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## Written Opponent Testimony

### HB 2119 – Creating the Student Empowerment Act

Presented to the House K-12 Education Budget Committee

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By

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Kansas State Board of Education

Chairwoman Williams, Vice Chairman Hoffman, Ranking Minority Winn and Members of the Committee,

HB 2119 establishes the Student Empowerment Act which provides education savings accounts for students which are to be administered by the Kansas Treasurer or the Treasurer's designee. Eligible students must be residents of Kansas who have not graduated from high school or obtained a GED and 1) qualifies for free or reduced-price meals; or 2) has been identified by the school district as being eligible for At-Risk Program Services; or 3) has been required by the school district to attend school through remote learning for a period of 120 – 180 hours; or 4) has been required by the school district to attend school through a hybrid model of learning for a period of 240 hours. An eligible student's parent may establish an education savings account for the student with the State Treasurer, who will have statutory responsibilities for administering such education savings accounts. The student's parent enters into a written agreement with the Treasurer and agrees to expend funds in the education savings accounts for such items as tuition, books, supplies, etc. in order to attend a qualified private school which has met certain statutory requirements. The Treasurer is to transfer an amount equal to the BASE aid to the eligible student's account, but if the student continues to attend the district school part time, the Treasurer will transfer an amount of BASE aid to the student's account which is proportional to the time the student is not enrolled in the school district. If misuse of funds by a parent is discovered by the Treasurer, the Treasurer is to require repayment to the fund. If a private school misuses the funds, the Treasurer may notify the Attorney General.

There are numerous concerns which we have with HB 2119. First, the bill seems to set out the same expectations for all students whether they are fully enrolled in public schools or in schools which qualify for receipt of funds from the Student Education Savings Accounts; however, there does not

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appear to be annual accountability measures employed to guarantee that the taxpayer funds are being correctly spent by nonpublic educational options unlike the accountability measures which exist for public schools. Questions also remain regarding how taxpayers can determine that their investment of tax dollars in the qualified private schools are producing academic growth and being then able to compare such growth found in public and in private schools if they so choose.

There are also questions surrounding how the Kansas Treasurer, who has no requirement of having a financial background in education institutions, is to make decisions regarding the appropriateness of expenditures from the fund which do not fall under one of the bill's identified appropriate expenditure areas. Such decisions could be arbitrary in nature and inconsistently applied by different State Treasurers. Even the appeals process generally ends up with an attorney who is employed by the state to make decisions in regard to appeals, but there is no requirement that before a decision is rendered, that expert opinions be accessed.

Another question we have is how it becomes appropriate to use the funds to pay for a virtual education when a student becomes eligible for an education savings account because of being required to learn remotely or in a hybrid setting? The assumption seems to be that students who were required to learn remotely or in a hybrid setting have not achieved the level of rigorous learning that is expected when in person. Again, there is no requirement for proof of significant loss of expected learning only an assumption. Also, will providers of virtual learning, particularly those that may be based out of state, be required to report the success levels of their students or to meet other learning reporting required by the state?

The number of additional staff each public entity will need to employ is a concern in order to provide the data needed to determine eligibility of students, write the rules and regulations, monitor the funds within the accounts, develop the information regarding how to apply for an education savings account, provide the required annual notices to parents of students who qualify, develop the data necessary to adjust aid to school districts, etc. Not only will new staff need to be employed by the entities mentioned in the bill, but that generally means adding supervisory/ administrative-level staff as well, who assist the State Treasurer, the State Board of Education, District Superintendents, etc. in ensuring that the data, etc. is properly collected and reported.

This bill also seemingly blurs the lines between public and private education. The proposed bill includes a statement, the purpose of which is to protect the autonomy of private schools. However, court decisions have changed much of the landscape of public schools, and because private schools will indirectly receive taxpayer dollars, there is the potential of the courts requiring those schools receiving such funds to adhere to the same requirements which public schools must follow and the

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effort to protect private school autonomy would become mute. We believe that would concern any private schools that limit their enrollment both in numbers and in other ways to ensure a more homogenous student body.

We have the same general concerns we have about HB 2068 because it has the potential of taking the funds from students that require additional educational supports, thus potentially reducing the amount districts receive to educate students who are designated as At-Risk or who have IEPs and/or 504 Plans. Since private schools have the ability to select their students, it would be likely that they will select the students who are the least difficult to teach. Although the students would be those who are low income and qualify for free lunches, they do not qualify for At-Risk programs. The truly At-Risk qualified students are likely to be either rejected or placed on a waiting list. Those At-Risk students remain in the public schools and less funds are available to provide the services they need. [The students eligible to receive free meals generate the dollars for At-Risk programs. When those non-At-Risk students who are eligible for free meals are no longer attending the public school, the amount of funds available for the At-Risk program is reduced, but the same number of students need to be served.]

In addition, there appears to be little requirement for accountability that is equivalent to that required of public schools when they receive public funds or for identifying a manner to ensure that all non-accredited schools are capable of delivering the quality education alluded to by the statements in New Section 2 of HB 2119. Registration was never intended to indicate capability, only to identify those nonpublic educational options that exist and at least one child has been or currently is enrolled.

The concerns voiced by parents in surrounding schools and others regarding nonpublic school recruitment of the most capable athletes, academic performers, musicians, etc. would also likely be a concern with this program as was mentioned in testimony regarding HB 2068. There appears to be no limit placed on the private schools regarding use of the availability of the educational accounts to fund their potential recruitment of the best athletes, the best debaters, the best musicians, etc. to attend their schools.

Following the State Board of Education's position on the issue of using taxpayer funds for private schools, we rise in opposition to the proposed creation of student education accounts which require that the taxpayer-generated funds be used for nonpublic school attendance. There seem to be many general requirements assigned to the State Treasurer's office regarding the expenditure of funds, but no requirement that the students be receiving the education that is identified as important in New Section 2 of HB 2119. There are no proposed future Legislative Post Audits to identify that programs offered by the school are meeting the expectations listed in New Section 2 of HB 2119, unlike most recent proposals for new public school funding.

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As we stated in prior testimony, when Kansans' tax dollars are used, accountability for student outcomes must be equally applied to those education entities receiving the funds, whether the funds be directly or indirectly received. Accountability needs to enable measurement of likeness to likeness. Otherwise, the view of students in one setting can appear to be achieving at a higher level because the student bodies that are being compared are not comprised of like populations. To do otherwise, allows the potential of incorrect assumptions to occur and it also places roadblocks in place when the sharing of successful strategies by both public and non-public education entities could benefit all Kansas students regardless of where they attend school. In fact, we propose that instead of looking for multiple ways to encourage students to attend a private school, that we actually work together to improve the educational opportunities that can be implemented for all Kansas students.

Thank you for your consideration of concerns held by members of the Kansas State Board of Education and others within the education community when you work HB 2119.