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MEMORANDUM

To: House Committee on K-12 Education Budget
From: Kansas Office of Revisor of Statutes
Date: February 6, 2023
Subject: HB 2218—Sunflower Education Equity Act

House Bill 2218 would establish the sunflower education equity act to provide education savings accounts for qualified students. The sunflower education equity program would be administered by the state treasurer at the direction of a board. Any qualified student meeting the requirements of the program would receive an amount equal 95% of the BASE aid amount in such student’s savings account in each year the student participates in the program.

Section 1. Citation and Definitions.

Section 1 of HB 2218 provides definitions for relevant terms used throughout the bill, including, but not limited to, “qualified school” and “qualified student.”

A qualified school is defined as any school located in Kansas that is either a nonpublic elementary or secondary school that has made application and received approval pursuant to the act or a preschool serving students with disabilities.

A qualified student is defined as a resident of Kansas who is eligible to enroll in a public elementary or secondary school in this state or in a preschool program for children with disabilities.

Section 2. Establishment and Implementation.

Section 2 of the bill establishes the sunflower education equity program to be administered by the state treasurer at the direction of the board established in section 3. The board is to provide general management and oversight of the program. Section 2 also requires the state department of education to cooperate and collaborate with the board when deemed necessary by the board.

Additionally, section 2 states that students participating in the program and such students' parents are subject to the requirements of the sunflower education equity act and any rules and regulations adopted pursuant to the act.

Section 3. Sunflower Education Equity Board.

Section 3 establishes the sunflower education equity board. The board consists of nine voting members and one non-voting member. The voting members include the treasurer as chairperson, one member appointed by the president of the senate, one member appointed by the speaker of the house, one member appointed by the minority leader of the senate, one member appointed by the minority leader of the house, the chairperson of the house education or K-12 education budget committee, the chairperson of the senate education committee, a parent of a qualified student participating in the program and a representative of a qualified school appointed by the governor. The nonvoting member is a representative from the department of education.

Section 3 also provides for terms, vacancies, meetings and membership requirements of the board.

Section 4. Board Powers and Duties.

Section 4 of HB 2218 provides the powers and duties of the board in its role of overseeing and managing the sunflower education equity program. Those powers and duties are to:

- Oversee and manage the program;
- direct the treasurer on the implementation and administration of the program;
- determine the manner and form of the application to enroll in the program and establish an account;
- determine the manner and form of the application for approval as a qualified school or tutor and receives payments from an account;
- execute contracts or authorize the treasurer to execute contracts as necessary to carry out the requirements of this act;
- hear and review appeals;
- work with the state department of education as necessary for the program;
- adopt rules and regulations necessary to implement and administer this act and accounts;

- develop and update as necessary a handbook for program applicants and participants; and
- exercise such other powers and perform such other functions and duties provided in this act.

Section 4 also requires that the board not disclose the identity of or any personally identifiable information of a student participating in the program.

Section 5. Program Information Published on Treasurer Website.

Section 5 of the bill requires the treasurer to maintain certain program information on the treasurer’s website, including, but not limited to, the allowable uses of money in an account, the program handbook, the duties of the board and the duties of the treasurer. Additionally, section 5 requires the state department of education to include program information on its homepage and provide a link to the treasurer’s program website.

Section 6. Application and Enrollment, Establishing an Account and Written Agreements.

Section 6 requires a parent of a qualified student seeking enrollment in the program to make application on a form and in a manner determined by the board. Upon a completed and accurate application, the treasurer will enroll a qualified student in the program and notify the student’s parents of such enrollment. Any notifications as part of the program may be provided electronically.

After enrollment in the program, a parent is required enter into a written agreement with the treasurer. Written agreements are required to include:

- Money in an account must be used to provide education in at least the subjects of reading, grammar, mathematics, science and social studies, unless an exception applies;
- To continue receiving a scholarship, the student cannot enroll full-time in a public school;
- No immediate family member may charge or college payment for providing educational therapies or services, tutoring or school at home;
- Money in an account can only be expended as provided in the act; and
- The parent is required to comply with all requirements of the act and any rules and regulations adopted thereunder.

The board shall then review each initial written agreement for final approval. Upon final approval, the treasurer shall establish an account in the name of the qualified student. Each student

shall have one account. A parent acting on behalf of more than one student is to have a separate account and written agreement for each student. Written agreements have a term of one year and may be renewed on an annual basis. Written agreements may be suspended if money in an account is used for purposes other than those allowed by the act, the student is no longer a resident of Kansas or the student enrolls full-time in a public school. The treasurer may terminate a written agreement if a parent fails or refuses to respond to notice of suspension of a written agreement or fails to repay the costs of an unauthorized expenditure from an account. A parent may terminate a written agreement at any time in writing. When an account is terminated, the account associated with such written agreement shall be closed.

