

February 6, 2023

The Honorable Kristey Williams, Chairperson
House Committee on K-12 Education Budget
300 SW 10th Avenue, Room 546-S
Topeka, Kansas 66612

Dear Representative Williams:

SUBJECT: Fiscal Note for HB 2218 by House Committee on K-12 Education Budget

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2218 is respectfully submitted to your committee.

HB 2218 would establish the Sunflower Education Equity Act and would provide education savings accounts for qualified students. A qualified student would be defined as a resident of Kansas who is eligible to enroll in a public elementary or secondary school in the state or in a preschool program for children with disabilities. The program would be administered by the State Treasurer at the direction of the Sunflower Education Equity Board, which would be established by the bill.

The Board would comprise ten members, with nine voting members and one non-voting member, including the following: the State Treasurer, who would serve as the chairperson; one member appointed by the President of the Senate; one member appointed by the Speaker of the House of Representatives; one member each appointed by the minority leaders of the Senate and the House of Representatives; the chairperson of the House Committee on K-12 Education Budget, as determined by the Speaker of the House of Representatives; the chairperson of the Senate Committee on Education; one member appointed by the Governor, who would have a qualified student in the program; one member appointed by the Governor, who would be a representative of a qualified school; and one non-voting member from the Department of Education.

The bill would outline terms of the members, filling of vacancies, and other administrative functions of the Board, as well as its powers and duties. The bill would allow members of Board to be paid compensation, subsistence allowance, mileage, and other expenses, as currently allowed by law.

The Board would be prohibited from disclosing a qualified student's identification or distributing or releasing any personally identifiable data to a third party without written consent of the student's parent. The bill would require the Board to create an appeal process for any parent that would disagree with any administrative decision made by the Board or by the State Treasurer.

The parent of the student would have to apply to participate in the program in a manner determined by the Board. If a parent of a qualified student who is home schooled would make application, the bill would not require the parent to register with the Department of Education, as required by KSA 72-4346. The State Treasurer would have to accept applications throughout the school year and notify the parents of enrollment in the program within 30 calendar days of receiving an application. After enrollment in the program, the parents would have to enter into a written agreement with the State Treasurer to establish an account and the agreement would have to be approved by the Board. The bill would outline the requirements of the written agreement.

After receiving a scholarship account, the qualified student would not be able to enroll full-time in a public school. Also, no immediate family member could charge or collect payment for tuition or fees for education therapies, services, or tutoring if the student is attending a nonpublic school operated in the home of an immediate family member. A parent may charge and collect fees for the education of a qualified student to attend a nonpublic school operated by the parent or in the parent's home, as long as the student is not the child of that parent.

The bill would allow a qualified student to accept a scholarship from a scholarship-granting organization under the Tax Credit for Low Income Students Scholarship Program, if qualified under that program.

The bill would outline allowable uses of funds in an account, including:

1. Tuition or fees charged by a qualified school;
2. Textbooks and other supplies charged by a qualified school;
3. Educational therapies or services provided by a licensed or accredited education provider;
4. Tutoring services;
5. Curriculum materials;
6. Uniforms purchased from or through a qualified school;
7. Tuition or fees charged by an online learning program;
8. Contracted services from a public school district;
9. Fees for any national standardized norm-referenced achievement test, advanced placement examination, or examination related to admission to a postsecondary educational institution;
10. Tuition and fees charged by a postsecondary educational institution;
11. Textbooks required by a postsecondary educational institution;
12. Fees or costs required to apply for occupational licenses, certificates, apprenticeships, or other professional qualifications;
13. Fees for transportation services approved by the Board that are used for transportation to and from a qualified school;
14. Computer hardware and technology primarily used for educational purposes;
15. Any other education expenses approved by the Board.

The bill would also outline disallowable expenses of funds in an account, including athletic training or coaching; and instruction or tutoring by an immediate family member, if the student is home schooled.

