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The Honorable Caryn Tyson, Chairperson
Senate Committee on Assessment and Taxation
300 SW 10th Avenue, Room 548-S
Topeka, Kansas 66612

Dear Senator Tyson:

SUBJECT: Fiscal Note for SB 509 by Senate Committee on Assessment and Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning SB 509 is respectfully submitted to your committee.

SB 509 would provide for a refundable tax credit, referred as the Education Opportunity Tax Credit, to certain taxpayers who have a dependent child enrolled in a private school who are also eligible to enroll in a public school. For those taxpayers who have a child enrolled in an accredited private school, the tax credit would be equal to 75.0 percent of the Base Aid for Student Excellence (BASE) for each dependent child enrolled during the tax year. For a child enrolled in a non-accredited private school, the tax credit would be equal to 50.0 percent of the BASE. In calculating the tax credit, the BASE in the calculation would be for the school year in effect on January 1 of each tax year.

A taxpayer would have to provide a valid social security number issued by the Social Security Administration for each dependent child to receive the tax credit. The Department of Revenue would provide an eligible taxpayer the opportunity to either claim and receive the tax credit in advance during the tax year or to claim the tax credit on a taxpayer's annual income tax forms. If the taxpayer chooses to claim the tax credit in advance, the taxpayer may file an application at any time during the tax year on a form prescribed by the Department of Revenue.

The Department of Revenue would be required to consult with the Department of Education for determining whether a dependent child of a taxpayer is enrolled in a public school during the tax year for which the credit is claimed. By making a claim for the tax credit, the taxpayer would acknowledge that the Department of Revenue may consult with the Department of Education regarding the enrollment status of any dependent child for which the tax credit is being claimed.

On or before January 15 of each year, the Department of Revenue would be required to prepare and submit to the Legislature a report on the Education Opportunity Tax Credit for the immediately preceding tax year. The report would include the total amount of credits claimed and any information on known fraudulent claims for the credit. Any person who would intentionally file a false claim for the tax credit would be subject to a civil penalty in an amount computed in the manner prescribed in KSA 79-3228. The bill would become effective upon publication in the *Kansas Register*.

The fiscal effect of SB 509 in any given tax year would be the tax credits claimed by parents of students attending accredited and non-accredited private schools, which would reduce revenues to the State General Fund. To estimate the potential tax credits claimed during Tax Year 2024 for students attending accredited schools, the Department of Education reports that there were approximately 26,700 students enrolled in accredited private schools during the 2022-2023 school year, which is the latest school year for audited data. Taxpayers of these eligible students would be eligible for a tax credit equal to 75.0 percent of the $5,088 BASE (as of January 1 of Tax Year 2024), which would equal $3,816 for each student (0.75 X $5,088 BASE = $3,816). In total, the Department estimates potential tax credits in Tax Year 2024 totaling $101.9 million ($3,816 Tax Credit X 26,700 students = $101,887,200).

The Department of Education does not have data reported to the agency for the number students attending non-accredited private schools. However, the Department indicates that the latest data from the U.S. Census' 2022 American Community Survey reports approximately 525,000 children between ages of six and 18 reside in Kansas. Factoring in approximately 40,000 kindergarten students, the total increases to 565,000 students. Using this as a baseline and subtracting the known number of public-school enrollment (484,000) and the known number of accredited private school students (26,700), the Department estimates that Kansas has approximately 54,300 students in non-accredited private schools (565,000 – 484,000 – 26,700 = 54,300). The potential tax credit claimed during Tax Year 2024 for these non-accredited private school students would be $138.1 million [($5,088 X 0.50) X 54,300 estimated non-accredited private school students = $138,139,200].

