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Laura Kelly, Governor

February 1, 2022

The Honorable Kristey Williams, Chairperson
House Committee on K-12 Education Budget
Statehouse, Room 546-S
Topeka, Kansas 66612

Dear Representative Williams:

SUBJECT: Fiscal Note for HB 2550 by House Committee on K-12 Education Budget

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2550 is respectfully submitted to your committee.

HB 2550 would create the Student Empowerment Program, which would be administered by the State Treasurer. The Program would authorize the creation of education savings accounts for students who are academically at-risk, as defined by the bill. The accounts would be administered by the State Treasurer and would be eligible to receive the BASE aid, or an aggregate annual amount of the BASE inversely proportional to the time an eligible student is enrolled in the student's resident school district. The bill would define BASE aid as the amount of Base Aid for Student Excellence in the Kansas school finance formula for the immediately preceding school year.

An "eligible student" would be defined as a resident of Kansas who has not graduated from high school or obtained a GED who, on and after July 1, 2023:

1. Qualifies for free or reduced-price meals under the national school lunch act;
2. Is enrolled any school of a school district and has been identified as eligible to receive at-risk education program services; or
3. Has a student empowerment account established on the student's behalf.

The school district would be required to notify the parent of a student that the student is eligible for the Program. The parent would then enter into an agreement with the treasurer and participate in the Program by either continuing enrollment in the student's resident school district and receiving additional services or enrolling in a qualified private school. Upon establishment of the account, the State Treasurer would notify the resident school district of the establishment of the account for the eligible student. The school district would be required to provide such notice each year that the student remains enrolled in the school district and remains eligible for the Program.

The bill would create the "Student Empowerment Fund," which would be administered by the State Treasurer. The Director of Accounts and Reports of the Department of Administration would be required to create a procedure for the fund to have individual student accounts. Each student's accumulated funds would earn interest based on the average daily balance for the preceding month at the net earnings rate of the Pooled Money Investment Portfolio for the preceding month, added monthly. Upon the execution of an agreement with the student's parent, the State Treasurer would establish an account in the Student Empowerment Fund in the State Treasury in the name of the eligible student and notify the resident school district of the account.

If the eligible student is enrolled in a qualified private school, the State Treasurer would transfer to the account an aggregate annual amount equal to the BASE aid. If the eligible student would continue to be enrolled in a resident school district part-time, the State Treasurer would transfer to the account an aggregate annual amount equal to the portion of the BASE aid that is inversely proportional to the time the student is enrolled in the resident school district. These transfers would be made in quarterly installments with a schedule determined by the State Treasurer. An amount of up to 5.0 percent of the transfers in the first two years or up to 2.5 percent for the third and subsequent year could be deducted for reimbursement of administrative costs of the Program by the State Treasurer. The bill would outline how each student account would remain active.

The State Treasurer would be required to develop a system for payment of services by participating parents by electronic funds transfer. The system would not require parents to be reimbursed for allowable expenses. All electronic funds transfers would only be for expenditures approved by the State Treasurer, in which a third-party contract may be made for implementing these requirements. The bill would outline actions that would be required by the student's parents to participate in the program.

On or before August 1 of each year, the State Treasurer would determine the amount to be transferred to the Student Empowerment Fund from the State General Fund by: (1) multiplying the BASE aid by the total number of eligible students participating in the Program who are enrolled in a qualified private school; and (2) adding an amount equal to the BASE aid by a ratio that is the inverse proportion for the amount of time each student is enrolled and attending public school for all eligible students. The resulting sum of (1) and (2) would be transferred to the Student Empowerment Fund for distribution to eligible student accounts upon certification by the State Treasurer to the Director of Accounts and Reports.

Funds in the eligible student accounts could be accessed by the parent, but only expended for the following purposes:

1. Tuition and fees charged by a qualified private school;
2. Textbooks and other supplies required by a qualified private school;
3. Fees for transportation provided by a qualified private school, as outlined by the bill;
4. Educational therapies or services provided by a licensed or accredited education provider;
5. Certified tutoring services;

6. Curriculum materials;

7. Tuition or fees charged by an accredited private online learning program;

8. Fees for any nationally standardized norm-reference achievement test, advanced placement examination, or other examination related to admission to a postsecondary educational institution;

9. Contracted services from a school district;

10. Tuition and fees charged by a postsecondary educational intuition; and

11. Any other education expenses approved by the State Treasurer.

The State Treasurer would notify the parent of any expenditures from an account that do not meet allowable purposes and the parent would be required to repay the unallowable expenditures within 30 days of notification. Funds remaining in an account would roll over to the next succeeding school year. The bill would outline other requirements and restrictions of the account.

