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Steven J. Anderson, CPA, MBA, Director

Sam Brownback, Governor

March 15, 2011

The Honorable Clay Aurand, Chairperson
House Committee on Education
Statehouse, Room 174-W
Topeka, Kansas 66612

Dear Representative Aurand:

SUBJECT: Fiscal Note for HB 2367 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2367 is respectfully submitted to your committee.

HB 2367 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;
2. Provide evidence that the organization is exempt from federal income taxation;
3. 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;
4. Ensure that contributions would not be commingled with other organization funds;

5. Ensure that each qualified school is in compliance with the program requirements and is accredited by the State Board of Education; and

6. 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 would provide requirements on providing scholarships to eligible students, submitting reports to the State Board of Education, the requirements of a qualified school, and the amount of tax credits allowed. In tax year 2011, the credit would be 20.0 percent of the amount contributed to a scholarship granting organization. In tax year 2012, the tax credit would increase to 30.0 percent and in tax year 2013, the tax credit would be 40.0 percent. For tax year 2014 and all years after, the tax credit would be 50.0 percent. 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. For tax years 2011 through 2013, the amount of tax credits allowed could not exceed $10.0 million in any one fiscal year.

According to the Kansas Department of Revenue, enactment of HB 2367 would reduce revenues to the State General Fund as a result of the tax credits. However, the agency does not have information available to estimate the amount and number of contributions that would be made to the program. Generally, tax credits claimed in tax years 2011, 2012 and 2013 would be paid in fiscal years 2012, 2013 and 2014. However, the bill would limit the total tax credits in any one fiscal year to $10.0 million. For illustrative purposes, if 5,000 taxpayers would contribute $5,000 per year, the 20.0 percent tax credit claimed in tax year 2011 would be $5.0 million (5,000 taxpayers X $5,000 X 20.0 percent). In tax year 2012, the 30.0 percent tax credit claimed would be $7.5 million (5,000 taxpayers X $5,000 X 30.0 percent). In tax year 2013, the 40.0 percent tax credit claimed would be capped at $10.0 million (5,000 taxpayers X $5,000 X 30.0 percent).

The Department of Revenue indicates the bill would require $160,400 from the State General Fund in FY 2012 for administrative costs to implement the new income tax credit program and to modify the automated tax system. The estimate includes $55,500 for salary and wages and $5,200 in operational costs for 1.00 new Customer Service Representative Specialist FTE position. The modifications to the automated tax system would require a total of $99,700 from the State General Fund for 2,820 hours of in-house programming and 520 hours of testing which 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 1.0 Accountant III FTE position to administer the program and conduct follow-up audits with scholarship granting organizations at a cost of $61,096, all from the State General Fund. This estimate would include $56,196 for salaries and wages, and $4,900 for other operating expenditures, including rent, office supplies, and equipment. 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 will 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:

Available Scholarship Dollars using the Dept. of Revenue example	$25,000,000
Average Scholarship Amount per year	$8,000
Number of Scholarships Assuming 90% Rule per year	2,812.5
State General Fund Savings per year before tax credits/expenses	$10,687,500

In addition, it should be noted that the public school district from which the student transferred will retain all local funds that would have been spent on that student 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 will eventually anticipate a net gain of approximately $466,000 from the State General Fund based on the assumptions in the illustration. Any fiscal effect resulting from enactment of HB 2367 is not accounted for in *The FY 2012 Governor's Budget Report*.

Sincerely,

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

cc: Dale Dennis, Education
Steve Neske, Revenue