

HOUSE BILL No. 2227

By Representatives Kinzer and Kiegerl

2-3

9 AN ACT concerning school districts; creating the autism scholarship pro-
10 gram; relating to the administration thereof; amending K.S.A. 2008
11 Supp. 72-6407 and repealing the existing section.
12

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

14 New Section 1. As used in this act:

15 (a) "Program" means the autism scholarship program.

16 (b) "Eligible student" means an exceptional child who: (1) Has been
17 identified as having autism or an autism spectrum disorder; (2) has an
18 individual education plan in effect which provides for services which cost
19 in excess of \$25,000; and (3) was enrolled in public school in the previous
20 school year or is eligible to enter public school in the school year in which
21 a scholarship is first sought for the child.

22 (c) "Parent" includes a guardian, custodian or other person with au-
23 thority to act on behalf of the child.

24 (d) "Resident school district" means the school district in which the
25 student resides.

26 (e) "State board" means the state board of education.

27 (f) "Participating school" means: (1) Any elementary or secondary
28 school operated by a school district or other public entity; (2) any non-
29 public elementary or secondary school that has notified the state board
30 of the school's intention to participate in the program and which complies
31 with the requirements of the program.

32 New Sec. 2. (a) There is hereby established the autism scholarship
33 program. The program shall be administered by the state board.

34 (b) Any parent of an eligible student shall qualify for a scholarship
35 from the state board if:

36 (1) The eligible student has had an individual education plan written
37 in accordance with the rules of the state board;

38 (2) the student has been accepted for admission at a participating
39 school; and

40 (3) the parent has submitted an application for a scholarship in the
41 manner specified by the state board.

42 (c) Any student participating in the program shall comply fully with
43 a participating school's written code of conduct and shall remain in at-

1 tendance throughout the school year, unless excused by the school for
2 illness or other good cause. However, a parent may transfer an eligible
3 student to a public school or another participating school at any time. The
4 scholarship amount shall be prorated between participating schools ac-
5 cording to the period of attendance at each school.

6 (d) A parent's decision for their student to participate in the program
7 constitutes a non-public placement for purposes of the individuals with
8 disabilities education act (20 U.S.C. § 1400 et seq.).

9 (e) At any time, the student's parent may remove the student from
10 the participating school and place the student in another participating
11 school or in a public school.

12 New Sec. 3. (a) The state board shall notify the resident school dis-
13 trict that an eligible student has requested an autism scholarship. Within
14 three business days of receipt of such notice, the district shall provide the
15 state board and the participating school a copy of the student's most
16 current individual education plan.

17 (b) The resident school district shall prepare an individual education
18 plan for each eligible student residing in the district. The resident school
19 district shall determine the estimated cost of providing services under the
20 individual education plan for each eligible student. Written notice of the
21 estimated cost of the services to be provided to the eligible student shall
22 be provided to the state board. The resident school district also shall
23 provide the student's parent with a timely written explanation of the es-
24 timation of the cost of the services to be provided to the eligible student.

25 (c) The maximum scholarship granted to an eligible student shall be
26 an amount equal to the lesser of:

27 (1) The estimated cost of the services to be provided under the in-
28 dividual education plan for the eligible student; or

29 (2) an amount equal to the sum of:

30 (A) The amount of the base state aid per pupil; plus

31 (B) \$20,000; plus

32 (C) an amount equal to 75% of the amount of the cost of the tuition
33 and educational services provided by the participating school to the eli-
34 gible student which exceeds the sum of paragraphs (A) and (B).

35 (d) Subject to the limitations provided in subsection (c), the state
36 board shall certify to the director of accounts and reports the amount of
37 the scholarship to be awarded for each eligible student. The director of
38 accounts and reports shall issue a warrant on the state treasurer payable
39 to the parent of each eligible student awarded a scholarship under the
40 program in the amount certified by the state board.

41 (e) The autism scholarship shall remain in force until the student
42 returns to a public school, graduates from high school or reaches age 21,
43 whichever comes first.

