

## HOUSE BILL No. 2253

By Representatives Kinzer, Brunk, Carlson, Faber, Hodge, Huebert,  
Kelley, Kiegerl, Mast, Masterson and Watkins

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10 AN ACT concerning school districts; creating the special needs schol-  
11 arship program; relating to administration thereof.

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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. This act shall be known and may be cited as the school  
15 district special needs scholarship program.

16 Sec. 2. The purpose of this act is to provide special needs students  
17 with the option to attend the public or nonpublic school of their choice.

18 Sec. 3. As used in this act:

19 (a) "Program" means the special needs scholarship program.

20 (b) "Eligible student" means any elementary or secondary student  
21 attending public school with an individual education plan, including, but  
22 not limited to, students who are mentally handicapped, speech and lan-  
23 guage impaired, deaf or hard of hearing, visually impaired, dual sensory  
24 impaired, physically impaired, emotionally handicapped, specific learning  
25 disabled, autistic, or hospitalized or homebound due to illness or  
26 disability.

27 (c) "Parent" has the meaning ascribed thereto in K.S.A. 72-962, and  
28 amendments thereto.

29 (d) "Resident school district" means the school district in which the  
30 student resides.

31 (e) "Department" means the state department of education.

32 (f) "Participating school" means either a public school outside of the  
33 resident school district or any nonpublic school that: (1) Provides edu-  
34 cation to elementary and secondary students; (2) has notified the depart-  
35 ment of their intention to participate in the program; and (3) complies  
36 with the requirements of the program.

37 (g) "State financial aid" has the meaning ascribed thereto by K.S.A.  
38 72-6410, and amendments thereto.

39 Sec. 4. (a) Any parent of a public school special needs student who  
40 is dissatisfied with the student's progress shall qualify for a scholarship  
41 from the state for the child to enroll in and attend a nonpublic school if:

42 (1) The special needs student has had an individual education plan  
43 prepared in accordance with the rules and regulations of the department;

1 (2) the student has been accepted for admission at a participating  
2 school;

3 (3) the parent has requested a scholarship from the state before the  
4 deadline established by the department.

5 (b) The department shall notify the resident school district that a  
6 special needs student has requested a special needs scholarship. Within  
7 three business days of receipt of such notice, the resident school district  
8 shall provide the department with a copy of the student's most current  
9 individual education plan.

10 (c) Upon receipt of the special needs student's request for a schol-  
11 arship, the department shall review the individual education plan pre-  
12 pared by the student's public school to determine the amount of the  
13 scholarship. The department shall provide the student's parent with a  
14 timely written explanation of the department's determination for the  
15 amount of the scholarship.

16 (d) The maximum amount of a scholarship awarded to an eligible  
17 student shall be an amount equivalent to the cost of the educational pro-  
18 gram that would have been provided to the student in the resident school  
19 district. Although the scholarship amount is a function of a student's in-  
20 dividual education plan, the participating school is not required to abide  
21 by the individual education plan. The parent and the participating school  
22 mutually will determine the best services and educational plan for the  
23 student.

24 (e) The amount of the special needs scholarship shall be the lesser  
25 of the amount calculated pursuant to subsection (d) or the amount of the  
26 participating school's estimated costs for serving the student. The costs  
27 of any assessment by the participating school of the student's special  
28 needs may be included in the scholarship amount.

29 (f) Participating students shall be counted in the enrollment of their  
30 resident school district. The funds needed to provide a scholarship shall  
31 be subtracted from the state financial aid payable to the student's resident  
32 school district.

33 (g) The special needs scholarship shall remain in force until the stu-  
34 dent returns to a public school, graduates from high school or reaches  
35 the age of 21, whichever comes first.

36 (h) At any time, the student's parent may remove the student from  
37 the participating school and place the student in another participating  
38 school or in a public school.

39 Sec. 5. (a) A resident school district annually shall notify the parents  
40 or guardians of a special needs student of the special needs scholarship  
41 program and offer that student's parents or guardians an opportunity to  
42 enroll the student in a participating school of their choice.

43 (b) The resident school district shall provide a participating school

1 that has admitted an eligible student with a complete copy of the student's  
2 school records while complying with the family educational rights and  
3 privacy act of 1974 (20 USC 1232g).

4 (c) The resident school district shall provide transportation for an  
5 eligible student to and from the participating school in the same manner  
6 as the resident school district is required by law to provide transportation  
7 for other resident students to nonpublic schools. The resident school dis-  
8 trict shall qualify for state transportation aid for each student so  
9 transported.

10 (d) If the parent of an eligible student participating in this program  
11 requests that the student take the state assessments, the resident school  
12 district shall provide locations and times for the student to take all state  
13 assessments if the assessments are not offered at the student's partici-  
14 pating school.

15 Sec. 6. (a) The department shall adopt any rules and procedures re-  
16 lating to the following:

17 (1) The eligibility and participation of nonpublic schools, including  
18 timelines that will maximize student and public and nonpublic school  
19 participation.

20 (2) The calculation and distribution of scholarships to eligible stu-  
21 dents and participating schools.

22 (3) The application and approval procedures for eligible students and  
23 participating schools.

24 (b) No liability shall arise on the part of the department or the state  
25 based on the award or use of a special needs scholarship.

