AN ACT creating the special education scholarship program; amending K.S.A. 2010 Supp. 72-6407 and repealing the existing section.

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

New Section 1. As used in sections 1 through 8, and amendments thereto, unless the context otherwise requires:
(a) “Department” means the Kansas department of education.
(b) “Eligible student” means an exceptional child who: (1) Has in effect or is eligible for an individualized education plan; and (2) was enrolled in public school in the school year in which a scholarship application was first submitted for the child pursuant to section 2, and amendments thereto.
(c) “Exceptional child” has the same meaning ascribed thereto in K.S.A. 72-962, and amendments thereto, but shall not include gifted children, as that term is defined in K.S.A. 72-962, and amendments thereto.
(d) “Individualized education plan” or “IEP” has the same meaning ascribed thereto in K.S.A. 72-962, and amendments thereto.
(e) “Parent” includes a guardian, custodian or other person with authority to act on behalf of the child.
(f) “Participating entity” means: (1) Any elementary or secondary school operated by a school district or other public entity; and (2) any nonpublic school or institution that has notified the department of such school or institution’s intention to participate in the program, and which complies with all requirements of the program.
(g) “Program” means the special education scholarship program established by section 2, and amendments thereto.
(h) “Resident school district” means the school district in which the student resides.
(i) “State board” means the state board of education.

New Sec. 2. (a) There is hereby established the special education scholarship program. The program shall be administered by the department.
(b) Any parent of an eligible student shall qualify for a scholarship pursuant to the program if:
(1) the eligible student has been accepted for admission at the
participating entity; and

(2) the parent has submitted an application for a scholarship in
the manner specified by the state board.

(c) Except as provided in subsection (d), any student receiving
a scholarship under the program shall comply fully with a participating
entity’s written code of conduct and shall remain in attendance
throughout the school year, unless excused by the participating entity for
illness or other good cause.

(d) A parent may transfer an eligible student to another
participating entity at any time. In the event of such transfer, the
scholarship amount shall be prorated between the participating entities
according to the period of attendance at each entity.

(e) A parent’s decision for their student to participate in the
program constitutes a nonpublic placement for purposes of the
individuals with disabilities education act (20 U.S.C. § 1400 et seq.).

New Sec. 3. (a) Upon approval of an application for a scholarship,
the department shall notify the resident school district that an eligible
student has requested a scholarship under the program. Such notice shall
include the name of the eligible student. Within three business days of
receipt of such notice, the resident school district shall provide the parent
of such eligible student a copy of the eligible student’s current IEP.

(b) The maximum scholarship amount that may be granted
under the program to an eligible student shall be an amount equal to the
amount of general state aid and supplemental state aid the resident school
district is entitled to receive per pupil for the immediately preceding
school year, or the cost of tuition and fees to attend the participating
entity, whichever is less.

(c) The scholarship shall remain in full force and effect until
the eligible student graduates from high school or reaches the age of 21,
whichever occurs first.

(d) The department shall certify to the director of accounts and
reports the amount of the scholarship to be awarded for each eligible
student. The director of accounts and reports shall issue a warrant on the
state treasurer payable to the parent of each eligible student awarded a
scholarship under the program in the amount certified by the department.
Upon receipt of such warrant, the parent to whom the warrant is made
shall restrictively endorse the warrant to the participating entity for
deposit into the account of the participating entity.

(e) If the participating entity is a public school operated by a
school district, then any funds received by the school district pursuant to
the program shall be deposited in the special education fund of such
school district, and shall only be expended for the purposes of providing
special education or related services to the eligible student in accordance
with the student’s IEP.

New Sec. 4. (a) A resident school district shall annually notify the parent of an eligible student, who is not already participating in the program, of the special education scholarship program and provide such information as required by the department to give the parent an opportunity to have the student participate in the program. However, it shall be the parent’s responsibility to apply for admission to the participating entity, and to apply for a scholarship under the program.

(b) The resident school district shall provide a participating entity that has enrolled an eligible student with a complete copy of such student’s educational records. Such production of documents shall be in compliance with the family educational rights and privacy act (20 U.S.C. § 1232g).

(c) Transportation for eligible students receiving a scholarship under the program shall be provided and funded in the same manner as transportation for exceptional children under K.S.A. 72-961 et seq., and amendments thereto.

(d) Except for the purposes of complying with subsection (c), an eligible student receiving a scholarship under the program shall not be counted as a pupil by the resident school district for the purposes of determining enrollment pursuant to the school district finance and quality performance act.

(e) If the parent of an eligible student receiving a scholarship under the program requests that the student take the statewide assessments, the resident school district shall provide locations and times for the student to take such assessments if such assessments are not offered at the participating entity.

