

HOUSE BILL No. 2218

By Committee on K-12 Education Budget

1-30

1 AN ACT concerning education; establishing the sunflower education
2 equity act; providing education savings accounts for students;
3 establishing the sunflower education equity scholarship fund.
4

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

8 WHEREAS, Every child in Kansas is unique with diverse learning
9 needs and thus shall be granted educational freedom. Educational freedom
10 provides parental choice that considers the unique learning needs of each
11 student and the learning environment that best aligns with the student's
12 academic, socio-emotional and spiritual needs that direct and encourage
13 life success; and

14 WHEREAS, The sunflower education equity act affirms that equity in
15 education means that all children shall receive what they need
16 educationally regardless of their socioeconomic, racial or cultural status.
17 The act affirms and promotes that all children, without preference or bias,
18 are uniquely capable and worthy of meeting and exceeding the highest
19 caliber of expectations in an environment that best promotes their unique
20 qualities, abilities, needs and goals; and

21 WHEREAS, The sunflower education equity act provides meaningful
22 educational freedom while simultaneously protecting the freedom of
23 parents to direct the education of their children.

24 Now, therefore:

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

26 Section 1. (a) Section 1 et seq., and amendments thereto, shall be
27 known and may be cited as the sunflower education equity act.

28 (b) As used in the sunflower education equity act:

29 (1) "Account" means a sunflower education equity scholarship
30 account.

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

33 (3) "Board" means the sunflower education equity board established
34 in section 3, and amendments thereto.

35 (4) "Immediate family member" means a parent, sibling or any other
36 relative of a qualified student who lives in the same residence as the

1 qualified student.

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

5 (6) "Postsecondary educational institution" means the same as
6 defined in K.S.A. 74-3201b, and amendments thereto, and includes any
7 private postsecondary educational institution as defined in K.S.A. 74-
8 32,163, and amendments thereto.

9 (7) "Program" means the sunflower education equity scholarship
10 program established pursuant to this act.

11 (8) "Qualified school" means any school located in Kansas that is:

12 (A) A nonpublic elementary or secondary school that has made
13 application and received approval pursuant to this act; or

14 (B) a preschool serving students with disabilities.

15 (9) "Qualified student" means a resident of Kansas who is eligible to
16 enroll in a public elementary or secondary school in this state or in a
17 preschool program for children with disabilities.

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

20 (11) "Treasurer" means the state treasurer or the state treasurer's
21 designee.

22 Sec. 2. (a) The sunflower education equity program is hereby
23 established to recognize the right of parents to choose the educational
24 environment that best serves their children. The program shall be
25 administered pursuant to this act by the treasurer at the direction of the
26 board.

27 (b) The board shall provide general management and oversight of the
28 program, administer the appeals process pursuant to section 9, and
29 amendments thereto, and perform other duties as provided in this act.

30 (c) The treasurer shall implement and administer the program at the
31 direction of the board, accept applications, retain program data, establish
32 and administer accounts, administer the sunflower education equity
33 scholarship fund established by section 8, and amendments thereto,
34 establish and administer any technical processes and procedures required
35 by this act, and perform any other duties required by this act.

36 (d) If the board or treasurer determine it is necessary, the state
37 department of education shall cooperate and collaborate with the board or
38 treasurer in the implementation or administration of the program.

39 (e) Any qualified student who participates in the program and such
40 student's parent shall be subject to the requirements of this act and any
41 rules and regulations adopted hereunder. A student who does not
42 participate in the program shall not be subject to such requirements.

43 Sec. 3. (a) There is hereby established the sunflower education equity

1 board.

2 (b) (1) The board shall consist of nine voting members and one non-
3 voting member.

4 (2) The voting members of the board include the following:

5 (A) The treasurer, who shall serve as the chairperson of the board;

6 (B) one member appointed by the president of the senate;

7 (C) one member appointed by the speaker of the house of
8 representatives;

9 (D) one member appointed by the minority leader of the senate;

10 (E) one member appointed by the minority leader of the house of
11 representatives;

12 (F) the chairperson of the house of representatives education
13 committee or the K-12 education budget committee as determined by the
14 speaker of the house of representatives;

15 (G) the chairperson of the senate education committee;

16 (H) a parent with a qualified student in the program appointed by the
17 governor; and

18 (I) a representative of a qualified school appointed by the governor.

19 (3) The non-voting member shall be a representative from the state
20 department of education.

21 (c) All members of the board shall be residents of Kansas.

