

SENATE BILL No. 475

By Committee on Education

2-9

1 AN ACT concerning education; enacting the Kansas hope scholarship act;
2 establishing the hope scholarship program; providing education savings
3 accounts for students.
4

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

6 Section 1. (a) Section 1 et seq., and amendments thereto, shall be
7 known and may be cited as the Kansas hope scholarship act.

8 (b) As used in the Kansas hope scholarship act:

9 (1) "Account" means a Kansas hope scholarship account to which
10 funds are allocated by the treasurer on behalf of the parent of an eligible
11 hope scholarship student for the purpose of paying qualifying education
12 expenses in accordance with this act.

13 (2) "BASE aid" means the same as defined in K.S.A. 72-5132, and
14 amendments thereto.

15 (3) "Curriculum" means a complete course of study for a particular
16 content area or grade level, including any supplemental materials required
17 by the curriculum.

18 (4) "Education service provider" means a person or organization that
19 receives payments from hope scholarship accounts to provide educational
20 goods or services to hope scholarship students.

21 (5) "Eligible recipient" means an individual who is:

22 (A) A resident of this state; and

23 (B) enrolled or eligible to be enrolled in kindergarten or any of the
24 grades one through 12 in a school district organized under the laws of this
25 state.

26 (6) "Hope scholarship student" means a student who receives a
27 scholarship pursuant to section 4, and amendments thereto.

28 (7) "Nonpublic school" does not include any nonaccredited private
29 home school or home school organization, community, consortium or
30 group.

31 (8) "Parent" means a parent, legal guardian, custodian or other person
32 with authority to act on behalf of an eligible recipient or hope scholarship
33 student.

34 (9) "Participating school" means any accredited nonpublic school that
35 provides instruction in those subjects required by K.S.A. 72-3214, 72-3217
36 and 72-3235, and amendments thereto, is approved by the treasurer

1 pursuant to section 9, and amendments thereto, and complies with the
2 program requirements.

3 (10) "Program" means the Kansas hope scholarship program
4 established in section 2, and amendments thereto.

5 (11) "Qualifying expense" means an expense for an educational
6 purpose established in section 5, and amendments thereto, as a qualifying
7 expense for which moneys in an account may be used.

8 (12) "Resident school district" means the school district in which a
9 hope scholarship student would be enrolled based on such hope
10 scholarship student's residence.

11 (13) "Treasurer" means the state treasurer or the state treasurer's
12 designee.

13 Sec. 2. (a) There is hereby established the Kansas hope scholarship
14 program. The program shall be administered by the treasurer.

15 (b) The treasurer is authorized to take any action necessary to
16 implement and administer the Kansas hope scholarship program,
17 including, but not limited to:

18 (1) Adopt rules and regulations to implement and administer the
19 Kansas hope scholarship program;

20 (2) execute contracts and other instruments for necessary goods and
21 services;

22 (3) employ necessary personnel and engage the services of private
23 consultants, actuaries, auditors, counsel, managers, trustees and any other
24 contractor or professional needed for rendering professional or technical
25 assistance or advice;

26 (4) use financial organizations as account depositories and managers
27 in accordance with this act;

28 (5) determine whether an expenditure of hope scholarship funds is a
29 qualifying expense used to educate a hope scholarship student pursuant to
30 section 5, and amendments thereto;

31 (6) approve or deny expenditures;

32 (7) review any appeals made pursuant to section 8, and amendments
33 thereto;

34 (8) determine the method of allocation of funds for administrative
35 costs;

36 (9) assess, collect and expend administrative fees, charges and
37 penalties;

38 (10) authorize a financial institution, investment manager, fund
39 manager or other professional to assess, collect and retain fees and charges
40 against the amounts paid into and the earnings on the trust funds;

41 (11) solicit and accept gifts, including grants, loans, aid, bequests and
42 other testamentary gifts made by will, trust or other disposition and
43 property, real or personal of any nature and from any source; and

1 (12) comply with any federal, state or local governmental
2 requirements to carry out the purposes of this act.

3 Sec. 3. (a) The purpose of the Kansas hope scholarship program is to
4 provide the option for a parent to better meet the individual educational
5 needs of such parent's student. The program shall be operational on or
6 before July 1, 2023.

