

HOUSE BILL No. 2263

By Committee on Education

2-7

1 AN ACT concerning school districts; enacting the school district special
2 needs scholarship program act.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. The provisions of sections 1 through 10, and amendments
6 thereto, shall be known and may be cited as the school district special
7 needs scholarship program act.

8 Sec. 2. The purpose of the school district special needs scholarship
9 program act is to provide special needs students with the option to attend
10 the public or nonpublic school of their choice.

11 Sec. 3. As used in the school district special needs scholarship
12 program act:

13 (a) "Program" means the school district special needs scholarship
14 program.

15 (b) "Eligible student" means any elementary or secondary student
16 attending public school with an individualized education program,
17 including, but not limited to, students with intellectual disability, speech
18 and language impairment, deaf or hard of hearing impairment, visual
19 impairment, dual sensory impairment, physical impairment, emotional
20 impairment, specific learning disability, autism, or students who are
21 hospitalized or homebound due to illness or disability.

22 (c) "Parent" has the meaning ascribed thereto in K.S.A. 72-962, and
23 amendments thereto.

24 (d) "Resident school district" means the school district in which the
25 student resides.

26 (e) "Department" means the state department of education.

27 (f) "Participating school" means either a public school outside of the
28 resident school district or any nonpublic school that: (1) Provides
29 education to elementary and secondary students; (2) has notified the
30 department of their intention to participate in the program; and (3)
31 complies with the requirements of the program.

32 (g) "State financial aid" has the meaning ascribed thereto by K.S.A.
33 72-6410, and amendments thereto.

34 Sec. 4. (a) Any parent of a public school special needs student who is
35 dissatisfied with the student's progress shall qualify for a scholarship from
36 the state for the child to enroll in and attend a nonpublic school if:

1 (1) The special needs student has had an individualized education
2 program prepared in accordance with the rules and regulations of the
3 department;

4 (2) the student has been accepted for admission at a participating
5 school;

6 (3) the parent has requested a scholarship from the state before the
7 deadline established by the department.

8 (b) The department shall notify the resident school district that a
9 special needs student has requested a special needs scholarship. Within
10 three business days of receipt of such notice, the resident school district
11 shall provide the department with a copy of the student's most current
12 individualized education program.

13 (c) Upon receipt of the special needs student's request for a
14 scholarship, the department shall review the individualized education
15 program prepared by the student's public school to determine the amount
16 of the scholarship. The department shall provide the student's parent with a
17 timely written explanation of the department's determination for the
18 amount of the scholarship.

19 (d) The maximum amount of a scholarship awarded to an eligible
20 student shall be an amount equivalent to the cost of the educational
21 program that would have been provided to the student in the resident
22 school district. Although the scholarship amount is a function of a student's
23 individualized education program, the participating school is not required
24 to abide by the individualized education program. The parent and the
25 participating school mutually will determine the best services and
26 educational plan for the student.

27 (e) The amount of the special needs scholarship shall be the lesser of
28 the amount calculated pursuant to subsection (d) or the amount of the
29 participating school's estimated costs for serving the student. The costs of
30 any assessment by the participating school of the student's special needs
31 may be included in the scholarship amount.

32 (f) Participating students shall be counted in the enrollment of their
33 resident school district. The funds needed to provide a scholarship shall be
34 subtracted from the state financial aid payable to the student's resident
35 school district.

36 (g) The special needs scholarship shall remain in force until the
37 student returns to a public school, graduates from high school or reaches
38 the age of 21, whichever comes first.

39 (h) At any time, the student's parent may remove the student from the
40 participating school and place the student in another participating school
41 or in a public school.

42 Sec. 5. (a) A resident school district annually shall notify the parents
43 or guardians of a special needs student of the special needs scholarship

1 program and offer that student's parents or guardians an opportunity to
2 enroll the student in a participating school of their choice.

3 (b) The resident school district shall provide a participating school
4 that has admitted an eligible student with a complete copy of the student's
5 school records while complying with the family educational rights and
6 privacy act of 1974 (20 U.S.C. § 1232g).

7 (c) The resident school district shall provide transportation for an
8 eligible student to and from the participating school in the same manner as
9 the resident school district is required by law to provide transportation for
10 other resident students to nonpublic schools. The resident school district
11 shall qualify for state transportation aid for each student so transported.

12 (d) If the parent of an eligible student participating in this program
13 requests that the student take the state assessments, the resident school
14 district shall provide locations and times for the student to take all state
15 assessments if the assessments are not offered at the student's participating
16 school.

17 Sec. 6. (a) The department shall adopt any rules and procedures
18 relating to the following:

19 (1) The eligibility and participation of nonpublic schools, including
20 timelines that will maximize student and public and nonpublic school
21 participation.

22 (2) The calculation and distribution of scholarships to eligible
23 students and participating schools.

24 (3) The application and approval procedures for eligible students and
25 participating schools.

26 (b) No liability shall arise on the part of the department or the state
27 based on the award or use of a special needs scholarship.