22 (d) (1) The members appointed by the governor shall serve an initial
23 term of one year. The members appointed by the minority leader of the
24 senate and the minority leader of the house of representatives shall serve
25 an initial term of two years. The members appointed by the president of
26 the senate and the speaker of the house of representatives shall serve an
27 initial term of three years.

28 (2) After the initial terms established by paragraph (1), appointed
29 board members shall serve for four-year terms and are eligible for
30 reappointment at the expiration of such member's initial term.

31 (e) Any vacancy occurring on the board shall be filled in the same
32 manner as the initial appointment for the unexpired term being filled.

33 (f) The board shall meet upon the call of the chairperson at least twice
34 per year. A majority of the voting members of the board constitutes a
35 quorum.

36 (g) Members of the board attending meetings of such board or
37 attending a subcommittee meeting thereof authorized by such board shall
38 be paid compensation, subsistence allowance, mileage and other expenses
39 as provided in K.S.A. 75-3223, and amendments thereto.

40 Sec. 4. (a) The board shall have the following powers and duties:

41 (1) Oversee and manage the program;

42 (2) direct the treasurer on the implementation and administration of
43 the program;

1 (3) determine the manner and form of the application to enroll in the
2 program and establish an account;

3 (4) pursuant to section 10, and amendments thereto, determine the
4 manner and form of the application for approval as a qualified school or
5 tutor and receives payments from an account;

6 (5) execute contracts or authorize the treasurer to execute contracts as
7 necessary to carry out the requirements of this act;

8 (6) hear and review appeals pursuant to section 9, and amendments
9 thereto;

10 (7) work with the state department of education as necessary for the
11 program;

12 (8) adopt rules and regulations necessary to implement and
13 administer this act and accounts. Such rules and regulations shall include,
14 but not be limited to:

15 (A) Establishment of an appeals process in accordance with section 9,
16 and amendments thereto;

17 (B) conducting or contracting to conduct audits of the use of account
18 moneys;

19 (C) establishment or contracting for the establishment of a telephone
20 or online fraud reporting service;

21 (D) establishment or contracting for the establishment of a mobile
22 website, native application and mobile application that will provide at least
23 the following services:

24 (i) Account management;

25 (ii) payment processing; and

26 (iii) eligible categories of expenditures; and

27 (E) requirements for a surety bond or insurance of at least \$100,000
28 for education service providers serving more than five students annually.
29 Such requirements shall not apply to an education service provider who is
30 an immediate family member of the qualified students such provider is
31 serving;

32 (9) develop and update as necessary a handbook for program
33 applicants and participants that includes, but is not limited to, information
34 relating to policies and process of sunflower education equity scholarship
35 accounts; and

36 (10) exercise such other powers and perform such other functions and
37 duties provided in this act.

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

43 Sec. 5. (a) The treasurer shall maintain an explanation of at least the

1 following information on the treasurer's website and provide an electronic
2 or hard copy of such information to any parent whose child is a qualified
3 student participating in the program prior to any expenditure from an
4 account:

5 (1) The allowable uses of money in an education equity scholarship
6 account provided in section 7, and amendments thereto;

7 (2) the responsibilities of a parent of a qualified student participating
8 in the program;

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

13 (4) the appeals process established pursuant to section 9, and
14 amendments thereto;

15 (5) the handbook developed pursuant to section 4, and amendments
16 thereto;

17 (6) the duties of the treasurer; and

18 (7) the duties of the board.

19 (b) The state department of education shall include information about
20 the program on the department's homepage and provide a link on such
21 homepage to the treasurer's webpage about the program.

22 Sec. 6. (a) (1) To enroll in the program for the purpose of establishing
23 an account, the parent of a qualified student shall submit an application on
24 a form and in a manner determined by the board.

25 (2) If the parent of a qualified student who is schooled at home makes
26 application to enroll in this program, such application does not constitute
27 registration pursuant to K.S.A. 72-4346, and amendments thereto, and
28 nothing in this act shall be construed to require a parent to register with the
29 state department of education pursuant to K.S.A. 72-4346, and
30 amendments thereto.

31 (b) The treasurer shall:

32 (1) Accept sunflower education equity applications throughout the
33 school year;

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

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

39 (4) provide parents the program information required by section 5,
40 and amendments thereto.

41 (c) The treasurer and parents may provide any notifications,
42 applications or documents required by this act electronically. The treasurer
43 shall confirm receipt of all notifications required by this act, whether

1 provided by hard copy or electronically.