7 (b) The treasurer shall create a standard application form that a parent
8 can submit to determine whether such parent's child is an eligible recipient
9 of a Kansas hope scholarship award. Scholarship award moneys shall be
10 placed in a personal education savings account for qualifying educational
11 expenses on behalf of the eligible recipient as provided in section 4, and
12 amendments thereto. The treasurer may update the application as needed.
13 The treasurer shall make program applications available on or before July
14 1, 2023, and shall begin accepting applications immediately thereafter.

15 (c) The treasurer shall make information about the Kansas hope
16 scholarship program, including, but not limited to, scholarships, qualifying
17 educational expenses, the application process and participating schools,
18 available on the treasurer's website.

19 (d) The treasurer shall approve an application for a hope scholarship
20 if all of the following circumstances are met:

21 (1) A parent submits an application for a hope scholarship in
22 accordance with the procedures established by the treasurer;

23 (2) the student on whose behalf the parent is applying is an eligible
24 recipient and meets the requirements of this act to receive a Kansas hope
25 scholarship; and

26 (3) the parent signs a Kansas hope scholarship agreement with the
27 treasurer. Such agreement shall provide that the parent agrees to:

28 (A) Provide an education for the eligible recipient in at least those
29 subjects required by K.S.A. 72-3214, 72-3217 and 72-3235, and
30 amendments thereto;

31 (B) use the hope scholarship funds exclusively for qualifying
32 expenses as provided in section 5, and amendments thereto;

33 (C) comply with the requirements of the Kansas hope scholarship act
34 and any rules and regulations adopted thereunder; and

35 (D) afford the student opportunities for educational enrichment, such
36 as organized athletics, art, music or literature.

37 (e) A Kansas hope scholarship agreement signed pursuant to
38 subsection (d)(3) shall satisfy the compulsory school attendance
39 requirement provided in K.S.A. 72-3120, and amendments thereto.

40 (f) The treasurer shall issue an award letter to eligible recipients
41 within 45 days of receipt of a completed application and all required
42 documentation.

43 (g) An application for a hope scholarship is confidential and not a

1 public record subject to release pursuant to the Kansas open records act,
2 K.S.A. 45-215, and amendments thereto. This subsection shall expire on
3 July 1, 2027, unless the legislature reviews and reenacts such provisions
4 pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2027.

5 Sec. 4. (a) (1) There is hereby established in the state treasury the
6 Kansas hope scholarship fund to be administered by the state treasurer.
7 Moneys in the Kansas hope scholarship fund shall be expended only for
8 the purposes established in this act. All moneys received pursuant to this
9 act shall be deposited in the state treasury in accordance with the
10 provisions of K.S.A. 75-4215, and amendments thereto, and shall be
11 credited to the Kansas hope scholarship fund.

12 (2) On or before the 10th of each month, the director of accounts and
13 reports shall transfer from the state general fund to the Kansas hope
14 scholarship fund interest earnings based on:

15 (A) The average daily balance of moneys in the Kansas hope
16 scholarship fund; and

17 (B) the net earnings rate of the pooled money investment portfolio for
18 the preceding month.

19 (b) Upon execution of an agreement in accordance with section 3, and
20 amendments thereto, the treasurer shall establish an account in the Kansas
21 hope scholarship fund in the state treasury in the name of the hope
22 scholarship student.

23 (c) The amount of hope scholarship funding granted to a hope
24 scholarship student on a yearly basis shall be equal to the BASE aid
25 amount for the preceding school year.

26 (d) (1) On or before August 1 of each year, the treasurer shall
27 determine the amount to be transferred to the Kansas hope scholarship
28 fund by multiplying an amount equal to the BASE aid by the total number
29 of hope scholarship students participating in the program.

30 (2) The treasurer shall certify the resulting amounts to the director of
31 accounts and reports. Upon receipt of such certification, the director shall
32 transfer such certified amount from the state general fund to the Kansas
33 hope scholarship fund established in subsection (a).

34 (e) (1) Except as provided in paragraph (2), the treasurer shall
35 transfer $\frac{1}{2}$ of the total annually required deposit on or before August 15 of
36 each year into a hope scholarship student's hope scholarship account and
37 $\frac{1}{2}$ of the total annually required deposit on or before January 15 of each
38 year.

39 (2) If a hope scholarship student is awarded a hope scholarship
40 account for less than a full fiscal year, the amount awarded to such hope
41 scholarship student shall be prorated based on the portion of the fiscal year
42 the hope scholarship student is awarded the hope scholarship account.