26 (c) The department may bar a school from participation in the pro-  
27 gram if the department establishes that the participating school has:

28 (1) Intentionally and substantially misrepresented information re-  
29 quired under section 7, and amendments thereto.

30 (2) Failed to refund to the state any scholarship overpayments in a  
31 timely manner.

32 (d) If the department decides to bar a participating school from the  
33 program, it shall notify eligible students and their parents or guardians of  
34 this decision as quickly as possible.

35 Sec. 7. (a) To be eligible to participate in the special needs scholar-  
36 ship program, a nonpublic school must:

37 (1) Operate in this state.

38 (2) Demonstrate administrative accountability.

39 (3) Ensure that students are treated fairly and kept safe.

40 (4) Comply with all health and safety laws that apply to nonpublic  
41 schools.

42 (5) Hold a valid occupancy permit, if required.

43 (6) Certify that the school will not discriminate in admissions on the

- 1 basis of race, color, national origin or religion.
- 2 (7) Comply with all state laws that apply to nonpublic schools re-  
3 garding criminal background checks for employees and exclude from em-  
4 ployment any people not permitted by state law to work in a nonpublic  
5 school.
- 6 (8) Demonstrate financial accountability.
- 7 (9) Submit a financial information report for the school that complies  
8 with uniform financial accounting standards established by the depart-  
9 ment and conducted by a certified public accountant and certified that  
10 the report is free of material misstatements. The accountant's report shall  
11 be limited in scope to those records that are necessary for the department  
12 to make payments to schools for scholarships.
- 13 (10) Demonstrate financial viability by showing that the school can  
14 pay any funds owed the state, if they are to receive \$50,000 or more  
15 during the school year.
- 16 (11) File with the department prior to the start of the school year a  
17 surety bond payable to the state in an amount equal to the aggregate  
18 amount of the special needs scholarships expected to be paid during the  
19 school year to students admitted to the participating school; or prior to  
20 the start of the school year, file with the department financial information  
21 that demonstrates the school has the ability to pay an aggregate amount  
22 equal to the amount of the special needs scholarships expected to be paid  
23 during the school year to students admitted to the participating school.
- 24 (12) Provide regular reports of the student's progress to the parents  
25 or guardians of the student.
- 26 (b) A participating school is autonomous and shall not be deemed to  
27 be an agent of the state or federal government. The department and any  
28 other state agency may not in any way regulate the educational program  
29 of a participating school that accepts a special needs scholarship. The  
30 creation of the special needs scholarship program does not expand the  
31 regulatory authority of the state, its officers or any school district to im-  
32 pose any additional regulation of nonpublic schools beyond those reason-  
33 ably necessary to enforce the requirements of the program.
- 34 (c) Participating schools shall be given the maximum freedom to pro-  
35 vide for the educational needs of their students without governmental  
36 control.
- 37 Sec. 8. (a) It shall be the responsibility of a parent to select their  
38 child's school, apply for admission and apply for a special needs  
39 scholarship.
- 40 (b) Except as provided by this subsection, any student participating  
41 in the program shall comply fully with a participating school's written  
42 code of conduct and shall remain in attendance throughout the school  
43 year, unless excused by the school for illness or other good cause. A parent

1 may transfer an eligible student to another participating school at any  
2 time. The scholarship amount shall be prorated between participating  
3 schools according to the period of attendance at each school.

4 (c) A parent's decision for their student to participate in the program  
5 constitutes a nonpublic placement for purposes of the individuals with  
6 disabilities education act.

7 Sec. 9. (a) The department may contract with one or more qualified  
8 researchers who have previous experience evaluating school choice pro-  
9 grams to conduct a study of the program. The study shall assess:

10 (1) The level of participating student's satisfaction with the program.

11 (2) The level of parental satisfaction with the program.

12 (3) The percentage of participating students who were victimized be-  
13 cause of their special needs status at their resident school district com-  
14 pared to the percentage so victimized at their participating school.

15 (4) The percentage of participating students who exhibited behavioral  
16 problems at their resident school district compared to the percentage  
17 exhibiting behavioral problems at their participating school.

18 (5) The class size experienced by participating students at their res-  
19 ident school district and at their participating school.

20 (6) The fiscal impact of the program on the state and resident school  
21 districts.

22 (c) The researchers who conduct the study shall apply appropriate  
23 analytical and behavioral sciences methodologies to ensure public confi-  
24 dence in the study.

25 (d) The researchers who conduct the study shall provide the legisla-  
26 ture with a final copy of the evaluation of the program.

27 (e) The public and nonpublic participating schools from which stu-  
28 dents transfer to participate in the program shall cooperate with the re-  
29 search effort by providing student assessment instrument scores and any  
30 other data necessary to complete this study.

31 (f) The department may accept grants to assist in funding the study.

32 (g) The legislature may require periodic reports from the researchers.  
33 The researchers shall make their data and methodology available for pub-  
34 lic review while complying with the requirements of family educational  
35 rights and privacy act (FERPA).

36 Sec. 10. The special needs scholarship program shall be in effect be-  
37 ginning with the fall semester of school year 2007-2008.

38 Sec. 11. This act shall take effect and be in force from and after its  
39 publication in the statute book.