2 (d) After enrollment in the program, the parent of a qualified student
3 shall enter into a written agreement with the treasurer, in a manner and on
4 a form provided by the board, to establish an account. Each such written
5 agreement shall be approved by the board.

6 (e) The written agreement shall provide the following:

7 (1) Except as provided in section 11, and amendments thereto, a
8 portion of moneys in the account shall be used to provide an education for
9 the qualified student in at least the subjects of reading, grammar,
10 mathematics, social studies and science;

11 (2) after receiving the scholarship, the qualified student shall not
12 enroll full-time in a school of a school district;

13 (3) no immediate family member of a qualified student may charge or
14 collect payment, tuition or fees for any of the following if provided to such
15 qualified student:

16 (A) Educational therapies or services;

17 (B) tutoring; or

18 (C) the education of such qualified student if such student is attending
19 a nonpublic school operated by or in the home of such immediate family
20 member. A parent may charge and collect fees for the education of a
21 qualified student attending a nonpublic school operated by or in the home
22 of such parent if such qualified student is not the child of such parent;

23 (4) the money in a qualified student's account shall only be expended
24 as authorized by this act;

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

30 (6) the parent of a qualified student shall comply with all
31 requirements of this act and any rules and regulations adopted hereunder.

32 (f) Upon execution of an initial written agreement, the treasurer shall
33 notify the board, who shall provide final approval of such agreement.
34 Upon approval, the treasurer shall establish an account in the name of the
35 qualified student.

36 (g) One account shall be established for each qualified student. A
37 parent acting on behalf of more than one qualified student shall have a
38 separate account and separate written agreement for each qualified student.

39 (h) A written agreement entered into pursuant to this section shall
40 have a term of one year, but may be suspended or terminated at any time
41 pursuant to subsection (i). To continue receiving a scholarship, the parent
42 of a qualified student shall renew the qualified student's account on an
43 annual basis. The treasurer shall notify the parent of the renewal

1 requirements at least 30 calendar days prior to the end of the written
2 agreement's term.

3 (i) (1) The treasurer may suspend a written agreement upon a
4 determination that:

5 (A) Money in an account has been used for purposes other than those
6 allowed by this act;

7 (B) the student is no longer a resident of Kansas; or

8 (C) the qualified student enrolls in a school district on a full-time
9 basis.

10 (2) When a written agreement is suspended by the treasurer, the
11 treasurer shall notify the parent of the qualified student that the written
12 agreement has been suspended and that no transactions or disbursements
13 from the qualified student's account may be made during the suspension.
14 The notification shall specify the reason for the suspension and state that
15 the parent has 15 business days to respond and take corrective action. The
16 treasurer may terminate the written agreement if the parent refuses or fails
17 to:

18 (A) Respond, furnish any additional information or make any report
19 required for reinstatement within the 15-day period; or

20 (B) comply with section 7(d), and amendments thereto, after making
21 an unauthorized expenditure.

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

25 (4) When a written agreement is terminated, the account associated
26 with such agreement shall be deemed no longer active and the treasurer
27 shall close the account in accordance with section 8, and amendments
28 thereto.

29 Sec. 7. (a) A parent shall only expend moneys in a qualified
30 student's account for the following expenses of the qualified student:

31 (1) Tuition or fees charged by a qualified school;

32 (2) textbooks and other supplies required by a qualified school;

33 (3) educational therapies or services provided by a licensed or
34 accredited education provider;

35 (4) tutoring services provided by a tutor, who shall not be an
36 immediate family member of the qualified student;

37 (5) curriculum materials;

38 (6) uniforms purchased from or through a qualified school;

39 (7) tuition or fees charged by an online learning program;

40 (8) contracted services from a public school district, including
41 individual classes;

42 (9) fees for any nationally standardized norm-referenced achievement
43 test, advanced placement examination or examination related to admission

