

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 83** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee of the Whole amendments, as follows:

On page 1, by striking all in lines 12 through 30; following line 30, by inserting:

"WHEREAS, The legislature affirms that a quality, individualized education provides an essential pathway to success, not only for each student but for the prosperity and stability of the state; and

WHEREAS, Every child in Kansas is unique, with diverse learning needs and thus shall be granted educational opportunities and enrichment in a learning environment that best aligns with their needs; and

WHEREAS, The Kansas education enrichment program act affirms that equity in education means that all children shall receive the enrichment and instruction they need regardless of their socioeconomic status and racial or cultural background; and

WHEREAS, The Kansas education enrichment program act provides meaningful education enrichment and opportunity that lifts up children while simultaneously entrusting parents to direct the education of their children.";

On page 2, in line 1, by striking "\$592,740,238" and inserting "\$520,380,818"; in line 17, after "(b)" by inserting "There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2024, all moneys now or hereafter lawfully credited to and available in such fund or funds except that expenditures other than refunds authorized by law and transfers to other state agencies shall not exceed the following:

Special education and related services aid ARPA fund.....No limit

*Provided*, That expenditures shall be made from the special education and related services aid ARPA fund for payments and grants to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-3422 and 72-3425, and amendments thereto: *Provided however*, That no expenditure shall be made from such fund for the provision of instruction for any homebound or hospitalized child unless the categorization of such child as exceptional is conjoined with the categorization of the child within one or more of the other categories of exceptionality.

(c)";

Also on page 2, in line 26, by striking "10" and inserting "11"; in line 33, after the semicolon by inserting "one member appointed by the state department of education who is a professional in early childhood developmental services and provides services for a tiny-K program;"; by striking all in lines 41 through 43;

By striking all on pages 3 through 16;

On page 17, by striking all in lines 1 through 16; following line 16, by inserting:

"New Sec. 2.

LEGISLATIVE COORDINATING COUNCIL

(a) On July 1, 2023, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$25,359,420 from the legislature employment security fund of the legislative coordinating council to the special education and related services aid ARPA fund of the department of education.

New Sec. 3. (a) During fiscal year 2023, if any state agency has been transferred funds or been approved to use funds from the American rescue plan - state fiscal relief federal fund (252-00-3756) of the governor's department, as recommended by the strengthening people and revitalizing Kansas executive committee and authorized by the state finance council pursuant to section 28(d) of chapter 81 of the 2022 Session Laws of Kansas, for the purpose of establishing and maintaining a program that provides for individual learning loss grants to K-12 students with

a focus on students in low-income families or in foster care, and such funds have not been expended or are not legally obligated to be expended pursuant to a signed agreement or contract, including any unencumbered funds, such state agency shall not expend or encumber any such funds: *Provided*, That on the effective date of this act, the approval by the state finance council pursuant to state finance council resolution 22-741 for allocations, expenditures and distributions for such learning loss program from the American rescue plan - state fiscal relief federal fund is hereby declared null and void and shall have no force and effect: *Provided further*, That on the effective date of this act, the authority of the state finance council, pursuant to section 28(d) of chapter 81 of the 2022 Session Laws of Kansas, to approve expenditures or obligations for such learning loss program is hereby declared null and void and shall have no force and effect: *And provided further*, That on July 1, 2023, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$47,000,000 from the American rescue plan - state fiscal relief federal fund (252-00-3756) of the governor's department to the special education and related services ARPA fund of the department of education.

New Sec. 4. (a) Section 4 et seq., and amendments thereto, shall be known and may be cited as the Kansas education enrichment program act.

(b) As used in the Kansas education enrichment program act:

(1) "Award" means a Kansas education enrichment program award provided pursuant to section 7, and amendments thereto, to a qualified student who attends a public school.

(2) "BASE aid" means the same as defined in K.S.A. 72-5132, and amendments thereto, for the current school year.

(3) "Grant" means a Kansas education enrichment program grant established in an account on behalf of a qualified student pursuant to section 8, and amendments thereto.

(4) "Immediate family member" means a parent, sibling or any other relative of a

qualified student who lives in the same residence as the qualified student.

