

As Amended by House Committee

Session of 2015

HOUSE BILL No. 2174

By Committee on Federal and State Affairs

1-29

1 AN ACT concerning schools; relating to the tax credit for low income
2 students scholarship program act; amending K.S.A. 2014 Supp. 72-
3 99a02, 72-99a03 and 72-99a04 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2014 Supp. 72-99a02 is hereby amended to read as
7 follows: 72-99a02. As used in the tax credit for low income students
8 scholarship program act:

9 (a) "Contributions" means monetary gifts or donations and in-kind
10 contributions, gifts or donations that have an established market value.

11 (b) "Department" means the Kansas department of revenue.

12 (c) "Educational scholarship" means an amount not to exceed \$8,000
13 provided to eligible students to cover all or a portion of the costs of tuition,
14 fees and expenses of a qualified school and, if applicable, the costs of
15 transportation to a qualified school if provided by such qualified school.

16 (d) "Eligible student" means a child who:

17 (1) (A) Qualifies as an at-risk pupil as defined in K.S.A. 72-6407, and
18 amendments thereto, and who is attending a school that would qualify as
19 either a title I focus school or a title I priority school as described by the
20 state board under the elementary and secondary education act flexibility
21 waiver as amended in January 2013; or (B) has received an educational
22 scholarship under this program and has not graduated from high school or
23 reached 21 years of age;

24 (2) resides in Kansas while receiving an educational scholarship; and

25 (3) (A) was enrolled in any public school in the previous school year
26 in which an educational scholarship is first sought for the child; or (B) is
27 eligible to be enrolled in any public school in the school year in which an
28 educational scholarship is first sought for the child and the child is under
29 the age of ~~six~~ seven years.

30 (e) "Parent" includes a guardian, custodian or other person with
31 authority to act on behalf of the child.

32 (f) "Program" means the tax credit for low income students
33 scholarship program established in K.S.A. 2014 Supp. 72-99a01 through
34 72-99a07, and amendments thereto.

35 (g) "Public school" means a school that would qualify as either a title
36 I focus school or a title I priority school as described by the state board

1 under the elementary and secondary education act flexibility waiver as
2 amended in January 2013 and is operated by a school district.

3 (h) "Qualified school" means any nonpublic school that provides
4 education to elementary ~~and~~ *or* secondary students, has notified the state
5 board of its intention to participate in the program and complies with the
6 requirements of the program.

7 (i) "Scholarship granting organization" means an organization that
8 complies with the requirements of this program and provides educational
9 scholarships to students attending qualified schools of their parents'
10 choice.

11 (j) "School district" or "district" means any unified school district
12 organized and operating under the laws of this state.

13 (k) "School year" shall have the meaning ascribed thereto in K.S.A.
14 72-6408, and amendments thereto.

15 (l) "Secretary" means the secretary of revenue.

16 (m) "State board" means the state board of education.

17 Sec. 2. K.S.A. 2014 Supp. 72-99a03 is hereby amended to read as
18 follows: 72-99a03. (a) There is hereby established the tax credit for low
19 income students scholarship program. The program shall provide eligible
20 students with an opportunity to attend schools of their parents' choice.

21 (b) Each scholarship granting organization shall issue a receipt, in a
22 form prescribed by the secretary, to each contributing taxpayer indicating
23 the value of the contribution received. Each taxpayer shall provide a copy
24 of such receipt when claiming the tax credit established in K.S.A. 2014
25 Supp. 72-99a07, and amendments thereto.

26 (c) **(1)** Prior to awarding an educational scholarship to an eligible
27 student, unless such student is under the age of ~~six~~ *seven* years, the
28 scholarship granting organization shall receive written verification from
29 the state board that such student is an eligible student under this program,
30 provided the state board and the board of education of the school district in
31 which the eligible student was enrolled the previous school year have
32 received written consent from such eligible student's parent authorizing the
33 release of such information.