The bill would create the Sunflower Education Equity Scholarship Fund in the State Treasury and would be administered by the State Treasurer. The fund would be eligible to earn interest. On or before August 1 of each year, the State Treasurer would determine the amount to be transferred to the Sunflower Education Equity Scholarship Fund by multiplying an amount equal to the Base Aid for Student Excellence (BASE) in the school finance formula by the total number of qualified students participating in the program. The bill would require the State Treasurer to transfer annually to a qualified student's account an amount equal to 95.0 percent of the BASE aid. The State Treasurer would retain 5.0 percent for administrative costs of the program. The Board would be able to contract with private financial firms to manage the accounts. The bill would stipulate that funds deposited in an individual student account would not constitute taxable income to the parent of the qualified student.

The bill would require that on or before the tenth day of each month, the Director of Accounts and Reports would transfer from the State General Fund to the Sunflower Education Equity Scholarship Fund interest earnings based upon the average daily balance and the net earnings rate of the Pooled Money Investment Portfolio for the preceding month.

Any tutor seeking to provide tutoring services to a qualified student would be required to apply to the Board. Also, a school seeking approval as a qualified school that would accept and service qualified students would be required to apply to the Board. A qualified school would be required to provide full-time instruction in reading, grammar, mathematics, social studies, and science, with certain exceptions outlined in the bill.

Any school with 50 or more qualified students with the program would be required annually to make available to parents the aggregate test scores of either all students or all qualified students enrolled in the school following examinations and assessments by school building and by grade level the following: any nationally standardized achievement exam or state assessment and any examination related to college or university admissions that assesses reading and mathematics. Any parent of a qualified student may request a student take the state assessment in the school district where the student resides. The assessment would be provided by the school district at no charge.

No information provided to the Board would include any data on a qualified student's personal feelings, attitudes, beliefs, or practices. A qualified school could not disclose a student's identification or distribute any personally identifiable data of a student to a third party without the written consent of the parent.

The bill would not allow any governmental agency to exercise control over or supervise any nonpublic school or home school. Any qualified school or tutor that accepts payment from a parent of a qualified student would not be an agent of the state.

According to the Department of Education, the number of students that would participate in the program cannot be estimated. However, the Department has made certain assumptions to provide a potential fiscal effect. The agency has identified four student groups that would be able to participate in the program: public school students, accredited private school students, non-accredited private school students (including students that are home schooled), and preschool students with disabilities.

For school students, the Department estimates that for every 1.0 percent of the state's approximate 484,000 public school students participating, or 4,840 students, the bill would require a total of \$24,698,520 to be transferred from the State General Fund to the Sunflower Education Equity Scholarship Fund in FY 2024 (4,840 students X \$5,103 BASE in FY 2024 = \$24,698,520). Of this amount, \$1,234,926 would be retained by the State Treasurer for administrative costs (\$24,698,520 X 5.0% = \$1,234,926), with the remaining \$23,463,594 to be transferred to students' accounts. The Department notes that this estimate would include virtual students.

The Department notes that the current school finance formula provides that a school district's budget is based on the preceding school year or the second preceding school year, whichever is greater. As a result, in the first year that a student participates in the program, state aid to school districts would not be reduced for BASE aid (excluding weightings) for the student leaving, since the student can be counted for two years beyond the student leaving public school for districts that experience declining enrollment. The Department reports that in the current school year, 182 of the state's 286 school districts are experiencing declining enrollment.

However, weighting factors in the current school finance formula (including at-risk, bilingual, high-density at-risk weightings) are based upon the current year FTE student count. As a result, the state would see a reduction in the amount of State Foundation Aid generated by students leaving public school to participate in the program. To factor in this effect, the Department reports that in FY 2022, the average weighting per student was 0.443. When this factor is applied, for each 1.0 percent of public students participating, a reduction of state aid totaling \$10,941,444 would occur (4,840 students X 0.443 weighting factor X \$5,103 BASE = \$10,941,444).

For private school students, the Department reports that there are 26,446 students currently enrolled in accredited private schools and would assume that all students would participate in the program. The total cost to the state for this group would be \$134,953,938 (26,446 students X \$5,103 BASE = \$134,953,938). Of this amount, \$6,747,697 would be retained by the State Treasurer for administrative costs (\$134,953,938 X 5.0% = \$6,747,697), with the remaining \$128,206,241 to be transferred to students' accounts.

