

SENATE BILL No. 270

By Committee on Assessment and Taxation

3-4

1 AN ACT concerning income tax; relating to credits; low income students
2 scholarship program, eligible students; amending K.S.A. 2014 Supp.
3 72-99a02, 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 *per school year* provided to ~~an eligible student~~ *student, or to a qualified*
14 *school with respect to an eligible student*, to cover all or a portion of the
15 costs of *education including* tuition, fees and expenses of a qualified
16 school and, if applicable, the costs of transportation to a qualified school if
17 provided by such qualified school.

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

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

26 (2) resides in Kansas while ~~receiving~~ *eligible for* an educational
27 scholarship; and

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

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

35 (f) "Program" means the tax credit for low income students
36 scholarship program established in K.S.A. 2014 Supp. 72-99a01 through

1 72-99a07, and amendments thereto.

2 (g) "Public school" means a school that would qualify as either a title
3 I focus school or a title I priority school as described by the state board
4 under the elementary and secondary education act flexibility waiver as
5 amended in January 2013 and is operated by a school district.

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

10 (i) "Scholarship granting organization" means an organization that
11 complies with the requirements of this program and provides educational
12 scholarships to *eligible* students ~~attending or to~~ qualified schools ~~of their~~
13 ~~parents' choice in which parents have enrolled eligible students.~~

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

16 (k) "School year" shall have the meaning ascribed thereto in K.S.A.
17 72-6408, and amendments thereto.

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

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

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

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

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

37 (d) Upon receipt of information in accordance with ~~subsection (a)(2)~~
38 ~~of~~ K.S.A. 2014 Supp. 72-99a04(a)(2), and amendments thereto, the state
39 board shall inform the scholarship granting organization ~~if such student~~
40 ~~has already been designated to receive~~ *whether* an educational scholarship
41 *has been awarded* by another scholarship granting organization *with*
42 *respect to the eligible student.*

43 (e) In each school year, ~~each eligible student under this program shall~~

1 ~~not receive no more than one \$8,000 in educational scholarship~~
2 ~~scholarships may be awarded under this program with respect to an~~
3 ~~eligible student.~~

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

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

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

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

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

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

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

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

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

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

40 (B) financial information demonstrating the nonprofit organization's
41 ability to pay an aggregate amount equal to the amount of the
42 contributions expected to be received during the school year, which must
43 be reviewed and approved of in writing by the state board;

1 (6) ~~the scholarship granting organization shall ensure that each~~
2 qualified school receiving educational scholarships from the scholarship
3 granting organization ~~is in~~ *shall annually certify to the scholarship*
4 *granting organization its* compliance with the requirements of the
5 program;

6 (7) at the end of the calendar year, the scholarship granting
7 organization shall have its accounts examined and audited by a certified
8 public accountant. Such audit shall include, but not be limited to,
9 information verifying that the educational scholarships awarded by the
10 scholarship granting organization were distributed to ~~the~~ *qualified schools*
11 *with respect to* eligible students determined by the state board under
12 ~~subsection (e) of K.S.A. 2014 Supp. 72-99a03(c), and amendments~~
13 ~~thereto, and information specified in this section. Prior to filing a copy of~~
14 ~~the audit with the state board, such audit shall be duly verified and~~
15 ~~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~~ *with respect to* any eligible student to attend any qualified
22 school with paid staff or paid board members, or relatives thereof, in
23 common with the 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 Any income earned from contributions must be disbursed in the form of
32 educational scholarships.

33 (d) A scholarship granting organization may continue to provide an
34 educational scholarship *with respect to an eligible a student who received*
35 ~~an educational scholarship under this program who was an eligible student~~
36 in the year immediately preceding the current school year.

37 (e) A scholarship granting organization shall direct payments of ~~an~~
38 ~~educational scholarship~~ *scholarships* to the qualified school ~~on behalf of~~
39 ~~the eligible student~~ *attended by the eligible student or in which the eligible*
40 *student is enrolled.* Payment ~~shall~~ *may* be made by check made payable to
41 both the parent and the qualified school *or to only the qualified school.* If
42 an eligible student transfers to a new qualified school during a school year,
43 the scholarship granting organization shall direct payment in a prorated

1 amount to the original qualified school and the new qualified school based
2 on the eligible student's attendance. If the eligible student transfers to a
3 public school and enrolls in such public school after September 20 of the
4 current school year, the scholarship granting organization shall direct
5 payment in a prorated amount to the original qualified school and the
6 public school based on the eligible student's attendance. The prorated
7 amount to the public school shall be considered a donation and shall be
8 paid to the school district of such public school in accordance with K.S.A.
9 72-8210, and amendments thereto, ~~to provide for the education of such~~
10 ~~eligible student.~~

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

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

17 (2) the name and address of each eligible student ~~receiving with~~
18 *respect to whom* an educational scholarship *was awarded* by the
19 scholarship granting organization;

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

22 (4) the total number and total dollar amount of educational
23 scholarships awarded during the 12-month reporting period and the total
24 number and total dollar amount of educational scholarships awarded
25 during the 12-month reporting period *with respect to* eligible students who
26 qualified under ~~subsection (d)~~ of K.S.A. 2014 Supp. 72-99a02(d), and
27 amendments thereto.

28 (g) No scholarship granting organization shall:

29 (1) Provide an ~~eligible student with an~~ educational scholarship *with*
30 *respect to an eligible student that is* established by funding from any
31 contributions made by any relative of such eligible student; or

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

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

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