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In-Person Opposition Testimony HB 509

March 6, 2024

AN ACT concerning income taxation; relating to tax credits for education expenses; providing an education opportunity tax credit for taxpayers with eligible children not enrolled in public schools.

Senate Committee on Assessment and Taxation

Deena Horst and Ann Mah, Liaisons, Kansas State Board of Education

Chair Tyson and Committee Members:

Thank you for the opportunity to testify in opposition to SB 509. SB 509 provides tax credits to taxpayers with dependent children enrolled during the tax year in an accredited private school or a nonaccredited nonpublic school. The tax credit shall be 75% of the amount of Base Aid for each dependent child when enrolled in an accredited private school. If a dependent child is enrolled in a nonaccredited school, the tax credit shall be 50% of the Base Aid.

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. However, there is no allowance for the Department of Revenue to consult with the non-public school to determine if the child is attending the school. The Department of Revenue must report to the Legislature on or by January 15th of each year regarding the number of tax credits claimed as well as any fraudulent claims. Anyone making a false claim for the tax credit will be subject to a civil penalty. There is no mention of what will occur if the false claim results in the receipt of funds that should not have been received.

The bill allows eligible taxpayers an opportunity to either claim the tax credit in advance during the tax year or claim the tax credit on their annual income tax form. In addition, if the tax credit allowed is greater than the tax liability, the excess amount is refunded to the taxpayer. Generally, tax credits benefit a charity or at least unrelated individuals, animals, etc. unlike this concept from which a taxpayer and family personally benefits.

The fiscal cost for this bill will result in less funds available for the general fund, which in lean years will likely greatly lower the funds available for the general fund obligations. Our concerns, however, extend beyond the potential funding losses. First, it is possible that tax credits will at some point be determined to be funding a private school with tax dollars. Given the number of court cases that have dictated how public schools must operate, what discipline may be imposed, etc., because they are funded by tax dollars, it is surprising that nonpublic schools would even be interested in receiving 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. This appears to allow a taxpayer with several children for which tax credits are claimed, to be provided funds to enhance the support of the family. It seems that if this bill is passed, the credit should only be able to be used for covering the school-related expenses without any refund related to excess credit. There also is no mention of the possibility that a student has received a tax-credit

scholarship. Shouldn't the taxpayer whose children have received tax-credit scholarships at least be required to subtract the amount received from the tax credit so there is not the opportunity to receive a refund that further financially benefits the family? The title alludes to a tax credit for education expenses but there is no list of acceptable education expenses provided for tax credit eligibility.

Again, this bill uses tax dollars, albeit through credits, to fund nonpublic schools for which there are no accountability measures imposed. The Legislature is setting up at least two systems funded by tax dollars but with different sets of rules applied. As noted earlier, public schools have countless requirements that have been imposed by the courts and legislators because they are funded by tax dollars. Nonaccredited, nonpublic schools have escaped that oversight by not being funded by tax dollars and so have complete autonomy under Kansas Law. Nonpublic schools that have chosen to be accredited by the Kansas State Board of Education do meet the accreditation requirements set by KSBE, but still have much more autonomy than public schools.

Because they receive tax dollars, public schools are required to serve every child. We have been told stories of children not being allowed to enroll in private schools because of grades received from public schools. Other students have been enrolled in private elementary schools and because they showed signs of struggling academically the parents were told they could not teach them so the school was sending them home to go to public school where they could receive assistance. The parents literally had to immediately go pick up their child from the school's office. The child was not even allowed to complete the school day. Such information raises many questions.

If the nonpublic school accepts students whose parents receive funds through tax dollars, will they now be required to serve that student regardless of possible learning or behavior issues? Also, if both parents of a nonpublic school student(s) are taxpayers, filing separately, will both be able to claim tax credits? If a student qualifies for a tax-credit scholarship and accepts this financial assistance option, will the parents of the student still qualify for a tax credit?

We believe that tax dollars should only be used to fund public schools because they are the only schools that are required to accept every child whether they struggle or succeed with ease, whether they have special needs or are gifted, whether they have experienced trauma or not, etc. Therefore, because the state board has a position of not supporting tax dollars being sent to nonpublic schools, we are in opposition to this concept. Recent news articles reporting fraud discovered in similar programs in Arizona and the large additional funding responsibility based on universal vouchers add to our concern regarding SB 509.

We thank you again for allowing us to share our thoughts and concerns regarding SB 509.

Additional Information:

[How Much Are Universal School Vouchers Costing Arizona? \(forbes.com\)](https://www.forbes.com)
[Arizona finds school voucher fraud, one angry ex-boyfriend at a time \(azcentral.com\)](https://www.azcentral.com)
[School vouchers: AZ grand jury indicts 5 for alleged fraud \(fox10phoenix.com\)](https://www.fox10phoenix.com)