28 (c) The department may bar a school from participation in the
29 program if the department establishes that the participating school has:

30 (1) Intentionally and substantially misrepresented information
31 required under section 7, and amendments thereto.

32 (2) Failed to refund to the state any scholarship overpayments in a
33 timely manner.

34 (d) If the department decides to bar a participating school from the
35 program, it shall notify eligible students and their parents or guardians of
36 this decision as quickly as possible.

37 Sec. 7. (a) To be eligible to participate in the special needs
38 scholarship program, a nonpublic school must:

39 (1) Operate in this state.

40 (2) Demonstrate administrative accountability.

41 (3) Ensure that students are treated fairly and kept safe.

42 (4) Comply with all health and safety laws that apply to nonpublic
43 schools.

1 (5) Hold a valid occupancy permit, if required.

2 (6) Certify that the school will not discriminate in admissions on the
3 basis of race, color, national origin or religion.

4 (7) Comply with all state laws that apply to nonpublic schools
5 regarding criminal background checks for employees and exclude from
6 employment any people not permitted by state law to work in a nonpublic
7 school.

8 (8) Demonstrate financial accountability.

9 (9) Submit a financial information report for the school that complies
10 with uniform financial accounting standards established by the department
11 and conducted by a certified public accountant and certified that the report
12 is free of material misstatements. The accountant's report shall be limited
13 in scope to those records that are necessary for the department to make
14 payments to schools for scholarships.

15 (10) Demonstrate financial viability by showing that the school can
16 pay any funds owed the state, if they are to receive \$50,000 or more during
17 the school year.

18 (11) File with the department prior to the start of the school year a
19 surety bond payable to the state in an amount equal to the aggregate
20 amount of the special needs scholarships expected to be paid during the
21 school year to students admitted to the participating school; or prior to the
22 start of the school year, file with the department financial information that
23 demonstrates the school has the ability to pay an aggregate amount equal
24 to the amount of the special needs scholarships expected to be paid during
25 the school year to students admitted to the participating school.

26 (12) Provide regular reports of the student's progress to the parents or
27 guardians of the student.

28 (b) A participating school is autonomous and shall not be deemed to
29 be an agent of the state or federal government. The department and any
30 other state agency may not in any way regulate the educational program of
31 a participating school that accepts a special needs scholarship. The
32 creation of the special needs scholarship program does not expand the
33 regulatory authority of the state, its officers or any school district to
34 impose any additional regulation of nonpublic schools beyond those
35 reasonably necessary to enforce the requirements of the program.

36 (c) Participating schools shall be given the maximum freedom to
37 provide for the educational needs of their students without governmental
38 control.

39 Sec. 8. (a) It shall be the responsibility of a parent to select their
40 child's school, apply for admission and apply for a special needs
41 scholarship.

42 (b) Except as provided by this subsection, any student participating in
43 the program shall comply fully with a participating school's written code

1 of conduct and shall remain in attendance throughout the school year,
2 unless excused by the school for illness or other good cause. A parent may
3 transfer an eligible student to another participating school at any time. The
4 scholarship amount shall be prorated between participating schools
5 according to the period of attendance at each school.

6 (c) A parent's decision for their student to participate in the program
7 constitutes a nonpublic placement for purposes of the individuals with
8 disabilities education act.

9 Sec. 9. (a) The department may contract with one or more qualified
10 researchers who have previous experience evaluating school choice
11 programs to conduct a study of the program. The study shall assess:

12 (1) The level of participating student's satisfaction with the program.

13 (2) The level of parental satisfaction with the program.

14 (3) The percentage of participating students who were victimized
15 because of their special needs status at their resident school district
16 compared to the percentage so victimized at their participating school.

17 (4) The percentage of participating students who exhibited behavioral
18 problems at their resident school district compared to the percentage
19 exhibiting behavioral problems at their participating school.

20 (5) The class size experienced by participating students at their
21 resident school district and at their participating school.

22 (6) The fiscal impact of the program on the state and resident school
23 districts.

24 (c) The researchers who conduct the study shall apply appropriate
25 analytical and behavioral sciences methodologies to ensure public
26 confidence in the study.

27 (d) The researchers who conduct the study shall provide the
28 legislature with a final copy of the evaluation of the program.

29 (e) The public and nonpublic participating schools from which
30 students transfer to participate in the program shall cooperate with the
31 research effort by providing student assessment instrument scores and any
32 other data necessary to complete this study.

33 (f) The department may accept grants to assist in funding the study.

34 (g) The legislature may require periodic reports from the researchers.
35 The researchers shall make their data and methodology available for
36 public review while complying with the requirements of the family
37 educational rights and privacy act of 1974 (20 U.S.C. § 1232g).

38 Sec. 10. The special needs scholarship program shall be in effect
39 beginning with the fall semester of school year 2013-2014.

40 Sec. 11. This act shall take effect and be in force from and after its
41 publication in the statute book.