

February 20, 2013

The Honorable Kasha Kelley, Chairperson
House Committee on Education
Statehouse, Room 151-S
Topeka, Kansas 66612

Dear Representative Kelley:

SUBJECT: Fiscal Note for HB 2320 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2320 is respectfully submitted to your committee.

HB 2320 would create the Kansas Public Charter School Act, which would allow the creation of innovative public charter schools (PCS) that could operate independently of state laws, or rules and regulations, other than those outlined in the bill. Any organization desiring to be a PCS authorizer may apply to the State Board of Education for a grant of authority. The application would be submitted in the form and manner prescribed by the State Board of Education.

If the authorizer is approved by the Board, the following may be granted authority to authorize a PCS: State Board of Education; Kansas Board of Regents; governing board of any public or private postsecondary educational institution; local board of education; and the governing body of any city or county. Any local board of education that is operating a PCS on or before the effective date of the bill and would intend to continue the operation of the PCS would be considered an authorizer by the Board and have the authority to authorize any additional PCS within the boundaries of the school district governed by the local board of education.

The bill would give PCS authorizers the following powers and duties:

1. Soliciting and evaluating PCS petitions;
2. Approving PCS petitions that meet identified educational needs and that promote diversity of educational choices;
3. Denying PCS petitions that fail to satisfy the requirements of this bill;
4. Negotiating and executing charter contracts with each approved PCS applicant;
5. Monitoring the performance and legal compliance of approved PCS; and
6. Determining whether each charter contract merits renewal, nonrenewal or revocation.

Each authorizer would be required to report annually to the Board, the Governor and the Legislature on the progress of the PCS. HB 2320 would outline the information which must be submitted to the authorizer for approval of a PCS. The initial term of a charter contract for a PCS would be five years. A PCS would be considered part of the state's system of public education.

The powers of the PCS include: (1) to receive and disburse funds; (2) secure appropriate insurance and enter into contracts and leases; (3) contract with an education service provider for management and operation; (4) incur debt in reasonable anticipation of the receipt of public or private funds; (5) pledge, assign or encumber its assets to be used as collateral for loans or extensions of credit; (6) solicit and accept gifts or grants; (7) acquire real property for use as its facilities; (8) sue and be sued in its own name; and (9) any other powers deemed necessary to carry out the duties and functions of the PCS.

For a PCS authorized by a school district, the school district would pay to the PCS an amount equal to the total enrollment of the PCS multiplied by the general state aid per pupil plus the supplemental general state aid per pupil received by the school district. Public charter schools would be entitled to special education and related services and appropriate special education state aid. Each PCS would be required to maintain a system of accounts including receipts and expenditures.

Finally, HB 2320 would allow an income tax, privilege tax, or insurance premiums tax credit in an amount equal to 100.0 percent of the amount contributed to a PCS. The credit would be non-refundable, but may be carried over until the credit is used. In addition, the bill would require the add-back to federal adjusted gross income or federal taxable income of the contributions for the state taxpayer.

According to the Kansas Department of Education, enactment of HB 2320 would require additional expenditures totaling \$46,908, all from the State General Fund and 0.50 FTE Education Program Consultant. Of the total amount, \$39,000 would be for salaries and wages, \$2,500 for travel and subsistence expenditures, and \$5,408 for other operating expenditures, including rent and office supplies.

The Department of Revenue indicates that information is not available to estimate the amount and number of contributions that would be made to public charter schools. However, if 28,000 tax payers would contribute \$5,000 during tax year 2013, the credit amount claimed in that tax year would be \$140.0 million (28,000 taxpayers X \$5,000 = \$140,000,000). Since this credit would be nonrefundable, the Department estimates only 67.0 percent of the credit would be claimed in FY 2014 which would reduce State General Fund revenues by approximately \$93.8 million. In addition, the bill would require the state credit be added back to the taxpayer's federal adjusted gross income or federal taxable income. If all \$140.0 million were added back, the state would receive approximately \$5.6 million in additional income tax revenue. Any fiscal effect associated with HB 2320 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,



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