34 **(2)** **In any calendar year in which a parent submits an application**
35 **or provides written consent to release information to enter a student**
36 **into the program, no subsequent modification, adjustment or removal**
37 **of a school's designation as a title I focus school or a title I priority**
38 **school shall prohibit an otherwise eligible student from receiving an**
39 **educational scholarship if such student qualified as an eligible student**
40 **on the date such application or written consent to release information**
41 **form was received by a district or the state department of education.**

42 (d) Upon receipt of information in accordance with ~~subsection (a)(2)~~
43 ~~of~~ K.S.A. 2014 Supp. 72-99a04(a)(2), and amendments thereto, the state

1 board shall inform the scholarship granting organization if such student
2 has already been designated to receive an educational scholarship by
3 another scholarship granting organization.

4 (e) In each school year, each eligible student under this program shall
5 not receive more than one educational scholarship under this program.

6 ~~(f) An eligible student's participation in this program by receiving an~~
7 ~~educational scholarship constitutes a waiver to special education services~~
8 ~~provided by any school district, unless such school district agrees to~~
9 ~~provide such services to the qualified school.~~

10 Sec. 3. K.S.A. 2014 Supp. 72-99a04 is hereby amended to read as
11 follows: 72-99a04. (a) To be eligible to participate in the program, a
12 scholarship granting organization shall comply with the following:

13 (1) The scholarship granting organization shall notify the secretary
14 and the state board of the scholarship granting organization's intent to
15 provide educational scholarships to students attending qualified schools;

16 (2) upon granting an educational scholarship to an eligible student,
17 the scholarship granting organization shall report such information to the
18 state board;

19 (3) the scholarship granting organization shall provide verification to
20 the secretary that the scholarship granting organization is exempt from
21 federal income taxation pursuant to section 501(c)(3) of the federal
22 internal revenue code of 1986;

23 (4) upon receipt of contributions in an aggregate amount or value in
24 excess of \$50,000 during a school year, a scholarship granting
25 organization shall file with the state board ~~either:~~

26 ~~(A) a surety bond payable to the state in an amount equal to the~~
27 ~~aggregate amount of contributions expected to be received during the~~
28 ~~school year; or~~

29 ~~(B) financial information demonstrating the scholarship granting~~
30 ~~organization's ability to pay an aggregate amount equal to the amount of~~
31 ~~the contributions expected to be received during the school year, which~~
32 ~~must be reviewed and approved of in writing by the state board;~~

33 (5) scholarship granting organizations that provide other nonprofit
34 services in addition to providing educational scholarships shall not
35 commingle contributions made under the program with other contributions
36 made to such organization. A scholarship granting organization under this
37 subsection shall also file with the state board, prior to the commencement
38 of each school year, ~~either:~~

39 ~~(A) a surety bond payable to the state in an amount equal to the~~
40 ~~aggregate amount of contributions expected to be received during the~~
41 ~~school year; or~~

42 ~~(B) financial information demonstrating the nonprofit organization's~~
43 ~~ability to pay an aggregate amount equal to the amount of the~~

1 contributions expected to be received during the school year, which must
2 be reviewed and approved of in writing by the state board;

3 (6) the scholarship granting organization shall ensure that each
4 qualified school receiving educational scholarships from the scholarship
5 granting organization is in compliance with the requirements of the
6 program;

7 (7) at the end of the calendar year, the scholarship granting
8 organization shall have its accounts examined and audited by a certified
9 public accountant. Such audit shall include, but not be limited to,
10 information verifying that the educational scholarships awarded by the
11 scholarship granting organization were distributed to the eligible students
12 determined by the state board under ~~subsection (e)~~ of K.S.A. 2014 Supp.
13 72-99a03(c), and amendments thereto, and information specified in this
14 section. Prior to filing a copy of the audit with the state board, such audit
15 shall be duly verified and certified by a certified public accountant; and

16 (8) if a scholarship granting organization decides to limit the number
17 or type of qualified schools who will receive educational scholarships, the
18 scholarship granting organization shall provide, in writing, the name or
19 names of those qualified schools to any contributor and the state board.