(5) "Parent" means a Kansas resident who is the parent, stepparent, legal guardian, custodian or other person with authority to act on behalf of a qualified student.

(6) "Program" means the Kansas education enrichment program established pursuant to the Kansas education enrichment program act.

(7) "Qualified education service provider" means any business, organization or individual that provides educational goods or services that are authorized for purchase or reimbursement under the program. "Qualified education service provider" includes any school located in Kansas that is a nonpublic elementary or secondary school that has made application and received approval to be a qualified education service provider under the program.

(8) "Qualified student" means a resident of Kansas who:

(A) Is enrolled in and attending kindergarten or any of the grades one through 12 at any public or nonpublic elementary or secondary school located in this state; and

(B) (i) has a household family income of 250% or less of the federal poverty level;

(ii) attended a school building of a school district in the preceding school year that was closed by the school district pursuant to K.S.A. 72-1431, and amendments thereto, and the student is required to travel 15 miles or more from the student's residence to the school building that such student is assigned to attend in the current school year; or

(iii) has previously received a grant pursuant to the program and enters into a written agreement with the treasurer to receive a subsequent grant under the program.

(9) "School district" means a school district organized under the laws of this state.

(10) "Treasurer" means the state treasurer or the state treasurer's designee.

New Sec. 5. (a) The Kansas education enrichment program is hereby established to recognize the right of parents to choose the educational environment that best serves their

children and to provide educational enrichment opportunities to students attending public and nonpublic schools throughout the state. The program shall be a continuation of and supplemental to the Kansas education enrichment program as approved by the state finance council in resolution No. 22-741.

(b) On July 1, 2023, all administrative functions, duties, liabilities, debts, rights and obligations relating to the Kansas education enrichment program approved by the state finance council in resolution No. 22-741 shall be transferred to and attach to the office of the state treasurer. Upon the transfer of such program to the office of the state treasurer, the treasurer shall maintain and be subject to the terms and conditions of any contract with a third-party vendor that was executed for purposes of the Kansas education enrichment program prior to the transfer.

(c) The Kansas education enrichment program shall provide the following two options for qualified students to access educational instructional and enrichment opportunities:

(1) For qualified students that will enroll in a public elementary or secondary school during the school year, a \$1,000 award per qualified student to pay for educational goods and services from a qualified education service provider as provided in section 7, and amendments thereto; and

(2) for qualified students that will enroll in a nonpublic elementary or secondary school, a grant equal to 95% of the BASE aid amount for the applicable school year for the qualified student to pay for educational goods and services from a qualified education service provider as provided in section 8, and amendments thereto.

New Sec. 6. (a) The treasurer shall have the following powers and duties for administration of the Kansas education enrichment program:

(1) Oversee and manage the program;

(2) establish and administer grants and awards on behalf of qualified students

participating in the program;

(3) maintain and execute contracts as necessary to carry out the requirements of the program;

(4) expend federal funds allocated to the program pursuant to section 5, and amendments thereto; and

(5) exercise such other powers and perform such other functions and duties provided in the Kansas education enrichment program act.

(b) The treasurer shall:

(1) Accept applications throughout the school year;

(2) enroll a qualified student in the program after receipt of a completed application and any other required documentation;

(3) notify parents of the student's enrollment in the program within 30 calendar days after receipt of completed application forms and other required documentation;

(4) maintain an explanation of at least the following information on the treasurer's website and provide an electronic or paper copy of such information to any parent whose child is participating in the program:

(A) The allowable uses of money provided through an award or grant pursuant to the program;

(B) the responsibilities of a parent of a qualified student participating in the program; and

(C) the effect of participation in the program by qualified students with an individualized education program (IEP) or an education plan under section 504 of the rehabilitation act of 1973, 29 U.S.C. § 794 (section 504 plan).

(c) The treasurer and parents may provide any notifications, applications or documents

required by this act electronically. The treasurer shall confirm receipt of all such notifications whether provided by paper copy or electronically.

(d) The treasurer shall not disclose a qualified student's identification or distribute or release any personally identifiable data of a qualified student to a third party without the written consent of such student's parent. Written consent shall be obtained for each instance of such disclosure, distribution or release.

