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February 23, 2024

The Honorable Molly Baumgardner, Chairperson
Senate Committee on Education
300 SW 10th Avenue, Room 144-S
Topeka, Kansas 66612

Dear Senator Baumgardner:

SUBJECT: Fiscal Note for SB 469 by Senate Committee on Education

In accordance with KSA 75-3715a, the following fiscal note concerning SB 469 is respectfully submitted to your committee.

SB 469 would establish the Sunflower Education Equity Program, which would have the stated purpose of recognizing the rights of parents to choose the educational environment that best serves their children. The Program would be administered by the State Treasurer at the direction of the Sunflower Education Equity Board, which would be created by the bill.

The Board would provide general management and oversight of the Program, administer the appeals process as outlined in the bill, and perform other duties as provided in the bill. The State Treasurer would implement and administer the Program at the direction of the Board; accept applications; retain program data; establish and administer accounts; administer the Sunflower Education Equity Scholarship Fund, which would be established by the bill; and establish and administer any technical processes and procedures.

If the Board or State Treasurer would determine it would be necessary, the Department of Education would cooperate and collaborate in the implementation or administration of the program. The bill would define a qualified student as a resident of Kansas who is eligible to enroll in a public elementary or secondary school in the state and is either: (1) eligible for free or reduced-priced meals under the National School Lunch Act or has an annual family income that is less than or equal to 250.0 percent of the federal poverty guidelines; or (2) is determined to be a child with a disability.

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; 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 the 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 qualified 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.

The State Treasurer would be required to maintain certain information on the agency's website, including allowable uses of funds, responsibilities of parents and qualified students participating in the Program, and the appeals process. The Department of Education would be required to include information regarding the Program on its website.

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. 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 which 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.

The Board would conduct or contract to conduct annual financial audits and random quarterly financial audits of scholarship accounts to ensure compliance with the bill. The Board would determine the scope of the audit and would oversee the audit.

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 certain examinations and assessments by school building and by grade level. 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.

To estimate a potential fiscal effect, the Department of Education utilized data from FY 2023 The Department of Education reports that in FY 2023, 239,427 students were approved for free or reduced-price lunches and 91,252 students were special education students, for a total of 330,679 students that would be eligible for the Program through these means. The Department estimates that if 1.0 percent of these eligible students identified would participate, a total of 3,307 students would participate in the Program (330,679 X 1.0 percent = 3,307). Using the FY 2024 BASE of $5,088, a total of $16.8 million would be transferred from the State General Fund to the Fund in the State Treasurer (3,307 students X $5,088 BASE = $16,826,016). Of this amount, 95.0 percent would be deposited into student accounts ($16,826,016 X 95.0 percent = $15,984,715) and 5.0 percent would be available for the State Treasurer's administrative costs ($16,826,016 X 5.0 percent = $841,301). The Division of the Budget notes that the 1.0 percent estimate referenced by the Department is only an illustrative example of a potential scenario for participation in the Program. The number of qualified students who would participate in the Program cannot be estimated. As such, the estimated cost could be greater than or less than this example.

The Department notes that the enactment of the bill would affect state aid to school districts. 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 qualified student would participate in the Program, 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 experience expenditures for the qualified student in the school finance formula (excluding weightings), as well as funding the Sunflower Education Equity Program account for the student at least in the first year. In districts declining in enrollment, the student may be included in State Foundation Aid during the second year as well. The Department is unable to estimate how many students that would participate in the Program 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. In addition, The Department is not able to estimate the number of students whose family income is at or below 250.0 percent of the federal poverty guidelines.

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 to participate in the Program; however, the Department is unable to estimate this fiscal effect. To give perspective, the Department reports that in FY 2023, the average total weighting amount per student was 0.338. With applying that average to the estimated 3,307 students previously estimated that could participate in the Program, State Foundation Aid payments would potentially be reduced by an additional $5.7 million. (3,307 participating students X 0.338 weighting factor X $5,088 BASE = $5,687,193).

For private school students, there are 26,703 students enrolled in accredited private schools in FY 2024. Of these students, the Department estimates that 45.0 percent of these private-school students qualify for free or reduced-priced meals. Assuming 100.0 percent of these students who qualify for free or reduced-priced meals would participate in the Program and using the FY 2024 BASE of $5,088, a total of $61.1 million would be transferred from the State General Fund to the Fund in the State Treasurer (26,703 students X 45.0 percent X $5,088 BASE = $61,139,189). Of this amount, 95.0 percent would be deposited into student accounts ($58,082,230) and 5.0 percent would be available for the State Treasurer's administrative costs ($3,056,959). The Department notes that private school special education students were not included in this estimate, as the agency does not have a reliable estimate of the population of students attending a private school to receive special education services.