In summary, if each taxpayer would claim the maximum amount of tax credits available for each child in accredited and non-accredit private schools, the potential amount of tax credits during Tax Year 2024 would total $240.0 million ($101,887,200 accredited private school tax credits + $138,139,200 non-accredited private school tax credits = $240,026,400). The Division of the Budget notes that because the bill would become effective upon publication in the *Kansas Register,* as well as the ability of the taxpayer to receive the tax credit in advance of the filing of the tax forms for the tax year, revenues to the State General Fund could be reduced throughout a fiscal year, and not just when claimed on a tax form. However, an estimate of the total tax credits for Tax Year 2024 that would be accessed prior to the filing of annual income tax forms cannot be estimated.

The Division also notes that in future tax years, the amount of tax credits likely would increase, as the BASE in the current school finance formula increases with an inflation calculation. Additionally, the entire school finance formula is set to expire on July 1, 2027. For Tax Year 2025, the BASE for school year 2024-2025 is currently estimated to be $5,381. Using the same student data provided by the Department of Education, the Division estimates that the maximum potential tax credits for Tax Year 2025 would be $253.8 million [($5,381 BASE X 0.75 X 26,700 accredited private-school students) + ($5,381 BASE X 0.50 X 54,300 non-accredited private-school students) = $253,848,675].

The Department of Education notes that if the enactment of SB 509 would encourage additional students to move from public schools to accredited or non-accredited private schools, the noted costs above would increase. The Department additionally notes that the enactment of the bill would affect state aid to school districts for those students who would make this change. The current school finance formula provides that school district funding is based on the higher of the FTE student count from the prior year or second preceding year. For that reason, in the first year a student would go from public school to private school attendance, there would be no offsetting reduction in State Foundation Aid attributed to the BASE (excluding weightings) for school districts. In other words, the State General Fund would have expenditures for the affected student in the school finance formula (excluding weightings) and a revenue reduction for the student in the tax credit. In districts with declining enrollment, the student may be included in State Foundation Aid during the second year as well. The agency is unable to estimate how many students that would have taxpayers receiving a tax credit that would be attributable to declining enrollment districts. The agency notes that in FY 2024, 145 districts of 286 districts had declining enrollment when compared to the prior year.

For amounts attributed to school finance formula weightings, the current school finance formula computes weightings based on the current year enrollment. The formula would see a reduction in the weightings generated by students leaving the public school for private schools in the next school year; however, the Department of Education is unable to estimate this fiscal effect.

The enactment of SB 509 would require additional staff time of the Department of Education to assist the Department of Revenue in confirming student eligibility. Beginning in FY 2025, the agency would need an additional 0.50 FTE administrative position to work with the Department of Revenue to verify students’ eligibility for participation in the program. This position would require expenditures totaling $38,750, all from the State General Fund. The estimate would include $36,250 for salaries and wages (including fringe benefits), as well as $2,500 for other operating expenditures including information technology, copier usage, and office rent.

The Department of Revenue reports that the current financial tax software system is unable to create a tax credit without an original filed return. The agency indicates that it would require a total of $293,576 from the State General Fund in FY 2025 to implement provisions of the bill and to modify the automated tax system. The enactment of the bill would require the Department to hire 1.00 new FTE position to manage the expansion of this tax credit program and to answer questions from taxpayers. Included in the overall estimate is $80,376 from the State General Fund in FY 2025 (and in future fiscal years) for the ongoing costs for the new FTE position. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. In addition, 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, additional expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Department of Administration indicates that adjusting state income tax collections has the potential to have a fiscal effect on the amount of revenue collected from its debt setoff program. This program intercepts individual income tax refunds and homestead tax refunds and applies those amounts to debts owed to state agencies, municipalities, district courts, and state agencies in other states. Debts include, but are not limited to child support, taxes, educational expenses, fines, services provided to the debtor, and court ordered restitution. As the dollar amounts of refunds are increased, the amount available for possible debt setoffs is also increased. However, the Department is unable to make an estimate of the amount of debts setoffs that will be intercepted as a result of the enactment of the bill. Any fiscal effect associated with SB 509 is not reflected in *The FY 2025 Governor's Budget Report*.

Sincerely,

Adam C. Proffitt
Director of the Budget

cc: Lynn Robinson, Department of Revenue
Gabrielle Hull, Department of Education