Section 7. Allowable Expenses from an Account.

Section 7 authorizes parents to make expenditures from a qualified student's account for specific educational purposes, including:

- Tuition and fees of a qualified school;
- Textbooks and other supplies required by a qualified school;
- Educational therapies or services provided by a licensed or accredited education provider;
- Tutoring services;
- Curriculum materials;
- Uniforms purchased from or through a qualified school;
- Tuition or fees charged by a online learning program;
- Contracted services from a public school;
- Fees for certain achievement tests, AP examinations and postsecondary admission examinations;
- Tuition and fees charged by a postsecondary educational institution;
- Textbooks required by a postsecondary educational institution;
- Fees or costs for occupational licenses, certificates, apprenticeships or other professional qualifications;
- Fees for transportation services approved by the board for transportation to and from a qualified school;
- Computers and technological devices used primarily for educational purposes; and
- Any other expenses approved by the board.

Money in a student's account cannot be used for athletic training or coaching or school at home or tutoring provided by an immediate family member. The treasurer will notify a parent of any unauthorized expenditures. The parent is required to repay the amount of any unauthorized expenditures within 30 days. A written agreement may be terminated and an account closed for failure to repay an unauthorized expenditure. Cases of substantial misuse of money in an account may be referred to the attorney general.

Section 8. Fund, Amount Deposited, Closing an Account, Administrative Fee and Audits.

Section 8 establishes the sunflower education equity scholarship fund in the state treasury to be administered by the state treasurer. On or before August 1 of each year, the treasurer shall determine the amount of moneys to be transferred into the fund by multiplying the amount of BASE aid by the total number of qualified students participating in the program. Of that amount determine, an amount equal to 95% of the BASE aid for the current school year will be deposited into each qualified student's account in two installments during the school year, once in August and once in January. If a qualified student enrolls part-time in a school district, the treasurer shall prorate the amount in the student's account based on the part-time enrollment. Unless an account has been closed, the amount remaining in the account at the end of the school year shall roll over to the next year.

Accounts are to remain active until:

- A written agreement is terminated;
- A parent does not renew a written agreement for a period of three years and fails to respond to notice of impending closure of an account;
- The student graduates from a postsecondary educational institution; or
- Four consecutive years have passed after a student's graduation from high school or award of a high school equivalency certificate and the student does not enroll in a postsecondary educational institution during such period.

HB 2218 also provides that no personal deposits may be made to an account and if a refund or rebate is provided, it must be provided into the account, not to the parent of a qualified student.

If an account is no longer active, the treasurer shall certify the amount remaining in the account and transfer such amount to the state general fund when the account is closed.

Additionally, the treasurer is authorized to retain 5% of the BASE aid amount for administrative purposes.

The board may contract with a private financial management firm to manage scholarship accounts and the board shall conduct or contract to conduct annual and random quarterly audits of accounts.

Section 9. Appeals.

Section 9 of HB 2218 allows a parent to appeal to the board any administrative decision made by the treasurer or board and requires the board to establish an appeals process. At an appeal, parents may either represent themselves or designate a representative. If the board issues a stay of any account suspension, the treasurer shall not withhold funding or refuse to enter into an agreement unless otherwise directed by the board.

Section 10. Qualified School and Tutor Application to the Board.

Section 10 requires a tutor seeking to provide tutoring services to a qualified student to apply to the board on a form and in a manner determined by the board. The application shall include the name, address and phone number of the tutor and if applicable, the tutor's website or email address.

Section 10 also requires a school seeking approval as a qualified school to apply on a form and in a manner determined by the board. The application shall include the name, address, phone number and email address of the school. Additionally, the primary contact of such school shall attest in writing to the school's intent to provide instruction in certain subject areas.

Section 11. Instruction in Certain Subject Areas and Exceptions.

Section 11 requires qualified schools to provide qualified students enrolled full-time at such school instruction in reading, grammar, mathematics, social studies and science. If the qualified school enrolls qualified students part time, the school is required to provide a statement to the board declaring which of the required subjects it is providing to such qualified students. These requirements would not apply to any postsecondary educational institution with qualified students enrolled, a qualified student with a disability or any qualified student attending school at home if such school is provided by an immediate family member.

Section 12. Tests and Examinations.

Section 12 requires a qualified school that enrolls 50 or more qualified students to annually make available the aggregate test scores of either all students enrolled in the qualified school or all qualified students enrolled.

Additionally, a parent of a qualified school may request a student take a state assessment at the school district where the student resides.

Section 13. Limitation of Act.

Section 13 states that nothing in the act is to be construed to permit any governmental agency to exercise control or supervision over any nonpublic school or home school.

Section 14. Effective Date.

HB 2218 would be effective on July 1 upon publication in the statute book.