For each eligible student participating in the program who has participated for less than three years, the State Board of Education would be required to determine the amount of each student's resident school district's State Foundation Aid for the last school year during which the student was enrolled full-time that is attributable to the portion of the following weightings: Low Enrollment Weighting, High Enrollment Weighting, Bilingual Weighting, At-Risk Student Weighting, and Career Technical Education Weighting. The State Board of Education would determine the aggregate of the amounts for each school district and the resulting sum would be the adjusted weightings funding amount.

On or before September 1, 2023, and each subsequent year, the State Treasurer is to certify to the State Board of Education the names of the students participating in the Program, along with the resident school district of the students and the qualified private school the students are attending, if applicable. On or before October 1, 2023, and each subsequent year, the State Board of Education is required to determine the adjusted weightings funding amounts and certify the amount to the Director of Accounts and Reports, with a copy of the certification to be sent to the Director of the Budget and the Director of Legislative Research. Upon the receipt of the certification, the Director of Accounts and Reports would be required to transfer the amount certified from the State General Fund to the State Foundation Aid Account of the State General Fund of the Department of Education.

To become a qualified private school, an application would be required to be submitted to the State Treasurer and include proof that the applicant is an accredited private school or a nonaccredited private school registered with the State Board of Education. The bill would outline the procedure for the State Treasurer to approve an application, as well as revoke a previously approved application. In addition, the bill would declare that the enrollment of an eligible student in a qualified private school to be considered a parental placement of the student under the Individuals with Disabilities Education Act.

On or before December 31, 2023, and each subsequent year, the State Treasurer would be required to submit a report on the Program to the State Board of Education. The bill would outline the reporting requirements. On or before January 15, 2024, and each subsequent year, the State Board of Education would be required to submit a report on the Program to the Governor and Legislature. The report would include the State Treasurer's report, along with the State Foundation Aid adjustments that were made by the State Board for each school district in the immediately preceding school year.

The State Treasurer's actions under the Program would be subject to the Kansas Administrative Procedure Act and reviewable under the Kansas Judicial Review Act. Any parent of a participating student or qualified private school aggrieved by a decision by the State Treasurer could appeal the decision in accordance with the acts. The State Treasurer would be required to adopt rules and regulations necessary for the Program on or before January 1, 2023.

Finally, the bill would allow the subtraction from a taxpayers federal adjusted gross income for all taxable years after December 31, 2022, any amounts deposited in a Student Empowerment Account established by the agreement between the parents and the State Treasurer.

The State Treasurer would need to establish a new division with six-month start-up costs in FY 2023 totaling $521,060, including 5.00 FTE positions. This estimate includes six months of salaries totaling $194,500, including 1.00 FTE Program Director ($93,000/2=$46,500), 1.00 FTE General Counsel ($112,000/2 = $56,000), 1.00 FTE Auditor ($78,000/2=$39,000)), and 2.00 FTE Administrative Support Staff ($106,000/2=$53,000). The cost of the positions includes base salary and fringe benefits for six months. Other operating expenses included in the start-up costs would include computer equipment and software licensing expenses totaling $17,560, postage and printing totaling $7,500 for six months, and a new printer lease totaling $1,500 for six months. Included in the start-up cost estimate is a cost of $300,000 would be for the purchase and development of banking software for account management and a system of electronic funds transfer payments. The scope of the program would make it unfeasible to rely on in-house programming resources. The estimate for this software is based upon pricing for corporate trust software similar to that used by the Unclaimed Property Division of the State Treasurer. The Division of the Budget notes that of the above costs, expenditures for the 5.00 FTE positions would be ongoing operating costs, as well as postage and printing, as well as the printer lease.

The State Treasurer notes that depending on the number of accounts established, the agency likely would need to add additional staff to process invoices. The State of Arizona Treasurer's Office added approximately 20.00 FTE staff positions to process approximately between 300 to 1,000 invoices per day for approximately 10,000 accounts. If the State of Kansas program would need this number of staff, additional expenditures of approximately $1.1 million would be needed ([20.00 FTE Clerks X $53,000 salary and fringe benefits] + [20.00 FTE X $3,000 office and hardware costs] = $1,120,000). Also, an additional printer lease would be needed for this level of staff, costing an additional $3,000 per year. If additional staffing with this scenario is needed, additional office space would also be required. The State Treasurer estimates that if an additional 5,500 square feet of additional office space in the Landon Building would be required, total costs would increase by $105,325 per year ($19.15 per square foot X 5,500 square feet = $105,325). If additional space would not be available in the Landon Building, the cost would vary, depending on available options. The Division of the Budget notes that these costs likely would not be required until FY 2024