- 1 New Sec. 4. Although a student's individual education plan is used
2 in calculating the amount of the scholarship, nothing in this act shall be
3 construed as requiring the participating school to abide by the individual
4 education plan. The parent and the participating school mutually shall
5 determine the best services and educational plan for the student.
- 6 New Sec. 5. (a) A resident school district annually shall notify the
7 parents of an eligible student of the autism scholarship program and offer
8 that student's parents an opportunity to enroll the student in a partici-
9 pating school of their choice.
- 10 (b) It shall be the responsibility of a parent to apply for admission to
11 a participating school and to apply for an autism scholarship.
- 12 (c) The resident school district shall provide a participating school
13 that has admitted an eligible student with a complete copy of the student's
14 school records, while complying with the family educational rights and
15 privacy act (20 U.S.C. 1232g).
- 16 (d) Transportation shall be provided for an eligible student in the
17 same manner and funded in the same manner as provided for the trans-
18 portation of children under K.S.A. 72-961, and amendments thereto.
- 19 (e) Except as provided in subsection (d) an eligible student enrolled
20 in and attending a participating school shall not be counted as a pupil
21 when determining the enrollment of the resident district for the purposes
22 of determining the amount of state financial aid of the resident school
23 district.
- 24 (f) If the parent of an eligible student participating in this program
25 requests that the student take the statewide assessments, the resident
26 school district shall provide locations and times for the student to take
27 such assessments if they are not offered at the student's participating
28 school.
- 29 New Sec. 6. The state board shall adopt rules and regulations that it
30 deems necessary to implement the provisions of this act, including, but
31 not limited to:
- 32 (a) Requirements relating to the eligibility and participation of non-
33 public schools;
- 34 (b) the calculation and awarding of scholarships;
- 35 (c) procedures relating to the submission and approval of applications
36 for scholarships; and
- 37 (d) procedures and safeguards relating to the issuance of vouchers to
38 insure that moneys awarded as scholarships are used for the purpose for
39 which awarded.
- 40 New Sec. 7. (a) The state board shall not be liable for claims based
41 on the award of or use of an autism scholarship.
- 42 (b) The state board may bar a school from participation in the pro-
43 gram if the state board establishes that the participating school:

- 1 (1) Has intentionally and substantially misrepresented information
2 required under section 8, and amendments thereto; or
- 3 (2) has failed to refund to the state any scholarship overpayments in
4 a timely manner.
- 5 (c) If the state board decides to bar a participating school from the
6 program, it shall notify eligible students and their parents of this decision
7 as quickly as possible.
- 8 New Sec. 8. (a) To be eligible to participate in the autism scholarship
9 program, a non-public school shall operate in this state and demonstrate:
- 10 (1) That it is in compliance with all health and safety laws or codes
11 that apply to non-public schools;
- 12 (2) that it holds a valid occupancy permit if required;
- 13 (3) that it will not discriminate in admissions on the basis of race,
14 color, national origin or religion; and
- 15 (4) that it is in compliance with all state laws that apply to non-public
16 schools regarding criminal background checks for employees.
- 17 (b) To ensure that public funds are spent appropriately, all partici-
18 pating non-public schools shall submit a financial information report for
19 the school, conducted by a certified public accountant. Such report shall:
- 20 (1) Be limited in scope to those records that are necessary for the
21 state board to make payments to schools for scholarships;
- 22 (2) comply with uniform financial accounting standards established
23 by the state board; and
- 24 (3) certify that the financial information report is free of material
25 misstatements.
- 26 (c) To receive \$50,000 or more during the school year, a non-public
27 school must demonstrate its ability to pay any funds owed to the state,
28 by:
- 29 (1) Filing with the state board, prior to the start of the school year, a
30 surety bond payable to the state in an amount equal to the aggregate
31 amount of the autism scholarships expected to be paid during the school
32 year to students admitted to the participating non-public school; or
- 33 (2) filing with the state board, prior to the start of the school year,
34 financial information that demonstrates the school has the ability to pay
35 an aggregate amount equal to the amount of the autism scholarships ex-
36 pected to be paid during the school year to students admitted to the
37 participating non-public school.
- 38 (d) All participating schools shall:
- 39 (1) Regularly report the student's progress to the parent; and
- 40 (2) ensure that the person providing special education or related serv-
41 ices holds the appropriate license issued by the state board.
- 42 (e) A participating non-public school is autonomous and not an agent
43 of the state or federal government therefore:

- 1 (1) The state board or any other state agency may not in any way
2 regulate the educational program of a participating non-public school that
3 accepts an autism scholarship;
- 4 (2) the creation of the autism scholarship program does not expand
5 the regulatory authority of the state, its officers or any school district to
6 impose any additional regulation of non-public schools beyond those rea-
7 sonably necessary to enforce the requirements of the program; and
- 8 (3) participating non-public schools shall be given the maximum free-
9 dom to provide for the educational needs of their students without gov-
10 ernmental control.
- 11 New Sec. 9. (a) The state board shall conduct a study of the program
12 with funds other than state funds. The state board may accept grants to
13 assist in funding this study.
- 14 (b) The study shall assess:
- 15 (1) The level of participating student's satisfaction with the program;
16 (2) the level of parental satisfaction with the program;
17 (3) the percentage of participating students who were victimized be-
18 cause of their special needs status at their resident school district com-
19 pared to the percentage so victimized at their participating school;
- 20 (4) the percentage of participating students who exhibited behavioral
21 problems at their resident school district compared to the percentage
22 exhibiting behavioral problems at their participating school;
- 23 (5) the class size experienced by participating students at their resi-
24 dent school district and at their participating school; and
- 25 (6) the fiscal impact to the state and resident school districts of the
26 program.
- 27 (c) The study shall apply appropriate analytical and behavioral sci-
28 ences methodologies to ensure public confidence. A final report evalu-
29 ating the program shall be submitted to the legislature. Prior to receiving
30 the final report, the legislature may require periodic updates regarding
31 the study. The data and methodology used in the study must be made
32 available for public review while complying with the requirements of the
33 family educational rights and privacy act (20 U.S.C. 1232g).
- 34 (d) The public and non-public participating schools from which stu-
35 dents transfer to participate in the program shall provide student assess-
36 ment scores and any other data necessary to complete this study.
- 37 Sec. 10. K.S.A. 2008 Supp. 72-6407 is hereby amended to read as
38 follows: 72-6407. (a) (1) "Pupil" means any person who is regularly en-
39 rolled in a district and attending kindergarten or any of the grades one
40 through 12 maintained by the district or who is regularly enrolled in a
41 district and attending kindergarten or any of the grades one through 12
42 in another district in accordance with an agreement entered into under
43 authority of K.S.A. 72-8233, and amendments thereto, or who is regularly

1 enrolled in a district and attending special education services provided
2 for preschool-aged exceptional children by the district.

3 (2) Except as otherwise provided in paragraph (3) of this subsection,
4 a pupil in attendance full time shall be counted as one pupil. A pupil in
5 attendance part time shall be counted as that proportion of one pupil (to
6 the nearest $\frac{1}{10}$) that the pupil's attendance bears to full-time attendance.
7 A pupil attending kindergarten shall be counted as $\frac{1}{2}$ pupil. A pupil en-
8 rolled in and attending an institution of postsecondary education which
9 is authorized under the laws of this state to award academic degrees shall
10 be counted as one pupil if the pupil's postsecondary education enrollment
11 and attendance together with the pupil's attendance in either of the
12 grades 11 or 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted
13 as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of
14 the pupil's postsecondary education attendance and attendance in grade
15 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in
16 and attending an area vocational school, area vocational-technical school
17 or approved vocational education program shall be counted as one pupil
18 if the pupil's vocational education enrollment and attendance together
19 with the pupil's attendance in any of grades nine through 12 is at least $\frac{5}{6}$
20 time, otherwise the pupil shall be counted as that proportion of one pupil
21 (to the nearest $\frac{1}{10}$) that the total time of the pupil's vocational education
22 attendance and attendance in any of grades nine through 12 bears to full-
23 time attendance. A pupil enrolled in a district and attending a non-virtual
24 school and also attending a virtual school shall be counted as that pro-
25 portion of one pupil (to the nearest $\frac{1}{10}$) that the pupil's attendance at the
26 non-virtual school bears to full-time attendance. Except as provided by
27 this section for preschool-aged exceptional children and virtual school
28 pupils, a pupil enrolled in a district and attending special education and
29 related services, provided for by the district shall be counted as one pupil.
30 A pupil enrolled in a district and attending special education and related
31 services provided for by the district and also attending a virtual school
32 shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$ that
33 the pupil's attendance at the non-virtual school bears to full-time attend-
34 ance. A pupil enrolled in a district and attending special education and
35 related services for preschool-aged exceptional children provided for by
36 the district shall be counted as $\frac{1}{2}$ pupil. A preschool-aged at-risk pupil
37 enrolled in a district and receiving services under an approved at-risk
38 pupil assistance plan maintained by the district shall be counted as $\frac{1}{2}$
39 pupil. A pupil in the custody of the secretary of social and rehabilitation
40 services or in the custody of the commissioner of juvenile justice and
41 enrolled in unified school district No. 259, Sedgwick county, Kansas, but
42 housed, maintained, and receiving educational services at the Judge James
43 V. Riddel Boys Ranch, shall be counted as two pupils.