20 (b) No scholarship granting organization shall provide an educational
21 scholarship for any eligible student to attend any qualified school with
22 paid staff or paid board members, or relatives thereof, in common with the
23 scholarship granting organization.

24 (c) The scholarship granting organization shall disburse not less than
25 90% of contributions received pursuant to the program to eligible students
26 in the form of educational scholarships within 36 months of receipt of such
27 contributions. If such contributions have not been disbursed within the
28 applicable 36-month time period, then the scholarship granting
29 organization shall not accept new contributions until 90% of the received
30 contributions have been disbursed in the form of educational scholarships.
31 *The scholarship granting organization may retain no more than 10% of*
32 *contributions received pursuant to the program for administration costs.*
33 *Any amount not used for administration costs must be disbursed in the*
34 *form of educational scholarships within 36 months of receipt of such*
35 *contributions.* Any income earned from contributions must be disbursed in
36 the form of educational scholarships.

37 (d) A scholarship granting organization may continue to provide an
38 educational scholarship to an eligible student who received an educational
39 scholarship under this program in the year immediately preceding the
40 current school year.

41 (e) (1) A scholarship granting organization shall direct payments of
42 an educational scholarship to the qualified school on behalf of the eligible
43 student. *Payments shall be made in two installments. One installment*

1 *payment shall be made on or before the ~~first~~ **thirty-first calendar** day of*
2 *the first semester and one installment payment shall be made on or before*
3 *the ~~first~~ **thirty-first calendar** day of the second semester. Payment shall be*
4 *made by check made payable to both the parent and the qualified school. If*
5 *an eligible student transfers to a new qualified school during a school year,*
6 *the scholarship granting organization shall direct payment in a prorated*
7 *amount to the original qualified school and the new qualified school based*
8 *on the eligible student's attendance. If the eligible student transfers to a*
9 *public school and enrolls in such public school after September 20 of the*
10 *current school year, the scholarship granting organization shall direct*
11 *payment in a prorated amount to the original qualified school and the*
12 *public school based on the eligible student's attendance. The prorated*
13 *amount to the public school shall be considered a donation and shall be*
14 *paid to the school district of such public school in accordance with K.S.A.*
15 *72-8210, and amendments thereto, to provide for the education of such*
16 *eligible student.*

17 *(2) For the purpose of this subsection, "public school" means a*
18 *school operated by a school district.*

19 (f) By June 1 of each year, a scholarship granting organization shall
20 submit a report to the state board for the educational scholarships provided
21 in the immediately preceding 12 months. Such report shall be in a form
22 and manner as prescribed by the state board, approved and signed by a
23 certified public accountant, and shall contain the following information:

24 (1) The name and address of the scholarship granting organization;

25 (2) the name and address of each eligible student receiving an
26 educational scholarship by the scholarship granting organization;

27 (3) the total number and total dollar amount of contributions received
28 during the 12-month reporting period; and

29 (4) the total number and total dollar amount of educational
30 scholarships awarded during the 12-month reporting period and the total
31 number and total dollar amount of educational scholarships awarded
32 during the 12-month reporting period to eligible students who qualified
33 under ~~subsection (d)~~ of K.S.A. 2014 Supp. 72-99a02(d), and amendments
34 thereto.

35 (g) No scholarship granting organization shall:

36 (1) Provide an eligible student with an educational scholarship
37 established by funding from any contributions made by any relative of
38 such eligible student; or

39 (2) accept a contribution from any source with the express or implied
40 condition that such contribution be directed toward an educational
41 scholarship for a particular eligible student.

42 Sec. 4. K.S.A. 2014 Supp. 72-99a02, 72-99a03 and 72-99a04 are
43 hereby repealed.

1 Sec. 5. This act shall take effect and be in force from and after its
2 publication in the statute book.