

March 4, 2020

The Honorable John Barker, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 285-N
Topeka, Kansas 66612

Dear Representative Barker:

SUBJECT: Fiscal Note for HB 2725 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2725 is respectfully submitted to your committee.

HB 2725 would create the Kansas Exceptional Child Academic Improvement Act. Each school district would be required to make an annual determination of which students would qualify for the program. A student would be deemed eligible if the student: (1) is or has been enrolled in kindergarten or grades one through 12; (2) is an exceptional child or has been diagnosed with dyslexia or a related disorder; and (3) has not graduated from high school. An exceptional child would be defined as a student with disabilities under the special education statutes, excluding gifted students.

When a school district has determined that a student is eligible for the program, the parent would be required to be notified. The notification would include a cover letter explaining the basis for eligibility, a copy of the assessment results, a school district contact, and a description of the program.

A parent could participate in the program by: (1) continuing enrollment in a student's resident school district by receiving additional services to improve reading and mathematics skills through evidence-based practices or programs and programs requested or approved by the parent; (2) enrolling in a private school; or (3) receiving additional education services allowed under the program.

The program would be administered by the State Treasurer. The State Treasurer would establish a Kansas Exceptional Child Academic Improvement account for each eligible student. The bill would outline certain requirements for the agency to post on its website as well as a hard

copy to any person who makes a request. In addition, the bill would outline the written requirements of the agreement a parent would make to participate in the program.

The bill would create the Kansas Exceptional Child Academic Improvement 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 monthly 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.

Upon execution of an agreement with a student's parent, the State Treasurer would establish an account 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 an amount equal to the aggregate Base Aid for Student Excellence (BASE) for the student of: (1) 88.0 percent of the BASE, if the eligible student is enrolled in grades three through five in the current school year; (2) 92.0 percent of the BASE, if the eligible student is enrolled in grades six through eight in the current school year; or (3) 96.0 percent of the BASE, if the eligible student is enrolled in grades nine through 12 in the current school year.

If the eligible student continues to be enrolled in a public school, the State Treasurer would transfer an amount equal to 0.484 multiplied by the BASE. These transfers would be made in quarterly installments. The State Treasurer could deduct from the transfer up to 5.0 percent for the first two years funds are transferred and up to 2.5 percent for the third and subsequent years that funds are transferred. No transfers would be made after a student has graduated from high school. The bill would outline how each fund would remain active. The State Treasurer would be required to develop a system for payment for services by participating parents by electronic funds transfer. However, the system would not require parents to be reimbursed for allowable expenses. The agency could contract with a third-party vendor for payments.

Each year the State Treasurer would be required to notify the State Board of Education the names of participating program students, including the resident school district of each student and the qualified private school each student is attending in the current school year, if applicable. In school year 2020-2021 and each subsequent school year, an eligible student would be counted in the enrollment of the student's resident school district for the purposes of calculating State Foundation Aid for the district. The State Board would be required to determine amounts to be transferred to the Kansas Exceptional Child Academic Improvement Fund by: (1) multiplying an amount equal to the percentage prescribed in the bill by the total number of eligible participating students in a school district who are enrolled in a qualified private school; plus (2) multiplying an amount equal to the BASE aid by 0.484 and then multiplying the resulting product by the total number of eligible students in a resident school district who are not attending a private school; plus (3) any accrued interest as required by the bill. Upon this calculation, the State Board of Education would be required to certify the resulting amounts to the Director of Accounts and Reports and the Director would transfer the amounts from the State General Fund to the Kansas Exceptional Child Academic Improvement Fund.

For school year 2020-2021 and each subsequent school year, the State Board of Education would deduct from the amount of State Foundation Aid for each resident school district the amount certified by the State Board of Education. The appropriation for the fiscal year of the date of the certification in the State Foundation Aid account of the State General Fund would be lapsed by the amounts of the certified transfers.

Funds in an eligible student's account may be accessed by the parent, but only expended for allowed purposes, including tuition and fees charged by a qualified private school; textbooks and other supplies required by the private school; and evidence-based practices and programs required or approved by the parent. The bill would outline the proper use of the accounts and procedures if an expense is not deemed by the State Treasurer as appropriate. The bill would require any funds remaining in a closed student account to be distributed to the student's resident school district.

The bill would also outline the application process for private schools to be eligible to participate in the program. A qualified private school would be defined as one that is accredited by the State Board of Education or a national or regional accrediting agency that is recognized by the State Board of Education for the purpose of satisfying the teaching performance assessment for professional licensure. The State Treasurer would be required to conduct an audit of a qualified private school selected at random each year to determine if the private school is compliant with the program and would outline the process of revoking the participation of the private school.

The bill would specify that the enrollment of an eligible student in a qualified private school would be considered a parental placement under the Individuals with Disabilities Education Act. Also, this provision of the program would be subject to the Kansas Administrative Procedure Act and reviewable under the Kansas Judicial Review Act. The bill would require the State Treasurer to adopt rules and regulations necessary for the program by January 1, 2021. Additionally, the bill would provide that nothing in the bill would be deemed to limit the independence or autonomy of a qualified private school or to make the actions of a qualified private school the actions of the state government.

