



February 9, 2023

Written Testimony: In Opposition to Senate Bill 128: Establishing the ad astra opportunity tax credit to provide an income tax credit for taxpayers with eligible dependent children not enrolled in public school.

Submitted by: Kansas Association of Special Education Administrators (KASEA)

Honorable Chair Tyson and Committee Members,

The Kansas Association of Special Education Administrators (KASEA) opposes the establishment of a tax credit for taxpayers with eligible dependent children not enrolled in public schools. With no accountability for home schools and private schools to be accredited by the State of Kansas, under difficult financial circumstances struggling parents may be tempted to access the sizable tax credit handed out by the state without the capacity or interest to maintain access to legitimate private school options.

HB 128 would not be equitable as children with disabilities are frequently denied enrollment to private schools and/or home schools due to the severity of their disabilities. Parents would thus be unable to take advantage of this tax credit opportunity. Kansas statutes for compulsory education apply differently to children with disabilities. K.S.A. 72-3421 states, "If a child has been determined to be an exceptional child, is receiving special education services, and a determination has been made that special education services are necessary for such child, the child shall attend school." SB 128 does not work in favor of compulsory attendance laws and regulations.

When children with IEPs leave the public school setting to attend private schools, the rights and protections afforded under IDEA to parents and children may be significantly reduced to accommodate financial objectives of the school. Many special education directors in Kansas have had experiences in which students with disabilities are enrolled in private schools and then removed after behaviors or academic performance does not meet their standard. These students then return further behind and more frustrated than when they left public schools. In many instances, students who need special education services in the general education classroom throughout their school day will not receive those same services in the private school classroom. This is because the private school can limit the public school's access within the private school setting to provide special education services. Private schools can also deny enrollment to children with disabilities. It is for these reasons that KASEA opposes SB 128.



Noted below are several specific concerns associated with this legislation.

1. SB 128 would cost the State of Kansas millions with no accountability for these funds and no cap on what a family can receive in a tax credit. SB 128 is not set up as a reimbursement for expenditures and there is no accountability that the dollars the family receives under SB 128 must be used for the purposes of educating the child who generated the tax credit.

SB 128 has no cap on the tax credits the parent or guardian is eligible to receive as long as each dependent child meets the eligibility qualifications. Even if the parent obtains a scholarship to enroll their child to attend private school for free under the Kansas tax credit for low income students, the parent could still claim an income tax credit under SB 128. The income tax credit will reduce the availability of state resources to fund the Kansas public education system. There will also be less money in the state coffers for Kansas to meet its statutory requirement to fully fund special education at 92% of the state level excess costs of special education. SB 128 takes children out of the public education system. It is neither fiscally or morally responsible.

2. Private schools are not required to be accredited through the Kansas Education Systems of Accreditation (KESA), which the Kansas State Board of Education has oversight.

Private schools and home schools that are not accredited through the Kansas Department of Education (KESA) are not held to the same accountability standards as public schools. Non-accredited schools are not required to take state assessments or submit reports to KSDE such as student discipline and Emergency Safety Interventions. Teachers in private schools may not hold a license to teach in the State of Kansas if the school is not KESA accredited. Non-accredited schools are also not required to screen for reading disorders as defined by the recent Kansas Board of Education's Dyslexia training and screening regulations.

3. Private schools are not obligated to implement the requirements of IDEA and are not obligated to collaborate with the local school district to provide special education services.

Private schools frequently do not choose to collaborate with their local school districts to ensure children with disabilities receive services. Private schools are also not obligated to ensure implementation of IDEA's Child Find requirements which are outlined in both state and federal laws and regulations.

4. Private schools are not required to accept all students, which really gives the "choice" to the private schools, versus the parents. Private schools are not bound to the requirement of an Individualized Education Program (IEP) under IDEA and may or may not allow admission of a student with a disability based on the student's disability. Some families will not be able to access this tax credit because their child with a disability is denied enrollment in the private



school setting. Private schools can exclude students with disabilities, students with mental health issues, students who identify as LGBTQ+ or students who have parents who just happen to be of the same sex.

SB 128 stands to significantly increase the potential for harm to our most vulnerable, which is the children in Kansas. KASEA supports public education which ensures all students are provided opportunities to meet their unique learning and social emotional needs. We urge our legislators to consider the inequities which would be created by opening yet another door to expanding voucher programs in Kansas and vote no to SB 128.

KASEA appreciates your consideration of these concerns as you act on SB 128 during this session. Please reach out to us if you have any questions.

Patty Carter, KASEA Legislative Committee Chair

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