(e) The treasurer shall conduct or contract to conduct annual financial audits and random quarterly financial audits of awards and grants to ensure compliance with the Kansas education enrichment program. The treasurer shall determine the scope of any such audit and shall oversee any such audit.

(f) The treasurer may adopt rules and regulations to administer and implement the Kansas education enrichment program.

New Sec. 7. (a) To enroll in the program for the purpose of receiving a \$1,000 award for a student who attends a public school during the school year, the parent of a qualified student shall submit an application on a form and in a manner determined by the treasurer and enter into a written agreement with the treasurer in accordance with this section.

(b) The written agreement for a qualified student who applies for an award shall provide the following:

(1) The award shall only be used to pay for educational goods and services from a qualified education service provider in accordance with this section; and

(2) a qualified student shall receive only one award and shall not be eligible for any subsequent award but shall continue to be eligible to receive a grant pursuant to section 8, and amendments thereto, except that the qualified student shall not receive a grant in the same school year that such qualified student received an award pursuant to this section.

(c) A parent shall only expend award moneys to pay for the following educational goods and services from a qualified education service provider:

(1) Day or overnight in-person camps that are primarily academic in nature and provide subjects related to the student's academic curriculum;

(2) online or in-person language classes offered by a licensed organization;

(3) purchases or rentals of instruments, purchases of sheet music, music books and music materials and music lessons;

(4) tutoring services provided by a tutor who is not an immediate family member of the qualified student;

(5) curriculum materials, school supplies and authorized educational technology devices; and

(6) any other educational goods or services authorized by the treasurer that is not prohibited pursuant to subsection (d).

(d) No award moneys shall be used for any of the following expenditures:

(1) Sporting goods or services, including sports camps;

(2) driver's education-related fees or services;

(3) non-academic lessons or courses including personal hygiene, self-care, self-esteem, or other non-academic lessons or courses;

(4) tuition or school registration fees;

(5) goods or services provided by immediate family members;

(6) field trips or admission tickets to museums, zoos, theaters, historical landmarks or other locations;

(7) fees associated with transportation services, including parking fees;

(8) clothing or uniforms;



(9) food or meals; or

(10) daycare services.

(e) Any award provided to a qualified student may be used by the parent in the online education marketplace established to pay for educational goods and services from a qualified education service provider. A parent shall submit a request to the treasurer to approve any expenditures that have not been pre-approved by the treasurer.

(f) Upon approval of a written agreement pursuant to this section, the treasurer shall authorize a \$1,000 award in the name of the qualified student.

(g) A written agreement entered into pursuant to this section shall have a term of 12 months. Such agreement may be suspended or terminated at any time upon a determination that:

(1) Moneys have been used for purposes other than those allowed under the program;

or

(2) the student is no longer a resident of Kansas.

(h) A parent may terminate a written agreement at any time. To terminate a written agreement, the parent shall notify the treasurer in writing of such termination.

(i) When a written agreement is terminated, the treasurer shall terminate the award and transfer any remaining balance of such award moneys to the state general fund.

New Sec. 8. (a) To receive a Kansas education enrichment program grant to pay for educational goods and services from a qualified education service provider on behalf of a qualified student who attends a nonpublic school, the parent of a qualified student shall submit an application on a form and in a manner determined by the treasurer and enter into a written agreement with the treasurer in accordance with this section.

(b) The written agreement for a qualified student who seeks to receive a grant pursuant to the program shall provide the following:

(1) A portion of moneys shall be used to provide an education for the qualified student in at least the subjects of reading, grammar, mathematics, social studies and science;

(2) to receive grant moneys under the program, the qualified student shall not enroll full time in a school of a school district;

(3) no immediate family member of a qualified student may charge or collect payment, tuition or fees for tutoring or educational therapies or services provided to such qualified student;

(4) any grant moneys shall only be used by the parent of a qualified student to pay for educational goods and services from a qualified education service provider authorized pursuant to this section;

(5) any payments from grant moneys for a student's enrollment at a nonpublic school shall only be made to a qualified education service provider;

(6) the qualified student may accept a scholarship from a scholarship granting organization pursuant to the tax credit for low income students scholarship program act, K.S.A. 72-4351 et seq., and amendments thereto, if the qualified student meets the requirements of both programs; and

(7) the parent of a qualified student shall comply with all requirements of the program.