43 (3) Any moneys remaining in a hope scholarship account at the end

1 of the fiscal year may be carried over to the next fiscal year upon
2 successful renewal of the account.

3 (4) No transfers shall be made into an account after such student has
4 graduated from high school.

5 (5) Any moneys left in an account after such student has graduated
6 from high school may be expended for tuition and fees at a postsecondary
7 educational institution.

8 (f) (1) The treasurer shall continue to make deposits into a hope
9 scholarship student's account unless any of the following conditions have
10 occurred:

11 (A) A parent of a hope scholarship student fails to renew a hope
12 scholarship account or withdraws from the hope scholarship program;

13 (B) the treasurer determines that a hope scholarship student is no
14 longer eligible for a hope scholarship;

15 (C) the treasurer suspends or revokes participation in the hope
16 scholarship program for failure to comply with this act;

17 (D) the hope scholarship student successfully completes a secondary
18 education program; or

19 (E) the hope scholarship student reaches 21 years of age.

20 (2) Except as provided in paragraph (3), if any of the conditions of
21 paragraphs (1)(A) through (C) occur, the treasurer shall notify the parent
22 that the hope scholarship student's account will be closed in 45 days. If a
23 parent fails to adequately address the condition upon which closure is
24 based or does not respond within 30 calendar days of receipt of such
25 notice, the treasurer shall close the account and any remaining moneys
26 shall be deposited in the state general fund.

27 (3) An account shall remain open if moneys in the account are
28 expended for tuition or fees at a postsecondary educational institution.
29 Such account may be closed when moneys in the account are exhausted.

30 (g) No person shall make personal deposits into a hope scholarship
31 account.

32 (h) Moneys deposited into a hope scholarship account pursuant to this
33 act shall not be considered Kansas taxable income.

34 (i) The treasurer may deduct up to 5% annually of the amount in the
35 Kansas hope scholarship program fund as reimbursement for the
36 administrative costs of the Kansas hope scholarship program. If the
37 number of hope scholarship accounts increases significantly in any fiscal
38 year, the treasurer may request an additional appropriation for the Kansas
39 hope scholarship program in an amount equal to the administrative costs
40 associated with the increase in hope scholarship accounts.

41 Sec. 5. (a) Pursuant to the Kansas hope scholarship agreement
42 required by section 3(d), and amendments thereto, the parent of a hope
43 scholarship student shall only use moneys in a hope scholarship account

1 for the following qualifying expenses:

- 2 (1) Tuition or fees at a participating school;
- 3 (2) tuition or fees for nonpublic online learning programs;
- 4 (3) tutoring services provided by an individual or a tutoring facility;
- 5 (4) services contracted for and provided by a school district,
- 6 including, but not limited to, individual classes and extracurricular
- 7 activities and programs;
- 8 (5) textbooks, curriculum or other instructional materials, including,
- 9 but not limited to, any supplemental materials or associated online
- 10 instruction required by either a curriculum or an education service
- 11 provider;
- 12 (6) computer hardware or other technological devices that are
- 13 primarily used to help meet the hope scholarship student's educational
- 14 needs;
- 15 (7) educational software and applications;
- 16 (8) school uniforms;
- 17 (9) fees for nationally standardized assessments, advanced placement
- 18 examinations, examinations related to college or university admission and
- 19 tuition or fees for preparatory courses for such assessments or
- 20 examinations;
- 21 (10) tuition or fees for summer education programs and specialized
- 22 after-school education programs, but not after-school child care;
- 23 (11) tuition, fees, instructional materials and examination fees at a
- 24 technical college;
- 25 (12) educational services and therapies, including, but not limited to,
- 26 occupational, behavioral, physical, speech-language and audiology
- 27 therapies;
- 28 (13) tuition or fees at a postsecondary educational institution;
- 29 (14) fees for transportation paid to a fee-for-service transportation
- 30 provider for the student to travel to and from an education service
- 31 provider; or
- 32 (15) any other qualified expenses approved by the treasurer pursuant
- 33 to section 2, and amendments thereto.

34 (b) Nothing in this section prohibits the parent of a hope scholarship

35 student from making payments for the costs of educational goods and

36 services not covered by the funds in the account of the such parent's hope

37 scholarship student.

