

SESSION OF 2023

SUPPLEMENTAL NOTE ON SENATE BILL NO. 128

As Amended by Senate Committee on
Assessment and Taxation

Brief*

SB 128, as amended, would create the Ad Astra Opportunity Tax Credit, providing an income tax credit for certain Kansas residents with children enrolled in an accredited nonpublic school or a nonaccredited private elementary or secondary school registered with the Department of Education (nonpublic schools).

The credit amount would be equal to 95 percent of the amount of BASE aid provided by the Kansas School Equity and Enhancement Act for the school year in effect on January 1 of the tax year for which the credit is being earned.

The credit would be awarded for each dependent child of the taxpayer if the child is enrolled in kindergarten or grades 1 through 12 at a nonpublic school during the tax year for which the credit is being claimed, was not included in the enrollment of a public school district as determined on September 20 during the tax year and, for students enrolled in grades 1 through 12, was enrolled in a public school operated by a public school district during the tax year immediately preceding the first tax year for which the tax credit was claimed.

Taxpayers would not be permitted to claim the credit for a child who participated in a state program enacted by the Kansas Legislature effective on or after April 1, 2023, that provides a scholarship or savings account for the child if any money was transferred to the scholarship or savings account

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

at any time during the tax year by the State Treasurer for use for qualified education expenses.

The bill would authorize the Department of Revenue to consult with the State Department of Education regarding the enrollment status for any child for which a credit is sought. Taxpayers seeking to claim the credit would acknowledge by seeking the credit that the Department of Revenue is permitted such consultation. Taxpayers seeking to receive the credit may be required to provide documentation of various educational expenses.

The credit would be non-refundable, but could be carried forward indefinitely until the amount of the credit has been deducted from the taxpayer's tax liability. Taxpayers receiving the credit would be required to provide a valid Social Security number for each child for which the taxpayer is claiming the credit.

Taxpayers filing a false claim for the credit would be subject to civil penalties.

The Department of Revenue would be required to submit a report to the Legislature by January 15 of each year of the total amount of credits claimed and any information on fraudulent claims for the credit.

Background

The bill was introduced by Senators Straub, Peck, Steffen, and Thompson.

Senate Committee on Assessment and Taxation

In the Senate Committee hearing on the bill, **proponent** testimony was provided by Senators Straub, Steffen, and Peck, Representative Jacobs, a representative of Central Christian School, and several private citizens. The

proponents generally stated that it is parents' responsibility to educate their children, that children learn differently and need to be taught differently whether through private schools or home schools, and the bill would assist parents financially do so.

Written-only proponent testimony was provided by a representative of Elyria Christian School and several private citizens.

Opponent testimony was provided by representatives of the Kansas State Board of Education, Kansas Association of School Boards, and Kansas Parent Teacher Association, and by several private citizens. The opponents generally stated opposition to public funding being spent on private education without sufficient oversight and reporting of educational outcomes and that funding should be provided to eliminate the \$160 million shortfall in special education state aid.

Written-only opponent testimony was provided by representatives of Game On for Kansas Schools, Kansas Association of Special Education Administrators, Kansas National Education Association, and Stand Up Blue Valley, and by several private citizens.

Neutral testimony was provided by a representative of the Christian Home Education Coalition of Kansas. Written-only neutral testimony was provided by representatives of Americans for Prosperity-Kansas and Kansas Home Educators.

The Senate Committee amended the bill to:

- Replace the refundability of the tax credit with a provision permitting unused amounts to be carried forward;
- Provide for taxpayers seeking the credit to be required to provide educational expense documentation;

- Reduce the credit amount to 95 percent of BASE aid;
- Require students other than kindergarteners to have been enrolled in a public school prior to the first year for which the credit is claimed;
- Exclude students receiving scholarship or savings accounts under state programs enacted and effective on or after April 1, 2023, from being eligible students for purposes of the credit; and
- Make a technical change.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Revenue indicates enactment of the bill would reduce state receipts by \$128.2 million in FY 2024, \$135.0 million in FY 2025, and \$143.4 million in FY 2026.

The State Department of Education indicates the bill would require 0.5 additional FTE and additional expenditures of \$38,750 to verify eligibility and enrollment status.

The Department of Administration indicates the bill has the potential to increase the amount collected by the state debt setoff program by an indeterminate amount.

A revised fiscal note for the amended bill was not immediately available. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Taxation; income tax; tax credit; education expenses; Ad Astra Opportunity Tax Credit; accredited nonpublic school; nonaccredited private school