- 1 to a postsecondary institution;
- 2 (10) tuition and fees charged by a postsecondary educational
- 3 institution;
- 4 (11) textbooks required by a postsecondary educational institution;
- 5 (12) fees or costs required to apply for or acquire occupational
- 6 licenses, certificates, apprenticeships or other professional qualifications;
- 7 (13) fees for transportation services approved by the board that are
- 8 used for transportation to and from a qualified school;
- 9 (14) computer hardware and technological devices primarily used for
- 10 educational purposes, including personal computers, laptops, tablet
- 11 devices, microscopes, telescopes and printers; and
- 12 (15) any other education expenses approved by the board.
- 13 (b) Money in a qualified student's account shall not be expended for
- 14 the following:
 - 15 (1) Athletic training or coaching; or
 - 16 (2) for qualified students schooled at home, instruction or tutoring
 - 17 provided by an immediate family member.
 - 18 (c) The content or religious nature of a product or service may not be
 - 19 considered when determining whether payment for such product or service
 - 20 is an allowable expenditure from an account.
 - 21 (d) The treasurer shall notify the parent of any expenditures from a
 - 22 qualified student's account that do not meet the requirements of subsection
 - 23 (a). Such parent shall repay the cost of any such expenditures within 30
 - 24 calendar days of notification by the treasurer. Any such expenditure that is
 - 25 subsequently repaid shall be credited back to the account balance within
 - 26 30 calendar days after the receipt of payment.
 - 27 (e) The board or treasurer may refer cases of substantial misuse of
 - 28 moneys to the attorney general for purposes of collection or criminal
 - 29 investigation if the board or treasurer obtains evidence of fraudulent use of
 - 30 an account.
- 31 Sec. 8. (a) (1) There is hereby established in the state treasury the
- 32 sunflower education equity scholarship fund to be administered by the
- 33 state treasurer. Moneys in the sunflower education equity scholarship fund
- 34 shall be expended only for the purposes established in this act. All moneys
- 35 received pursuant to subsection (b) shall be deposited in the state treasury
- 36 in accordance with the provisions of K.S.A. 75-4215, and amendments
- 37 thereto, and shall be credited to the sunflower education equity scholarship
- 38 fund.
- 39 (2) On or before the 10th day of each month, the director of accounts
- 40 and reports shall transfer from the state general fund to the sunflower
- 41 education equity scholarship fund interest earnings based on:
 - 42 (A) The average daily balance of moneys in the sunflower education
 - 43 equity scholarship fund; and

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

3 (b) On or before August 1 of each year, the treasurer shall determine
4 the amount to be transferred to the sunflower education equity scholarship
5 fund by multiplying an amount equal to the BASE aid by the total number
6 of qualified students participating in the program.

7 (c) During each regular legislative session, the treasurer shall provide
8 to the legislature an estimate of the amount required to fund sunflower
9 education equity scholarship accounts for the succeeding fiscal year.

10 (d) (1) Except as provided in paragraph (2) and if an account is
11 active, the treasurer shall transfer annually to a qualified student's account
12 in the sunflower education equity scholarship fund an amount equal to
13 95% of the BASE aid. The treasurer shall make such transfers in two
14 installments per school year: One installment in August and one
15 installment in January.

16 (2) If a qualified student enrolls in a school district on a part-time
17 basis, such qualified student or such student's parent shall notify the
18 treasurer, who shall prorate the amount to be transferred under paragraph
19 (1).

20 (e) Unless an account has been closed pursuant to subsection (h),
21 moneys remaining in an account at the end of a school year shall roll over
22 in such account to the next succeeding school year.

23 (f) A qualified school or other entity providing education services
24 purchased with moneys from an account shall not share, refund or rebate
25 any portion of such moneys to the parent or qualified student. Any such
26 refund or rebate shall be made directly into the qualified student's account.

27 (g) No personal deposits may be made into an account.

28 (h) (1) Each account shall remain active until:

29 (A) A written agreement is terminated pursuant to section 6, and
30 amendments thereto;

31 (B) a parent does not renew the qualified student's written agreement
32 for a period of three years and fails to timely respond to the notice sent by
33 the treasurer that the account will close in 60 calendar days if the written
34 agreement is not renewed;

35 (C) upon the student's graduation from a postsecondary educational
36 institution; or

37 (D) four consecutive years have passed after a student's graduation
38 from high school or award of a high school equivalency certificate in
39 which the student is not enrolled in a postsecondary educational
40 institution.

41 (2) When the treasurer determines that an account is no longer active,
42 the treasurer shall close the account and certify the amount of moneys
43 remaining in the account to the director of accounts of reports. Such

1 certified amount shall be transferred from the closed account to the state
2 general fund.

3 (i) The treasurer shall deduct 5% of the BASE aid per qualified
4 student participating in the program as reimbursement for the
5 administrative costs of administering the program.

6 (j) The board may contract with private financial management firms
7 to manage scholarship accounts.

8 (k) Moneys in an account do not constitute taxable income to the
9 parent of the qualified student.