In addition, the Department states that the number of students enrolled in a non-accredited private school are not reported to the agency. Some of these students could qualify either based on income level or as a student with a disability, but the Department is not able to estimate the number of students. Additionally, children eligible to enroll in preschool programs for children with disabilities would be qualified for the Program, as well as preschool students participating in an at-risk preschool program. Although these students are not included in the agency's fiscal effect estimate, an unknown number of these students would qualify to participate in the Program.

The Department of Education reports that the agency would require an additional 1.00 FTE Accountant to provide the student information necessary for the State Treasurer and respond to questions from school districts. Estimated costs for this position would be $74,716, all from the State General Fund. This estimate includes $72,216 for salaries and wages (including fringe benefits) and $2,500 for other operating expenditures, including a computer, phone and internet service, 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.

The State Treasurer would establish a new division and hire additional employees for the following activities: 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 $106,100 (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 $60,500 to $84,700 for each staff member, as well as additional legal and auditing employees with an estimated gross annual cost of $114,000 for each employee.

For each employee, annual other operating expenditures would be required, including phone and internet jack fees of $3,000 per employee. In addition, the program would require $3,100 for each printer leased under state contract. The new division would also require an increase in postage and printing, with the total cost largely dependent on the number of accounts, and potentially (depending on the number of new employees required) the purchase of office furniture, and the rental of additional office space at approximately $6,201 per year per employee (based on 275 square feet per employee at $22.55 per square foot, the FY 2025 leasing rate in the Landon State Office Building).

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 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 for administrative costs of the program, with the remaining 95.0 percent to be deposited into student accounts. SB 469 does not cap the number of accounts or the administrative fees that could be retained by the State Treasurer.

In addition, the State Treasurer notes that the bill would provide for interest to be transferred from the State General Fund to the Fund based on the net earnings rate of the Pooled Money Investment Portfolio. However, the agency states that the bill does not direct that interest to be allocated among each individual program account. As a result, the agency would use this interest to pay for program expenses. However, if interest is required to be applied to each individual program account within the Fund, calculating the average daily balance of money in each account and applying appropriate interest to individual accounts would require development or purchase of specialized banking software.

In addition, if interest is not to be applied to individual accounts, because the bill specifies that the 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. Depending on the scope of a contracted program manager's services, the State Treasurer could potentially be required to purchase and develop an internal software system for accounting and payment processing of individual accounts. The scope of these programing requirements would make it unfeasible to rely on in-house programming resources. Purchasing software for these purposes from a vendor is estimated at a minimum of $400,000 annually. This is based on 2021 pricing for corporate trust software and an estimate received in 2021 for software utilized by the Unclaimed Property Division of the State Treasurer.

The Division of the Budget 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.

Legislative Administrative Services (LAS) notes that the bill would have no fiscal effect for the Legislature, as any expenses of the Board would be paid from the Fund in the State Treasurer. LAS notes that the fiscal effect assumptions would include expenditures at the current (FY 2024) rates for legislator salary, subsistence, mileage, and tolls. Costs in FY 2025 and beyond would be greater, as legislative salaries are authorized to increase, as well as other reimbursement rates are likely to be higher. LAS used FY 2024 rates for illustrative purposes only.

If the Board would meet for two meeting days, expenses for the six legislative members and three non-legislative members would total $9,545, from the Fund in the State Treasurer. Of this amount, $7,740 would be for legislators and $1,805 would be for non-legislators. For legislators, the estimate would include $1,064 for salaries and wages, $1,992 for subsistence expenditures, $1,965 for mileage, $72 for tolls, $1,992 for enroute day expenses, and $655 for fringe benefit costs. For non-legislators, the estimate would include $210 for compensation, $576 for expenses, $983 for mileage, and $36 for tolls. The actual cost for Board meetings would depend on the number of meetings called.

The Division of the Budget notes that it is unclear if the qualified 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 monies "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 SB 469 is not reflected in *The FY 2025 Governor's Budget Report*.

The Kansas Association of School Boards indicates that the enactment of the bill would likely reduce state aid to school districts, as public school enrollments would be reduced with students transferring to private schools. The public schools would eventually lose funding in the school finance formula associated with these students. However, the organization cannot estimate the fiscal effect.

Sincerely,

Adam C. Proffitt
Director of the Budget

cc: Gabrielle Hull, Department of Education
John Hedges, Office of the State Treasurer
Lynn Robinson, Department of Revenue
Tom Day, Legislative Services
Angie Stallbaumer, Kansas Association of School Boards