

As Amended by House Committee

Session of 2016

HOUSE BILL No. 2457

By Committee on Federal and State Affairs

1-13

1 AN ACT concerning schools; relating to the tax credit for low income
2 students scholarship program act; amending K.S.A. 2015 Supp. 72-
3 99a02, 72-99a03, 72-99a04 and 72-99a07 and repealing the existing
4 sections.

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

7 Section 1. K.S.A. 2015 Supp. 72-99a02 is hereby amended to read as
8 follows: 72-99a02. As used in the tax credit for low income students
9 scholarship program act:

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

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

13 (c) "Educational scholarship" means an amount not to exceed \$8,000
14 per school year provided to an eligible student, or to a qualified school
15 with respect to an eligible student, to cover all or a portion of the costs of
16 education including tuition, fees and expenses ~~of~~ *for an eligible student to*
17 *attend* a qualified school and, if applicable, ~~the costs of transportation cost~~
18 *to transport such student* to a qualified school if provided by such
19 qualified school.

20 (d) "Eligible student" means a child ~~who:~~

21 (1) ~~(A) Qualifies as an at-risk pupil as defined in K.S.A. 72-6407,~~
22 ~~prior to its repeal, and who is attending a public school whose family~~
23 ~~household income does not exceed 250% 185% of the federal poverty~~
24 ~~level established under the most recent poverty income guidelines~~
25 ~~published in the calendar year by the United States department of health~~
26 ~~and human services; or (B) has been eligible to receive an educational~~
27 ~~scholarship under this program and has not graduated from high school or~~
28 ~~reached 21 years of age; and~~

29 (2) *who* resides in Kansas while eligible for an educational
30 scholarship; ~~and~~

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

36 (e) "Parent" includes a guardian, custodian or other person with

1 authority to act on behalf of the child.

2 (f) "Program" means the tax credit for low income students
3 scholarship program established in K.S.A. 2015 Supp. 72-99a01 through
4 72-99a07, and amendments thereto.

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

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

13 (i) "Scholarship granting organization" means an organization that
14 complies with the requirements of this program and provides educational
15 scholarships to eligible students or to qualified schools in which parents
16 have enrolled eligible students.

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

19 (k) "School year" shall have the meaning ascribed thereto in K.S.A.
20 2015 Supp. 72-6464, and amendments thereto.

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

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

23 Sec. 2. K.S.A. 2015 Supp. 72-99a03 is hereby amended to read as
24 follows: 72-99a03.(a) There is hereby established the tax credit for low
25 income students scholarship program. The program shall provide eligible
26 students with an opportunity to attend schools of their parents' choice.

27 (b) Each scholarship granting organization shall issue a receipt, in a
28 form prescribed by the secretary, to each contributing taxpayer indicating
29 the value of the contribution received. Each taxpayer shall provide a copy
30 of such receipt when claiming the tax credit established in K.S.A. 2015
31 Supp. 72-99a07, and amendments thereto.

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

40 (d) Upon receipt of information in accordance with K.S.A. 2015
41 Supp. 72-99a04(a)(2), and amendments thereto, the state board shall
42 inform the scholarship granting organization whether an educational
43 scholarship has been awarded by another scholarship granting organization

1 with respect to the eligible student.

2 (e) In each school year, no more than \$8,000 in educational
3 scholarships may be awarded under this program with respect to an
4 eligible student.

5 Sec. 3. K.S.A. 2015 Supp. 72-99a04 is hereby amended to read as
6 follows: 72-99a04. (a) To be eligible to participate in the program, a
7 scholarship granting organization shall comply with the following:

8 (1) The scholarship granting organization shall notify the secretary
9 and the state board of the scholarship granting organization's intent to
10 provide educational scholarships;

11 (2) upon granting an educational scholarship, the scholarship granting
12 organization shall report such information to the state board;

13 (3) the scholarship granting organization shall provide verification to
14 the secretary that the scholarship granting organization is exempt from
15 federal income taxation pursuant to section 501(c)(3) of the federal
16 internal revenue code of 1986;

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

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

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

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

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

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

40 (6) each qualified school receiving educational scholarships from the
41 scholarship granting organization shall annually certify to the scholarship
42 granting organization its compliance with the requirements of the program;

43 (7) at the end of the calendar year, the scholarship granting

1 organization shall have its accounts examined and audited by a certified
2 public accountant. Such audit shall include, but not be limited to,
3 information verifying that the educational scholarships awarded by the
4 scholarship granting organization were distributed to qualified schools
5 with respect to eligible students determined by the state board under
6 K.S.A. 2015 Supp. 72-99a03(c), and amendments thereto, and information
7 specified in this section. Prior to filing a copy of the audit with the state
8 board, such audit shall be duly verified and certified by a certified public
9 accountant; and

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

14 (b) No scholarship granting organization shall provide an educational
15 scholarship with respect to any eligible student to attend any qualified
16 school with paid staff or ~~paid~~ board members, or relatives thereof, in
17 common with the scholarship granting organization.