For non-accredited private schools, the Department notes that the number of students enrolled is not reported to the agency. However, the agency indicates that the US Census reports there are 525,750 children between ages six and 18 living in the state. Subtracting the public school and accredited private school headcounts leaves an estimated 55,744 students in non-accredited private schools. For each 1.0 percent of these non-accredited private school students that would participate, approximately \$2,844,412 would be required to be transferred from the State General Fund to the Sunflower Education Equity Scholarship Fund in FY 2024 (557 students

X \$5,103 BASE = \$2,842,371). Of this amount, \$142,119 would be retained by the State Treasurer for administrative costs (\$2,842,371 X 5.0% = \$142,119), with the remaining \$2,700,252 to be transferred to students' accounts.

For eligible preschool students, the Department estimates that there are 3,500 preschool students in Kansas with disabilities, with an additional 3,500 students without disabilities that attend and serve as peer model students, for a total of 7,000 students. Preschool students without disabilities would be eligible for the program, as peer model students are eligible to attend a preschool serving students with disabilities. For every 1.0 percent of these students participating in the program, \$357,210 would be required to be transferred from the State General Fund to the Sunflower Education Equity Scholarship Fund in FY 2024 (70 students X \$5,103 BASE = \$357,210). Of this amount, \$17,861 would be retained by the State Treasurer for administrative costs (\$357,210 X 5.0% = \$17,861), with the remaining \$339,349 to be transferred to students' accounts.

In summary, to estimate a fiscal effect scenario where 1.0 percent of public school students, including the loss of state aid to school districts for school finance weightings, 1.0 percent of non-accredited private school students, 1.0 percent of eligible preschool students, and 100.0 percent of accredited private school students, would participate in the program, a total of \$162,852,039 in FY 2024 would be transferred from the State General Fund to the Sunflower Education Equity Scholarship Fund. Of this amount, \$154,709,436 would be deposited in student scholarship accounts and \$8,142,603 would be retained by the State Treasurer for administrative costs. In addition, State Foundation Aid expenditures would be reduced by \$10,941,444 from weightings lost from students leaving public school to participate in the program, with a net effect on the State General Fund totaling \$151,910,595. This is illustrated in the table below:

<u>Student Type</u>	Scholarship	5.0%	<u>Total</u>	Number of <u>Students</u>
	Account <u>Deposit</u>	State Treasurer <u>Admin. Fee</u>		
1.0% of Public School Students	\$ 23,463,594	\$ 1,234,926	\$ 24,698,520	4,840
1.0 % Non-Accredited Private School Students	2,700,252	142,119	2,842,371	557
1.0 % of Eligible Preschool Students	<u>339,349</u>	<u>17,861</u>	<u>357,210</u>	<u>70</u>
	\$ 26,503,195	\$ 1,394,906	\$ 27,898,101	5,467
100.0% of Accredited Private School Students	<u>\$ 128,206,241</u>	<u>\$ 6,747,697</u>	<u>\$ 134,953,938</u>	<u>26,446</u>
Subtotal--Transfers from SGF	\$ 154,709,436	\$ 8,142,603	\$ 162,852,039	31,913
Reduction in State Aid from Loss of Weightings			<u>(10,941,444)</u>	
Total Net Fiscal Effect from the SGF			\$ 151,910,595	

The actual fiscal effect would depend on the actual number of students in each category participating during a fiscal year.

The Department would require an additional 0.50 FTE accountant position to provide the student information necessary to the State Treasurer and to respond to questions from school districts. This position would require expenditures totaling \$38,750, all from the State General

Fund, including \$36,250 for salaries and wages, including fringe benefits, as well as \$2,500 for other operating expenditures, such as information technology, copier usage, and office rent.

The State Treasurer's Office indicates that the number of participating students cannot be estimated, and as a result, the agency cannot estimate administrative costs for the bill. Any costs incurred by the program would be dependent on the number of accounts that would be opened, the availability of third-party vendors to provide services, and the scope of the vendor agreements. Similar to the Department of Education, the State Treasurer would assume that all students currently enrolled in accredited private schools would participate. As a result, the agency estimates that at minimum, 26,446 students from accredited private schools would participate in the program.