(c) A parent shall only expend grant moneys to pay for the following educational goods and services from a qualified education service provider:

(1) Enrollment costs charged by a qualified education service provider;

(2) textbooks and other supplies required by a qualified education service provider;

(3) educational therapies or services provided by a licensed provider;

(4) tutoring services provided by a tutor who is not an immediate family member of the qualified student;

(5) curriculum materials;

- (6) uniforms if required for attendance;
  - (7) enrollment costs charged by an online learning program;
  - (8) contracted services from a public school district offered outside of the traditional school year and hours for students;
  - (9) fees for any nationally standardized norm-referenced achievement test, advanced placement examination or examination related to admission to a postsecondary institution;
  - (10) fees or costs required to apply for or acquire occupational licenses, certificates, apprenticeships or other professional qualifications;
  - (11) fees for transportation services approved by the treasurer that are used for transportation to and from a qualified education service provider;
  - (12) computer hardware and technological devices primarily used for educational purposes, including personal computers, laptops, tablet devices, microscopes, telescopes and printers; and
  - (13) any other educational goods or services approved by the treasurer.
- (d) Moneys provided through a grant under the program shall not be expended for the following:
- (1) Sporting goods or services, including sports camps; or
  - (2) for qualified students schooled at home, goods or services provided by an immediate family member.
- (e) Upon approval of the applicable written agreement to receive a grant, the treasurer shall authorize such grant amount in the name of the qualified student. To continue receiving grant moneys, the parent of a qualified student shall renew the qualified student's written agreement on an annual basis. Only one grant shall be provided to each qualified student per school year. A parent acting on behalf of more than one qualified student shall have a separate

written agreement for each qualified student.

(f) The treasurer may suspend or terminate a written agreement at any time upon a determination that:

(1) Moneys have been used for purposes other than those allowed under the program;

or

(2) the student is no longer a resident of Kansas.

(g) A parent may terminate a written agreement at any time. To terminate a written agreement, the parent shall notify the treasurer in writing of such termination.

(h) When a written agreement is terminated, the treasurer shall terminate the grant and transfer any remaining balance of such grant moneys to the state general fund.

(i) Each written agreement entered into pursuant to this section shall have a term of 12 months. Each qualified student's grant moneys shall remain active until:

(1) A written agreement is terminated;

(2) a parent does not renew the qualified student's written agreement;

(3) the student enrolls in a school district on a full-time basis;

(4) the student is no longer a qualified student under the program; or

(5) moneys have been used for purposes other than those allowed under the program.

(j) When the treasurer determines that a written agreement is no longer active, the treasurer shall terminate the grant and transfer any remaining balance of such grant moneys to the state general fund.

(k) Any unencumbered grant moneys that have not been expended on behalf of a qualified student at the end of a school year shall roll over to the next succeeding school year if the student and parent of the student renew a written agreement to continue to receive a grant and participate in the program pursuant to this section.

(l) The treasurer shall not allow any personal deposits to be made to a grant account on behalf of a qualified student.

(m) The treasurer may refer cases of fraudulent or substantial misuse of moneys to the attorney general for purposes of collection or criminal investigation.

New Sec. 9. (a) (1) There is hereby established in the state treasury the Kansas education enrichment program fund to be administered by the treasurer. Moneys in the Kansas education enrichment program fund shall be expended only for the purposes established in the Kansas education enrichment program act. All moneys received pursuant to subsection (b) shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the Kansas education enrichment program fund.

(2) On or before the 10<sup>th</sup> day of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas education enrichment program fund interest earnings based on:

(1) The average daily balance of moneys in the Kansas education enrichment program fund; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(b) Notwithstanding the provisions of the Kansas education enrichment program established pursuant to state finance council resolution No. 22-741, of the \$50,000,000 state fiscal recovery funds of the American rescue plan act of 2021, public law 117-2, allocated by the state finance council for the purposes of the Kansas education enrichment program, or any other federal funds identified and approved for such purposes, the state treasurer shall make expenditures of such federal funds to administer the Kansas education enrichment program to provide awards pursuant to section 7, and amendments thereto, and grants pursuant to section 8,

and amendments thereto, to qualified students.