Finally, the bill would allow any amounts deposited into a Kansas Exceptional Child Academic Improvement account upon a signed agreement by the parent with the State Treasurer to be subtracted from federal adjusted gross income.

The Division of the Budget notes the fiscal effect resulting from the enactment of HB 2725 would depend on the number of students participating in the program and the choice by the parent of either a public school or private school program for each student. The Division has noted the assumptions that each state agency used in its fiscal effect estimate. For reference, the statutory BASE is \$4,569 for FY 2021, \$4,706 for FY 2022, and \$4,846 for FY 2023.

The State Treasurer estimates that it would require first year program expenditures totaling \$239,150, including 2.00 FTE positions in FY 2021. This estimate includes six months of salaries and wages, including fringe benefits, totaling \$32,250 for 1.00 Program Director FTE position, \$22,900 for 1.00 Administrative Specialist FTE position, \$34,000 for 400 hours of audits at \$85

per hour, and \$150,000 for the purchase or development of software. If in-house programming resources would be available, depending upon other existing projects, this cost could be reduced.

For the second year of expenditures in FY 2022, the State Treasurer estimates that expenditures of \$144,300 would be needed, including \$64,500 for salaries and wages, including fringe benefits, for 1.00 Program Director FTE position, \$45,800 for 1.00 Administrative Specialist FTE position, and \$34,000 for 400 hours of audits at \$85 per hour. The agency indicates that all administrative costs would be funded from the Kansas Exceptional Child Academic Improvement Fund from the allowable administrative reimbursement mechanism of account transfers. However, the agency notes that administrative funds would not be available until after the first transfers to the Kansas Exceptional Child Academic Improvement Fund have been made.

In addition, the agency notes it would have to scale its administrative expenditures depending on the number of participating students. The agency estimates that minimum transfers of \$4.8 million would have to be made to cover the estimated administration expenditures, using the allowable 5.0 percent deduction from Kansas Exceptional Child Academic Improvement Fund transfers.

The Division of the Budget notes that either the State Treasurer would need an appropriation from the State General Fund for the first year's administrative expenditures or the agency would have to find funding from other programs it administers and reimburse these other programs after the transfers to the Kansas Exceptional Child Academic Improvement Fund have been made.

The Department of Revenue estimates that if all eligible students would participate, HB 2725 would decrease revenues to the State General Fund by \$7.5 million to \$14.2 million in FY 2021 and \$7.8 million to \$14.7 million in FY 2022. To formulate these estimates, the Department of Revenue reviewed data from the Department of Education from the most recently administered assessment for English language arts and mathematics. The Department estimates that 68,256 students would be eligible in school year 2020-2021 and in each subsequent year. The Department of Education notes that it is possible for students to remain in the program until graduation from high school. The Department of Revenue assumes the credits to the individual student accounts would be considered income to the parents, as the bill allows a deduction of the amounts credited to the student's individual accounts from federal adjusted gross income. The Department of Revenue assumes a 5.0 percent effective tax rate for the contributions to estimate the reduced state income tax revenues. However, the actual number of students that would have parents choose to participate in the program cannot be estimated. The Division of the Budget notes that although the bill creates additional reported income for parents of program participants, the bill creates 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 2021 Governor's Budget Report*.

The Department of Revenue indicates it would require \$80,753 from the State General Fund in FY 2021 to implement the bill and to modify the automated tax system. The required programming for this bill by itself would be performed by existing staff of the Department of

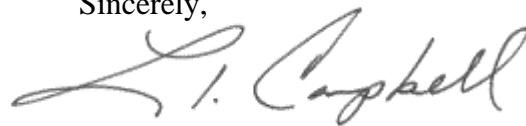
Revenue. In addition, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, additional expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Department of Education states that the enactment of the bill would reduce State Foundation State Aid to school districts from the number of students participating in the program, as reported by the State Treasurer. However, the reduction in aid to local governments in the Department's budget would show a corresponding increase in other assistance, grants, and benefits for students in the State Treasurer's budget. In addition, the agency estimates that the bill would require modification in its system that manages state aid to school districts at a cost of approximately \$10,000 from the State General Fund.

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 cannot be made. If the State Treasurer would track the individual student accounts externally with a vendor, there would be no additional costs for implementation.

The Division of the Budget notes that because the bill would be effective upon publication in the statute book, it is likely that the State Treasurer would not have rules and regulations promulgated prior to the deadline specified in the bill (January 1, 2021). As a result, full participation by students and the corresponding fiscal effects of both the increased expenditures and the reduced revenues to the State General Fund described earlier may not be fully realized until FY 2022 or later.

Sincerely,



Larry L. Campbell
Division of the Budget

cc: Jennifer Hermann, Office of the Treasurer
Dale Dennis, Education
Lynn Robinson, Department of Revenue
Jeff Scannell, Department of Administration