1 (3) A pupil residing at the Flint Hills job corps center shall not be
2 counted. A pupil confined in and receiving educational services provided
3 for by a district at a juvenile detention facility shall not be counted. A
4 pupil enrolled in a district but housed, maintained, and receiving edu-
5 cational services at a state institution or a psychiatric residential treatment
6 facility shall not be counted.

7 (4) *A pupil participating in the autism scholarship program shall not*
8 *be counted.*

9 (b) “Preschool-aged exceptional children” means exceptional chil-
10 dren, except gifted children, who have attained the age of three years but
11 are under the age of eligibility for attendance at kindergarten.

12 (c) “At-risk pupils” means pupils who are eligible for free meals un-
13 der the national school lunch act and who are enrolled in a district which
14 maintains an approved at-risk pupil assistance plan.

15 (d) “Preschool-aged at-risk pupil” means an at-risk pupil who has
16 attained the age of four years, is under the age of eligibility for attendance
17 at kindergarten, and has been selected by the state board in accordance
18 with guidelines consonant with guidelines governing the selection of pu-
19 pils for participation in head start programs.

20 (e) “Enrollment” means: (1) (A) Subject to the provisions of para-
21 graph (1)(B), for districts scheduling the school days or school hours of
22 the school term on a trimestral or quarterly basis, the number of pupils
23 regularly enrolled in the district on September 20 plus the number of
24 pupils regularly enrolled in the district on February 20 less the number
25 of pupils regularly enrolled on February 20 who were counted in the
26 enrollment of the district on September 20; and for districts not specified
27 in this paragraph (1), the number of pupils regularly enrolled in the dis-
28 trict on September 20; (B) a pupil who is a foreign exchange student shall
29 not be counted unless such student is regularly enrolled in the district on
30 September 20 and attending kindergarten or any of the grades one
31 through 12 maintained by the district for at least one semester or two
32 quarters or the equivalent thereof;

33 (2) if enrollment in a district in any school year has decreased from
34 enrollment in the preceding school year, enrollment of the district in the
35 current school year means whichever is the greater of (A) enrollment in
36 the preceding school year minus enrollment in such school year of pre-
37 school-aged at-risk pupils, if any such pupils were enrolled, plus enroll-
38 ment in the current school year of preschool-aged at-risk pupils, if any
39 such pupils are enrolled, or (B) the sum of enrollment in the current
40 school year of preschool-aged at-risk pupils, if any such pupils are enrolled
41 and the average (mean) of the sum of (i) enrollment of the district in the
42 current school year minus enrollment in such school year of preschool-
43 aged at-risk pupils, if any such pupils are enrolled and (ii) enrollment

- 1 in the preceding school year minus enrollment in such school year of
2 preschool-aged at-risk pupils, if any such pupils were enrolled and (iii)
3 enrollment in the school year next preceding the preceding school year
4 minus enrollment in such school year of preschool-aged at-risk pupils, if
5 any such pupils were enrolled; or
- 6 (3) the number of pupils as determined under K.S.A. 72-6447 or
7 K.S.A. 2008 Supp. 72-6448, and amendments thereto.
- 8 (f) “Adjusted enrollment” means: (1) Enrollment adjusted by adding
9 at-risk pupil weighting, program weighting, low enrollment weighting, if
10 any, high density at-risk pupil weighting, if any, medium density at-risk
11 pupil weighting, if any, nonproficient pupil weighting, if any, high en-
12 rollment weighting, if any, declining enrollment weighting, if any, school
13 facilities weighting, if any, ancillary school facilities weighting, if any, cost
14 of living weighting, if any, special education and related services weight-
15 ing, and transportation weighting to enrollment; or (2) adjusted enroll-
16 ment as determined under K.S.A. 2008 Supp. 72-6457 or 72-6458, and
17 amendments thereto.
- 18 (g) “At-risk pupil weighting” means an addend component assigned
19 to enrollment of districts on the basis of enrollment of at-risk pupils.
- 20 (h) “Program weighting” means an addend component assigned to
21 enrollment of districts on the basis of pupil attendance in educational
22 programs which differ in cost from regular educational programs.
- 23 (i) “Low enrollment weighting” means an addend component as-
24 signed to enrollment of districts pursuant to K.S.A. 72-6412, and amend-
25 ments thereto, on the basis of costs attributable to maintenance of edu-
26 cational programs by such districts in comparison with costs attributable
27 to maintenance of educational programs by districts having to which high
28 enrollment weighting is assigned pursuant to K.S.A. 2008 Supp. 72-
29 6442b, and amendments thereto.
- 30 (j) “School facilities weighting” means an addend component as-
31 signed to enrollment of districts on the basis of costs attributable to com-
32 mencing operation of new school facilities.
- 33 (k) “Transportation weighting” means an addend component as-
34 signed to enrollment of districts on the basis of costs attributable to the
35 provision or furnishing of transportation.
- 36 (l) “Cost of living weighting” means an addend component assigned
37 to enrollment of districts to which the provisions of K.S.A. 2008 Supp.
38 72-6449, and amendments thereto, apply on the basis of costs attributable
39 to the cost of living in the district.
- 40 (m) “Ancillary school facilities weighting” means an addend compo-
41 nent assigned to enrollment of districts to which the provisions of K.S.A.
42 72-6441, and amendments thereto, apply on the basis of costs attributable
43 to commencing operation of new school facilities. Ancillary school facil-

