schools and a small number of other private schools are accredited by the State Board. Other schools that qualify for the program are not.

Is the tax credit scholarship program limited to at-risk or “failing” students?

No. There is no requirement that students participating in the program have any academic or other needs. Under current law, students must qualify for free meals AND be attending one of the 100 public elementary schools with the lowest test scores. Low-income students are more likely to have lower performance, and most of the 100 schools have high rates of poverty. However, there is no requirement that scholarship students themselves have low test scores, high absenteeism, failing grades or any other measure of need.

The proposed changes in program would expand it to higher income students (who qualify for reduced-price meals) and those attending any public school, so there will be less focus on students and schools with the greatest challenges.

Do students in private schools have better academic performance than public schools?

It depends. Information is only available for accredited private schools. On average, these schools have more students scoring at higher benchmarks than the average for public schools. However, private schools have far few low income and special needs students. When compared to public school districts with similar percentages of low-income students, private school system results are much more similar to public districts, and these public schools have many more special education students than similar private schools.

Because this program does not track the process of individual students, we can’t compare how scholarship students did in public schools compare to private schools.

Are private schools allowed to discriminate in student enrollment or staff?

They must comply with federal laws, but...Private schools are generally bound to follow anti-discrimination laws in areas like race. However, private schools are allowed to be selective in student admissions and academic progress. They may have different disciplinary and behavior requirements. They may have requirements for parental participation. Religious schools may also set faith-based requirements on students, parents and staff. Finally, private schools may choose not to offer certain programs and services that limit the ability of some students to participate or succeed.

Does this program cost the state money?

Yes. As a tax credit program, contributors to approved scholarship organizations receive a “credit” on their state income tax equal to 70% of the contribution. This reduces revenue to the state general fund. The program does not send money out of the state treasury, but reduces money coming into the state.

According to the annual program report by the Kansas State Department of Education, last year \$2,474,779 in credits were awarded for \$3,535,399 in contributions. The total credits are capped at \$10 million per year, and individual contributions are capped at \$500,000. A total of \$10.7 million in credits have been awarded since the program began in 2015.

Does this program reduce funding to public school districts?

Yes. To be eligible for the program, a student must first be attending public school elementary school ranked in the lowest 100 in state by test scores and qualify for free meals. SB 61 and HB 2068 would include students attending ANY public school if they qualify for free OR reduced price meals.

The Kansas school finance formula begins with the number of students enrolled in a school district, which is multiplied by a base per pupil amount, and adjusted for certain weighting factors such as special student needs and programs, district size and transportation.

If a student uses a scholarship to transfer from a public to a private school, the district does not receive funding for that student, although the loss is phased out because districts use the previous or second prior year enrollment for the budget. Student weightings are reduced in the current year.

In the current school year, an estimated 623 students were awarded scholarships. If counted in the enrollment of public-school districts, that equals about \$2.8 million in base state funding. On average, for each actual student there are about 0.45 weighted students, which equals \$1.3 million in weighted funding for 623 scholarship students. For an estimated \$4.1 million in base and weightings for 623 students, districts would also receive a maximum 33 percent Local Option Budget, or \$1.35 million. State aid pays, on average, 45 percent of LOB.

Does state aid for special education cover the cost of students in private schools?

Unlikely. Public schools provide special education services to students in private schools either by bringing such students to the public school or sending teachers to private schools. The school district is able to count such students as enrolled public-school students and receives base state aid. They also receive aid for transportation of students and teachers and a flat amount for teachers and paraprofessionals who may deliver services to both public and private school students. However, special education state aid only covers an estimated 70 percent of the “excess costs” of special education, so it is unlikely state aid will cover all of the cost of providing services to private school students.

Is the cost of the program (tax credits) less than the reduction in aid to school districts, and if so, are those funds be used for public education?

Yes and No. Comparing reduced revenue due to tax credits of \$2.5 million with estimated reduced base state aid and weightings of approximately \$4.1 million and \$0.6 million in LOB aid indicates the net reduction could have been about \$2.2 million.

Of course, any savings is based on spending LESS on public school aid. There is no provision in law for using those savings for other education programs, with one exception: when districts with fewer than 1,622 students lose enrollment, the low enrollment weighting factor increases gradually.

With that exception, expanding the program would likely further reduce funding to school districts, leaving them with fewer resources to provide services to their remaining students and the same fixed costs.

Will the savings actually be greater because the state more per pupil on K-12 education than base aid and weightings?

No. Most other state aid programs are not distributed per pupil and are not directly affected by the number of students. Bond and interest state aid is a share of bond payments based on district wealth and capital outlay aid is based on a district's capital outlay levy and district wealth per pupil. Contributions to the Kansas Public Employees Retirement System are based on district payroll. Special education aid is based on state appropriations and distributed based on teacher positions and transportation costs.

Transportation, food service, facilities, KPERS and special education are all either required by state or federal law or help facilitate more effective use of the dollars for each student.