18 (c) The scholarship granting organization shall disburse not less than
19 90% of contributions received pursuant to the program in the form of
20 educational scholarships within 36 months of receipt of such contributions.
21 If such contributions have not been disbursed within the applicable 36-
22 month time period, then the scholarship granting organization shall not
23 accept new contributions until 90% of the received contributions have
24 been disbursed in the form of educational scholarships. Any income earned
25 from contributions must be disbursed in the form of educational
26 scholarships.

27 (d) (1) A scholarship granting organization may continue to provide
28 an educational scholarship with respect to a student who was an eligible
29 student in the year immediately preceding the current school year.

30 (2) *When distributing educational scholarships, a scholarship*
31 *granting organization shall give priority to those eligible students who*
32 *received an educational scholarship to attend a qualified school in the*
33 *year immediately preceding the current school year.*

34 (e) A scholarship granting organization shall direct payments of
35 educational scholarships to the qualified school attended by the eligible
36 student or in which the eligible student is enrolled. Payment may be made
37 by check made payable to both the parent and the qualified school or to
38 only the qualified school. *Payments shall be made in two installments.*
39 *One installment payment shall be made on or before the 31st calendar day*
40 *of the first semester and one installment payment shall be made on or*
41 *before the 31st calendar day of the second semester.* If an eligible student
42 transfers to a new qualified school during a school year, the scholarship
43 granting organization shall direct payment in a prorated amount to the

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

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

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

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

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

21 (4) the total number and total dollar amount of educational
22 scholarships awarded during the 12-month reporting period and the total
23 number and total dollar amount of educational scholarships awarded
24 during the 12-month reporting period with respect to eligible students who
25 qualified under K.S.A. 2015 Supp. 72-99a02(d), and amendments thereto.

26 (g) No scholarship granting organization shall:

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

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

33 Sec. 4. K.S.A. 2015 Supp. 72-99a07 is hereby amended to read as
34 follows: 72-99a07.(a) There shall be allowed a credit against the ~~corporate~~
35 ~~income~~ tax liability imposed upon a taxpayer pursuant to the Kansas
36 income tax act, the privilege tax liability imposed upon a taxpayer
37 pursuant to the privilege tax imposed upon any national banking
38 association, state bank, trust company or savings and loan association
39 pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and
40 amendments thereto, and the premium tax liability imposed upon a
41 taxpayer pursuant to the premiums tax and privilege fees imposed upon an
42 insurance company pursuant to K.S.A. 40-252, and amendments thereto,
43 for tax years commencing after December 31, 2014, an amount equal to

1 ~~70%–100%~~ **90%** of the amount contributed to a scholarship granting
2 organization authorized pursuant to K.S.A. 2015 Supp. 72-99a01 et seq.,
3 and amendments thereto.

4 (b) The credit shall be claimed and deducted from the taxpayer's tax
5 liability during the tax year in which the contribution was made to any
6 such scholarship granting organization.

7 (c) *No credit shall be allowed to any taxpayer who designates such*
8 *taxpayer's contribution to a scholarship granting organization, or any*
9 *portion thereof, for the direct benefit of any dependent of such taxpayer, or*
10 *who designates a student beneficiary as a condition of the contribution to*
11 *a scholarship granting organization. No credit shall be allowed to any*
12 *taxpayer who, with the intent to benefit a dependent of the taxpayer,*
13 *agrees with one or more other taxpayers to designate each taxpayer's*
14 *contribution to a scholarship granting organization, or any portion*
15 *thereof, for the direct benefit of any dependent of such taxpayer.*

16 (e)(d) ~~For each tax year, in no event shall the total amount of credits~~
17 ~~allowed under this section exceed \$10,000,000 \$12,500,000 for any one~~
18 ~~tax year~~ **For tax years 2014 and 2015, the total amount of credits**
19 **allowed under this section is \$10,000,000. Beginning in tax year 2016,**
20 **in any tax year when the total amount of credits awarded is equal to**
21 **or greater than 95% of the total amount of credits allowed, the total**
22 **amount of credits allowed under this section for the next succeeding**
23 **tax year shall increase by 25%. The state department of education and**
24 **department of revenue shall publish information on their websites**
25 **identifying the total amount of credits allowed under this section.**
26 ~~Except as otherwise provided, the allocation of such tax credits for each~~
27 ~~scholarship granting organization shall be determined by the scholarship~~
28 ~~granting organization in consultation with the secretary, and such~~
29 ~~determination shall be completed prior to the issuance of any tax credits~~
30 ~~pursuant to this section.~~

31 (d)(e) If the amount of any such tax credit claimed by a taxpayer
32 exceeds the taxpayer's income, privilege or premium tax liability, such
33 excess amount may be carried over for deduction from the taxpayer's
34 income, privilege or premium tax liability in the next succeeding year or
35 years until the total amount of the credit has been deducted from tax
36 liability.

37 (e)(f) The secretary shall adopt rules and regulations regarding filing
38 of documents that support the amount of credit claimed pursuant to this
39 section.

40 Sec. 5. K.S.A. 2015 Supp. 72-99a02, 72-99a03, 72-99a04 and 72-
41 99a07 are hereby repealed.

42 Sec. 6. This act shall take effect and be in force from and after its
43 publication in the statute book.