38 Sec. 6. (a) A parent shall annually renew a hope scholarship student's

39 hope scholarship. Notwithstanding any changes in eligibility, a hope

40 scholarship student who has previously qualified for a hope scholarship

41 account remains eligible to apply for renewal until any of the conditions in

42 section (5)(e), and amendments thereto, are met.

43 (b) The treasurer shall verify with the state department of education

1 the following information by July 1 of each year:

2 (1) A list of all active hope scholarship accounts;

3 (2) the resident school district of each hope scholarship student; and

4 (3) for each hope scholarship student who attends a participating
5 school, annual confirmation of each such student's attendance at a
6 participating school that complies with the requirements of this act.

7 (c) If a parent fails to renew a hope scholarship student's hope
8 scholarship, the treasurer shall notify the parent that the hope scholarship
9 student's hope scholarship account will be closed in 45 calendar days. If a
10 parent chooses not to renew or does not respond within 30 calendar days
11 of receipt of such notice, the treasurer shall close the account, and any
12 remaining moneys shall be credited to the state general fund. If a hope
13 scholarship student seeks to return to the hope scholarship program after
14 failing to renew, such student shall reapply to the program.

15 (d) The treasurer may adopt rules and regulations in consultation with
16 the state board of education to provide the least disruptive process for hope
17 scholarship students who leave the hope scholarship program and return
18 full-time to a public school.

19 Sec. 7. (a) To administer hope scholarship accounts, the treasurer
20 shall:

21 (1) Maintain an updated list of participating schools and ensure that
22 such list is publicly available and published on the treasurer's website;

23 (2) provide parents with a written explanation of the following:

24 (A) The allowable uses of moneys in a hope scholarship account;

25 (B) the responsibilities of parents;

26 (C) the duties of the treasurer;

27 (D) the role of any private financial management firms or other
28 private organizations that the treasurer may contract with to administer any
29 or all of the hope scholarship program;

30 (3) ensure that parents of students with a disability receive notice that
31 participation in the hope scholarship program is a parental placement
32 under 20 U.S.C. § 1412, individuals with disabilities education act
33 (IDEA), an explanation of the rights that parentally placed students
34 possess under such act and any applicable state laws and rules and
35 regulations; and

36 (4) implement, or contract with a private organization to implement,
37 the following:

38 (A) A commercially viable, cost-effective and parent-friendly system
39 for payment of services from hope scholarship accounts to participating
40 schools or education service providers, including, but not limited to, the
41 use of debit cards or other electronic or online money transfers; and

42 (B) a system for publicly rating, reviewing and sharing information
43 about participating schools and education service providers.

1 (b) The treasurer may:

2 (1) Contract with private organizations to administer the hope
3 scholarship program, including, but not limited to, private financial
4 management firms to manage hope scholarship accounts;

5 (2) establish or contract to establish a fraud reporting system;

6 (3) require a surety bond for education service providers receiving
7 more than \$100,000 in hope scholarship payments;

8 (4) establish procedures for refunding payments from education
9 service providers to hope scholarship accounts; and

10 (5) adopt rules and regulations to implement and administer the hope
11 scholarship program. Such rules and regulations shall focus on easing
12 parental involvement and encouraging education service providers to
13 provide parents and hope scholarship students with a broad array of
14 educational options.

15 (c) The treasurer may accept gifts and grants from any source to
16 cover the administrative costs to inform the public about the hope
17 scholarship program or to provide additional funding for hope scholarship
18 accounts.

19 Sec. 8. (a) The treasurer shall conduct, or contract to conduct, audits
20 of individual hope scholarship accounts as needed to ensure compliance
21 with the requirements of this act and any rules and regulations adopted
22 hereunder.

23 (b) (1) If an audit conducted pursuant to this section identifies any
24 failures to comply with the provisions of this act or the terms of the
25 parental agreement required by section 3, and amendments thereto,
26 ineligible scholarship students or intentional and fraudulent misuse of hope
27 scholarship moneys, the treasurer may remove a parent or hope
28 scholarship student from the hope scholarship program or close a hope
29 scholarship account.

30 (2) The treasurer shall establish procedures to ensure that a fair
31 process exists to determine the removal of a parent or hope scholarship
32 student from the hope scholarship program and allow a parent or hope
33 scholarship student to appeal the decision to remove such parent or student
34 from the program or close a hope scholarship account.