10 (l) The board shall conduct or contract to conduct annual audits and
11 random quarterly audits of sunflower education equity scholarship
12 accounts to ensure compliance with this act. The board shall determine the
13 scope of such audit and shall oversee such audit.

14 Sec. 9. (a) A parent may appeal to the board any administrative
15 decision made by the board or treasurer pursuant to this act, including, but
16 not limited to, determinations of allowable expenses, removal from the
17 program or enrollment eligibility. The treasurer shall notify parents that
18 each parent may appeal any administrative decision made under this act
19 and the process by which the parent may appeal. The board shall establish
20 an appeals process.

21 (b) Parents may represent themselves or designate a representative
22 before any appeals hearing. Any designated representative who is not an
23 attorney may not charge for any service rendered in connection with such
24 hearing. The fact that a representative participated in the hearing or
25 assisted a parent is not grounds for reversing any administrative decision
26 or order if the evidence supporting the decision or order is substantial,
27 reliable and probative.

28 (c) If the board issues a stay of an account suspension in response to
29 an appeal of an administrative decision made by the board or the treasurer,
30 the board or treasurer shall not withhold funding or refuse to enter into an
31 agreement with the parent pursuant to section 6, and amendments thereto,
32 unless otherwise directed by the board.

33 Sec. 10. (a) A tutor seeking to provide tutoring services to qualified
34 students shall apply to the board on a form and in a manner determined by
35 the board. Such application shall include the name, address and phone
36 number of the tutor. If the tutor has a website or email address, such
37 website or email address shall also be provided to the board.

38 (b) A school seeking approval as a qualified school that will accept
39 and serve qualified students shall apply to the board on a form and in a
40 manner determined by the board. Such application shall include the name
41 of the school, the name and title of the primary contact of such school and
42 the school's address, phone number and email address. The primary
43 contact of such school shall attest in writing to the school's intent to

1 provide instruction to all qualified students enrolled at such school in the
2 subjects of English language arts, English language proficiency,
3 mathematics, science and social studies.

4 Sec. 11. (a) A qualified school shall provide qualified students
5 enrolled full-time in such school instruction in reading, grammar,
6 mathematics, social studies and science. If any qualified students are
7 enrolled in the qualified school part-time, the qualified school shall
8 provide a statement to the board declaring which of the above required
9 subjects and courses of instruction it is providing to part-time enrolled
10 qualified students.

11 (b) This section does not apply to the following:

12 (1) Any postsecondary educational institution with qualified students
13 enrolled in such institution;

14 (2) a qualified student with a disability, including, but not limited to,
15 a student:

16 (A) Eligible to receive services pursuant to article 34 of chapter 72 of
17 the Kansas Statutes Annotated, and amendments thereto;

18 (B) identified as having a disability under section 504 of the
19 rehabilitation act of 1973; or

20 (C) whose parent states in writing such student has a disability. No
21 verification of a disability stated pursuant to this paragraph shall be
22 required.

23 (3) any qualified student attending school at home if such school is
24 provided by an immediate family member.

25 (c) This section shall not be construed to require any qualified school
26 to provide instruction in any subject or course that is not reading,
27 grammar, mathematics, social studies and science.

28 Sec. 12. (a) A qualified school with 50 or more qualified students
29 enrolled shall annually make available to parents of a qualified student
30 enrolled or seeking to be enrolled at such school the aggregate test scores
31 of either all students enrolled or all qualified students enrolled in the
32 qualified school the following examinations and assessments by school
33 building and grade level:

34 (1) Any nationally standardized norm-referenced achievement
35 examination or state assessment; and

36 (2) any examination related to college or university admissions that
37 assesses reading and mathematics.

38 (b) The parent of a qualified student may request such student take
39 the state assessment at the school district where such student resides. Such
40 state assessment shall be provided by such school district upon request and
41 at no charge. The qualified student may take the state assessment at the
42 same time and date when such assessment is given to students attending a
43 school of the school district where such student resides. The school district

1 may allow a qualified student to take such assessment at an alternative
2 date and time if requested by the qualified student's parent.

3 (c) (1) No information provided to the board or made available shall
4 include any data on a qualified student's personal feelings, attitudes,
5 beliefs or practices.

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

11 Sec. 13. Nothing in this act shall be construed to permit any
12 governmental agency to exercise control or supervision over any
13 nonpublic school or home school. Any qualified school or tutor that
14 accepts a payment from a parent of a qualified student participating in the
15 program is not an agent of this state.

16 Sec. 14. This act shall take effect and be in force from and after its
17 publication in the statute book.