(c) On or before the first day of each month, the treasurer shall determine whether the total amount of the federal fiscal recovery funds of the American rescue plan act of 2021, public law 117-2, and any other federal funds identified and made available for the purposes of the program are insufficient to continue to provide the awards and grants on behalf of qualified students pursuant to the program. If the treasurer determines that the amount of such federal funds is insufficient for such purposes, the treasurer shall certify such fact to the director of the budget. On and after such certification, the treasurer shall determine annually the total amount to be transferred to the Kansas education enrichment program fund by multiplying an amount equal to the BASE aid by the total number of qualified students participating in the program pursuant to section 8, and amendments thereto, and by multiplying \$1,000 by the number of qualified students who will receive an award under the program for the succeeding school year pursuant to section 7, and amendments thereto. The treasurer shall certify the resulting total amount to the director of accounts and reports on or before August 1 of each year. Upon receipt of such certification, the director of accounts and reports shall transfer such certified amount from the state general fund to the Kansas education enrichment program fund. Transfers made in accordance with this section shall be considered demand transfers from the state general fund.

(d) (1) Except as provided in paragraph (2), if a qualified student has entered into a written agreement pursuant to section 8, and amendments thereto, the treasurer shall allocate to a qualified student a grant equal to 95% of the BASE aid.

(2) If a qualified student enrolls in a school district on a part-time basis, such qualified student or such student's parent shall notify the treasurer, who shall prorate the grant amount allocated pursuant to paragraph (1).

(3) The treasurer may deduct 5% of the BASE aid per qualified student participating in

the program as reimbursement for the costs of administering the program.

(e) If a qualified student has been approved to receive an award pursuant to section 7, and amendments thereto, the treasurer shall allocate \$1,000 per qualified student to pay for educational goods and services from a qualified education service provider as provided in section 7, and amendments thereto, in accordance with the provisions of the program for the school year that such student was approved to receive the award.

(f) During each regular legislative session, the treasurer shall provide to the legislature an estimate of the amount required to fund the awards and grants for the next succeeding fiscal year.

New Sec. 10. (a) Nothing in the Kansas education enrichment program act shall be construed to permit any governmental agency to exercise control or supervision over any nonpublic school or home school. Any nonpublic school, home school or tutor that accepts a payment from a parent of a qualified student participating in the program is not an agent of this state.

(b) The content or religious nature of a product or service may not be considered when determining whether payment for such product or service is an allowable expenditure.

(c) If the parent of a qualified student who is schooled at home makes application to enroll in the Kansas educational enrichment program, such application does not constitute registration pursuant to K.S.A. 72-4346, and amendments thereto. Nothing in the Kansas education enrichment program act shall be construed to require a parent to register with the state department of education pursuant to K.S.A. 72-4346, and amendments thereto.

(d) The state department of education shall include information about the program on the department's homepage and provide a link on such homepage to the information provided by the treasurer regarding the program.";

On page 18, in line 12, by striking all after "student"; in line 13, by striking all before "pursuant" and inserting "who is receiving a grant pursuant to the Kansas education enrichment program established"; also in line 13, by striking "2" and inserting "4";

By striking all on pages 21 through 27;

On page 28, by striking all in lines 1 through 40; in line 41, by striking "and 72-5132 are" and inserting "is";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, by striking all after "the"; by striking all in lines 4 through 8; in line 9, by striking all before the semicolon and inserting "Kansas education enrichment program; authorizing educational award moneys to certain students who attend public schools and educational grant moneys to certain students who attend nonpublic schools; establishing the Kansas education enrichment program fund; requiring certain transfers thereto"; in line 10, by striking "and 72-5132"; also in line 10, by striking "sections" and inserting "section";

And your committee on conference recommends the adoption of this report.

\_\_\_\_\_

\_\_\_\_\_

Conferees on part of House

\_\_\_\_\_

\_\_\_\_\_

Conferees on part of Senate