35 (c) The treasurer may conduct, or contract to conduct, audits of
36 education service providers accepting payments from hope scholarship
37 accounts if the treasurer determines that the education service provider
38 has:

39 (1) Intentionally and substantially misrepresented information or
40 failed to refund any overpayments in a timely manner; or

41 (2) routinely failed to provide students with promised educational
42 goods or services.

43 (d) If the treasurer determines that an education service provider has

1 intentionally and substantially misused hope scholarship moneys, the
2 treasurer may prohibit the education service provider from continuing to
3 receive payments from hope scholarship accounts. The treasurer shall
4 create procedures to ensure that a fair process exists to make such
5 determination and to allow an education service provider to appeal such
6 determination to the treasurer. If the treasurer prohibits an education
7 service provider from receiving payments from hope scholarship accounts,
8 the treasurer shall notify parents and students of such decision as quickly
9 as possible.

10 (e) If the treasurer obtains evidence of potential fraudulent use of
11 hope scholarship moneys, the treasurer may refer suspected cases to the
12 state attorney general for purposes of investigation and collection.

13 Sec. 9. (a) To be eligible to accept payments from a hope scholarship
14 account, an education service provider shall:

15 (1) Submit notice to the treasurer that such education service provider
16 wishes to participate in the hope scholarship program and be approved by
17 the treasurer pursuant subsection (b);

18 (2) provide participating parents with a receipt for all qualifying
19 educational expenses for the hope scholarship student;

20 (3) agree not to refund, rebate or share hope scholarship moneys with
21 parents or students in any manner, except that funds may be remitted or
22 refunded to a hope scholarship account;

23 (4) certify that such education service provider will not discriminate
24 on any basis prohibited by 42 U.S.C. § 1981;

25 (5) agree to submit any employee who will have contact with hope
26 scholarship students to a criminal history record check; and

27 (6) in the case of a participating school, provide notice of enrollment
28 annually to the state treasurer of any student for which the student's tuition
29 is being paid through the hope scholarship program.

30 (b) Education service providers shall have maximum freedom to
31 provide for the educational needs of hope scholarship students without
32 government control.

33 (c) The treasurer shall approve an application or request additional
34 information, as necessary, to prove an applicant meets the criteria to be
35 deemed an education service provider within 45 days of receiving the
36 application. If the applicant is unable to provide such additional
37 information, the treasurer may deny the application.

38 (d) A participating school or education service provider is not
39 required to alter such school's or provider's creed, practices, admission
40 policy or curriculum in order to accept hope scholarship students whose
41 parents pay tuition or fees from a hope scholarship account pursuant to this
42 article.

43 (e) Nothing in this section shall be construed to:

1 (1) Limit the independence or autonomy of an education service
2 provider or make the actions of an education service provider the actions
3 of the state government; or

4 (2) expand the regulatory authority of the state, state officers or any
5 school district to impose any additional regulation of education service
6 providers beyond those necessary to enforce the requirements of this
7 program.

8 Sec. 10. Upon request of an education service provider, the resident
9 school district or school district in which a hope scholarship student was
10 last enrolled shall provide an education service provider that has enrolled
11 the student with a complete copy of such student's school records, subject
12 to the federal family educational rights and privacy act of 1974, 20 U.S.C.
13 § 1232g and the student data privacy act, K.S.A. 72-6312 et seq., and
14 amendments thereto.

15 Sec. 11. (a) In any legal proceeding challenging the application of this
16 act to a participating education service provider, the state bears the burden
17 of establishing that the challenged statute, action or rule and regulation is
18 necessary and does not impose any undue burden on education service
19 providers.

20 (b) No liability shall arise on the part of the treasurer or the state or
21 any school district based on the award or use of a hope scholarship
22 awarded pursuant to this act.

23 (c) If any part of this act is challenged in a state court as violating
24 either the state or federal constitution, parents of eligible hope scholarship
25 students may intervene in such challenge for the purpose of defending the
26 act's constitutionality. For the purposes of judicial administration, a court
27 may limit the number of parents permitted to intervene or require that all
28 parents file a joint brief, except that such parents shall not be required to
29 join any brief filed on behalf of any named state defendant.

30 (d) If any provision of this act or the application of any provision of
31 this act to any person or circumstance is held invalid by a court of
32 competent jurisdiction, the remainder of this act or the application of its
33 provisions to persons or circumstances other than those to which it is held
34 invalid is not affected thereby.

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