1 ities weighting may be assigned to enrollment of a district only if the
2 district has levied a tax under authority of K.S.A. 72-6441, and amend-
3 ments thereto, and remitted the proceeds from such tax to the state trea-
4 surer. Ancillary school facilities weighting is in addition to assignment of
5 school facilities weighting to enrollment of any district eligible for such
6 weighting.

7 (n) “Juvenile detention facility” has the meaning ascribed thereto by
8 72-8187, and amendments thereto.

9 (o) “Special education and related services weighting” means an addend
10 component assigned to enrollment of districts on the basis of costs
11 attributable to provision of special education and related services for pu-
12 pils determined to be exceptional children.

13 (p) “Virtual school” means any school or educational program that:
14 (1) Is offered for credit; (2) uses distance-learning technologies which
15 predominately use internet-based methods to deliver instruction; (3) in-
16 volves instruction that occurs asynchronously with the teacher and pupil
17 in separate locations; (4) requires the pupil to make academic progress
18 toward the next grade level and matriculation from kindergarten through
19 high school graduation; (5) requires the pupil to demonstrate competence
20 in subject matter for each class or subject in which the pupil is enrolled
21 as part of the virtual school; and (6) requires age-appropriate pupils to
22 complete state assessment tests.

23 (q) “Declining enrollment weighting” means an addend component
24 assigned to enrollment of districts to which the provisions of K.S.A. 2008
25 Supp. 72-6451, and amendments thereto, apply on the basis of reduced
26 revenues attributable to the declining enrollment of the district.

27 (r) “High enrollment weighting” means an addend component
28 assigned to enrollment of districts pursuant to K.S.A. 2008 Supp. 72-6442b,
29 and amendments thereto, on the basis of costs attributable to mainte-
30 nance of educational programs by such districts as a correlate to low
31 enrollment weighting assigned to enrollment of districts pursuant to
32 K.S.A. 72-6412, and amendments thereto.

33 (s) “High density at-risk pupil weighting” means an addend compo-
34 nent assigned to enrollment of districts to which the provisions of K.S.A.
35 2008 Supp. 72-6455, and amendments thereto, apply.

36 (t) “Nonproficient pupil” means a pupil who is not eligible for free
37 meals under the national school lunch act and who has scored less than
38 proficient on the mathematics or reading state assessment during the
39 preceding school year and who is enrolled in a district which maintains
40 an approved proficiency assistance plan.

41 (u) “Nonproficient pupil weighting” means an addend component
42 assigned to enrollment of districts on the basis of enrollment of nonprof-
43 icient pupils pursuant to K.S.A. 2008 Supp. 72-6454, and amendments

1 thereto.

2 (v) “Psychiatric residential treatment facility” has the meaning as-
3 cribed thereto by K.S.A. 72-8187, and amendments thereto.

4 (w) “Medium density at-risk pupil weighting” means an addend com-
5 ponent assigned to enrollment of districts to which the provisions of
6 K.S.A. 2008 Supp. 72-6459, and amendments thereto, apply.

7 Sec. 11. K.S.A. 2008 Supp. 72-6407 is hereby repealed.

8 Sec. 12. This act shall take effect and be in force from and after its
9 publication in the statute book.