The State Treasurer indicates that the State of Arizona has a similar program that currently serves 46,500 students. For these students, the State of Arizona has 24.00 FTE positions to assist administering the program, in addition to contracting with an outside vendor for certain account management and payment processing services.

The State Treasurer would establish a new division and hire additional employees to: coordinate with the Board; assist with the creation of rules and regulations for the program; create applications, handbooks, and other documentation; manage administrative adjudications and appeals; provide customer service and account management; provide for treasury accounting and manage contracted program managers, auditors, and software vendors. At a minimum, the new division would require 1.00 FTE Program Director with salaries and wages totaling \$105,950 (including fringe benefits). The number of additional staff would depend on the number of program participants. However, the State Treasurer indicates that administrative staff would require an annual gross employer cost of \$58,300 to \$82,600 for each staff member, as well as additional legal and auditing employees with an estimated gross annual cost of \$111,658 for each employee.

For each employee, annual other operating costs would be required, including phone and internet jack fees of \$2,920 and additional office space of approximately \$5,640 per employee (based upon 275 square feet per employee at cost of \$20.50 per square foot). In addition, the program would require \$3,000 for each printer leased under state contract. Costs for postage and printing would be dependent on the number of accounts opened by students. In addition, the agency would be required to purchase office furniture for each staff member hired for the division.

The State Treasurer notes that some enrollment and day-to-day account management may be performed by a third-party financial institution as a contracted program manager. The agency has researched other program administrators of education savings account programs and expects student accounts would be subject to maintenance fees and per-transaction fees. The agency notes that the bill would require that the Sunflower Education Equity Scholarship Fund to be held in the State Treasury and could increase the cost of third-party services. This could require the State Treasurer to hire more in-house employees to manage the program. However, the agency cannot estimate these costs, given the uncertainty in the scope of vendor contracts that would be required. The agency notes that the bill does require the State Treasurer to retain 5.0 percent of the BASE 5.0 percent for administrative costs to the program, with the remaining 95.0 percent to be deposited

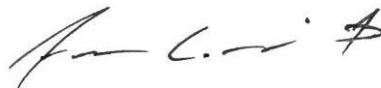
into the student's account. The bill does not cap the number of accounts or the administrative fees that could be retained by the State Treasurer.

The State Treasurer notes that the bill would provide for interest to be transferred from the State General Fund to the Sunflower Education Equity Scholarship Fund. However, the bill does not require interest to be allocated among each student account. The agency indicates that interest earnings could be used by the Board and the agency to pay for program expenses. Because the Sunflower Education Equity Scholarship Fund is to remain in the State Treasury, the agency would need to establish new accounting and disbursement procedures that could accommodate the volume of new accounts. The agency may need to purchase and develop an internal software system for accounting and payment processing of individual accounts, depending on the scope of a third-party vendor. The agency estimates the cost for this software to be at least \$400,000, based upon pricing for corporate trust software and an estimate the agency received for software utilized by the Unclaimed Property Division. The Division of the Budget notes that any costs associated with expenses paid to Board members from meetings would be paid from the administrative fee retained by the State Treasurer.

The Division of the Budget also notes that the state's accounting system and related procedures are not currently designed to implement the program with individual student accounts within the State Treasury. It is likely that additional staff and expenditures in the Department of Administration would be required to implement the program; however, an estimate of additional expenditures for the agency cannot be made. If the State Treasurer would track the individual student accounts externally with a vendor, the Division estimates that there likely would be no additional costs for the Department of Administration.

The Department of Revenue is unclear if the student accounts would be subject to federal income taxes that would flow through to the Kansas income tax return. Although the bill would reference that funds "in an account do not constitute taxable income to the parent of the qualified student," the bill does not reference state law regarding income taxes. Any fiscal effect associated with HB 2218 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: John Hedges, Office of the State Treasurer
Craig Neuenswander, Department of Education
Lynn Robinson, Department of Revenue