

HOUSE BILL No. 2035

By Committee on Education

1-16

1 AN ACT concerning schools; relating to the tax credit for low income
2 students scholarship program act; amending K.S.A. 2014 Supp. 72-
3 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 provided to eligible students to cover all or a portion of the costs of tuition,
14 fees and expenses of a qualified school and, if applicable, the costs of
15 transportation to a qualified school if provided by such qualified school.

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

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

24 (2) resides in Kansas while receiving an educational scholarship; and

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

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

32 (f) "Program" means the tax credit for low income students
33 scholarship program established in K.S.A. 2014 Supp. 72-99a01 through
34 72-99a07, and amendments thereto.

35 (g) "Public school" means a school ~~that would qualify as either a title~~
36 ~~I focus school or a title I priority school as described by the state board~~

1 ~~under the elementary and secondary education act flexibility waiver as~~
2 ~~amended in January 2013 and is operated by a school district.~~

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

7 (i) "Scholarship granting organization" means an organization that
8 complies with the requirements of this program and provides educational
9 scholarships to students attending qualified schools of their parents'
10 choice.

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

13 (k) "School year" shall have the meaning ascribed thereto in K.S.A.
14 72-6408, and amendments thereto.

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

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

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

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

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

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

39 (e) In each school year, each eligible student under this program shall
40 not receive more than one educational scholarship under this program.

41 ~~(f) An eligible student's participation in this program by receiving an~~
42 ~~educational scholarship constitutes a waiver to special education services~~
43 ~~provided by any school district, unless such school district agrees to~~

1 ~~provide such services to the qualified school.~~

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

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

8 (2) upon granting an educational scholarship to an eligible student,
9 the scholarship granting organization shall report such information to the
10 state board;

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

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

18 ~~(A)—a surety bond payable to the state in an amount equal to the~~
19 ~~aggregate amount of contributions expected to be received during the~~
20 ~~school year; or~~

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

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

31 ~~(A)—a surety bond payable to the state in an amount equal to the~~
32 ~~aggregate amount of contributions expected to be received during the~~
33 ~~school year; or~~

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

38 (6) the scholarship granting organization shall ensure that each
39 qualified school receiving educational scholarships from the scholarship
40 granting organization is in compliance with the requirements of the
41 program;

42 (7) at the end of the calendar year, the scholarship granting
43 organization shall have its accounts examined and audited by a certified

1 public accountant. Such audit shall include, but not be limited to,
2 information verifying that the educational scholarships awarded by the
3 scholarship granting organization were distributed to the eligible students
4 determined by the state board under ~~subsection (e) of K.S.A. 2014 Supp.~~
5 72-99a03(c), and amendments thereto, and information specified in this
6 section. Prior to filing a copy of the audit with the state board, such audit
7 shall be duly verified and certified by a certified public accountant; and

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

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

16 (c) The scholarship granting organization shall disburse not less than
17 ~~90%~~ 95% of contributions received pursuant to the program to eligible
18 students in the form of educational scholarships within 36 months of
19 receipt of such contributions. If such contributions have not been disbursed
20 within the applicable 36-month time period, then the scholarship granting
21 organization shall not accept new contributions until ~~90%~~ *not less than*
22 95% of the received contributions have been disbursed in the form of
23 educational scholarships. *The scholarship granting organization may*
24 *retain no more than 5% of contributions received pursuant to the program*
25 *for administration costs and any amount not used for administration costs*
26 *must be disbursed in the form of educational scholarships within 36*
27 *months of receipt of such contributions.* Any income earned from
28 contributions must be disbursed in the form of educational scholarships.

29 (d) A scholarship granting organization may continue to provide an
30 educational scholarship to an eligible student who received an educational
31 scholarship under this program in the year immediately preceding the
32 current school year.

33 (e) A scholarship granting organization shall direct payments of an
34 educational scholarship to the qualified school on behalf of the eligible
35 student. Payment shall be made by check made payable to both the parent
36 and the qualified school. If an eligible student transfers to a new qualified
37 school during a school year, the scholarship granting organization shall
38 direct payment in a prorated amount to the original qualified school and
39 the new qualified school based on the eligible student's attendance. If the
40 eligible student transfers to a public school and enrolls in such public
41 school after September 20 of the current school year, the scholarship
42 granting organization shall direct payment in a prorated amount to the
43 original qualified school and the public school based on the eligible

1 student's attendance. The prorated amount to the public school shall be
2 considered a donation and shall be paid to the school district of such public
3 school in accordance with K.S.A. 72-8210, and amendments thereto, to
4 provide for the education of such eligible student.

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

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

11 (2) the name and address of each eligible student receiving an
12 educational scholarship by the scholarship granting organization;

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

15 (4) the total number and total dollar amount of educational
16 scholarships awarded during the 12-month reporting period and the total
17 number and total dollar amount of educational scholarships awarded
18 during the 12-month reporting period to eligible students who qualified
19 under ~~subsection (d)~~ of K.S.A. 2014 Supp. 72-99a02(d), and amendments
20 thereto.

21 (g) No scholarship granting organization shall:

22 (1) Provide an eligible student with an educational scholarship
23 established by funding from any contributions made by any relative of
24 such eligible student; or

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

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

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