In addition, the State Treasurer estimates that each student account would have a monthly maintenance fee of approximately $10 per account per year, plus 2.5 percent of all transactions. As an example, the State Treasurer states that if 10,000 accounts would be established, an estimated yearly cost of $1,311,500 would be incurred ([$10 + ($4,846 (BASE) X .025)] X 10,000 accounts = $1,311,500). The Division of the Budget notes that the monthly account costs and all other administrative costs for the State Treasurer would eventually be funded from the allowable administrative reimbursement mechanism of account transfers. The Division of the Budget notes that the State Treasurer would need an appropriation from the State General Fund or another funding source for the Program's administrative expenditures until the reimbursement mechanism from account transfers can generate sufficient ongoing revenues for the Program.

Instead of the agency purchasing banking software, the Division of the Budget notes the management of the accounts could potentially be outsourced with the state's contract bidding process to a financial institution. However, the total cost for this option would fluctuate depending on the number of transactions per account per month. With this option, the State Treasurer would still need to employ 1.00 FTE Program Director, 1.00 FTE Administrative Support Staff, 1.00 FTE General Counsel, and 1.00 FTE Auditor at the costs listed previously, plus the associated operating expenses.

The Department of Education indicates the number of students that would participate in the Program cannot be estimated. However, the agency made certain assumptions to describe a potential fiscal effect with the enactment of the bill. The Department has identified three cost centers in HB 2550 that would affect the agency: participating current public school students who would transfer to private schools (or who partially transfer to private schools); adjusted weightings for school districts; and additional Department administrative costs. The following describe these potential additional costs.

For current public school students who would transfer to private schools, the current school finance formula provides that school district funding is based on the higher FTE student count from the prior year or second preceding year, whichever is greater. In the first year that an eligible student would choose to move into a private school with the Program, the state would pay the BASE to the original public school, as well as the student's account. For every 1.0 percent of the state's 464,000 public school students that would participate in the Program, a total of $22,485,440 (4,640 students X $4,846 BASE = $22,485,440) would be transferred from the State General Fund to the students' accounts under this scenario in FY 2022. This amount assumes these students would transfer full-time to private schools. The bill would allow for students to attend part-time at private schools and would allow for an amount to be transferred to the student's account in an amount inversely proportional to the time an eligible student is enrolled in the student's resident school district, which would reduce these estimated amounts. If the number of students utilizing this Program is greater than or less than 1.0 percent as indicated above, the estimated cost would increase or decrease proportionally.

For the adjusted weightings provision, the amount that would be transferred to the public schools would also depend on the number of students that would participate in the Program. The Department reports that for FY 2022, the total eligible weightings that would be calculated in HB 2550 for the adjusted weighting provision totaled 151,452 FTE students, which is an average of 0.327 FTE per student. Using these formula weightings and for each 1.0 percent of the 464,000 total public-school students that would participate in the Program, the total amount that would be transferred from the State General Fund to the State Foundation Aid account in the Department of Education for additional state aid to school districts in FY 2024 is $7,352,739 (4,640 students X 0.327 weightings X $4,846 = $7,352,739.) If the number of students utilizing this Program is greater than or less than 1.0 percent as indicated above, the estimated cost would increase or decrease proportionally.

In addition, the Department of Education would require $60,000 from the State General Fund in FY 2024 for 1.00 FTE Accountant to complete the required calculations, to coordinate with the State Treasurer, to provide technical assistance to school districts and private schools, and to complete the required reports.

The Department of Revenue states that the implementation of the Program would affect State General Fund income tax collections, as the contributions to the student accounts would be considered income and the bill would allow the parent of the eligible student to deduct the amounts credited from their federal adjusted gross income. Because the number of students that would participate in the Program cannot be determined, the fiscal effect of the bill on tax collections cannot be estimated. Also, the bill would make a technical change to the tax statutes regarding the homebuyer's tax credit that would make an incidental conflict resolution in the statues from a tax change that was made into law during the 2021 Legislative Session. The Division of the Budget notes that although the bill would create additional federally reported income for parents of Program participants, the bill would create a corresponding reduction of the income tax liability for state tax purposes. The enactment of the bill would not reduce State General Fund receipts as included in *The FY 2023 Governor's Budget Report.*

The Department of Administration states 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 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, there would be no additional costs for the Department of Administration for implementation. Any fiscal effect associated with HB 2550 is not reflected in *The FY 2023 Governor's Budget Report*.

Sincerely,

Adam Proffitt
Director of the Budget

cc: Craig Neuenswander, Education
John Hedges, Office of the Treasurer
Celeste Chaney-Tucker, Department of Administration
Lynn Robinson, Department of Revenue