New Sec. 5. (a) The state board shall not be liable for claims based on the award of or use of a scholarship awarded pursuant to sections 1 through 8, and amendments thereto.

(b) The state board may bar an entity from participating in the program if the state board establishes that the entity has intentionally and substantially misrepresented information required under section 6, and amendments thereto.

(c) The state board shall notify eligible students and their parents of any decision to bar an entity from participating in the program.

New Sec. 6. (a) In order to participate in the special education scholarship program, an entity shall operate in this state and demonstrate:

1. That it is in compliance with all health and safety laws, regulations and other codes applicable to such entity;
2. That it holds a valid occupancy permit, if required;
3. That it will comply with the nondiscrimination policies set forth in 42 U.S.C. § 1981; and
(4) that it is in compliance with all applicable state laws regarding criminal background checks for employees.

(b) All participating entities shall submit to the state board a financial information report prepared by a certified public accountant. Such report shall:

(1) Be limited in scope to those records that are necessary for the state board to verify the expenditure of scholarship funds on special education and related services provided to the eligible student;

(2) comply with generally accepted uniform financial accounting standards; and

(3) certify that the financial information report does not contain any material misstatements.

(c) If the participating entity is to receive an amount equal to or greater than $50,000 during any one school year under the program, and such entity is a nonpublic school or institution, then the participating entity shall demonstrate its ability to pay any funds that may become due and owing to the state by:

(1) Filing with the state board, prior to the start of the school year, a surety bond payable to the state in an amount equal to the aggregate amount of funds the entity anticipates it will receive during the school year under the program; or

(2) filing with the state board, prior to the start of the school year, financial information that demonstrates, to the state board’s satisfaction, that the entity has the ability to pay an amount equal to the aggregate amount of funds the entity anticipates it will receive during the school year under the program.

(d) All participating entities shall regularly report on the student’s progress to the parent.

(e) A participating entity that is a nonpublic school or institution is autonomous and is not an agent of the state. The state board or any other state agency may not in any way regulate the educational program of such participating entity. The creation of the special education scholarship program does not expand the regulatory authority of the state, its officers or any school district to impose any additional regulation of such participating entities beyond those reasonably necessary to enforce the requirements of the program. Such participating entities shall be given the maximum freedom to provide for the educational needs of their students without governmental control.

New Sec. 7. (a) The state board shall conduct a study of the program with funds other than state funds. The state board may accept grants to assist in funding this study.

(b) The study shall assess:

(1) The level of the participating student’s satisfaction with the
(2) the level of the participating parent’s satisfaction with the program; and
(3) the fiscal impact to the state and resident school districts affected by the program.
(c) The study shall apply appropriate analytical and behavioral sciences methodologies to ensure public confidence. A final report evaluating the program shall be submitted to the legislature. The data and methodology used in the study shall be made available for public review while complying with the requirements of the family educational rights and privacy act (20 U.S.C. § 1232g).
(d) The participating entities shall provide the number of eligible students enrolled in participating entity schools.
(e) An eligible student's or such student's parent's participation in any study conducted pursuant to this section shall be voluntary.

New Sec. 8. The state board shall adopt rules and regulations that it deems necessary to implement the provisions of sections 1 through 8, and amendments thereto, including, but not limited to:
(a) Requirements relating to the eligibility and participation of participating entities;
(b) the calculation and awarding of scholarships under the program;
(c) procedures relating to the submission and approval of applications for scholarships; and
(d) procedures and safeguards relating to the issuance of vouchers to ensure that moneys awarded for scholarships are used for the purposes set forth in sections 1 through 8, and amendments thereto.

Sec. 9. K.S.A. 2010 Supp. 72-6407 is hereby amended to read as follows: 72-6407. (a) (1) "Pupil" means any person who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 maintained by the district or who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 in another district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, or who is regularly enrolled in a district and attending special education services provided for preschool-aged exceptional children by the district.

(2) Except as otherwise provided in paragraph (3) of this subsection,
(A) The following shall be counted as one pupil:
(i) A pupil in attendance full time shall be counted as one pupil;
and
(ii) except as provided in subparagraph (B), a pupil enrolled in a district and attending special education and related services, provided for by the district.
(B) The following shall be counted as \( \frac{1}{2} \) pupil:

(i) A pupil attending kindergarten;

(ii) a pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district; and

(iii) a preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district.

(C) The following shall be counted as two pupils:

(i) A pupil in the custody of the secretary of social and rehabilitation services or in the custody of the commissioner of juvenile justice and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained and receiving educational services at the Judge James V. Riddel Boys Ranch; and

(ii) a pupil in the custody of the secretary of social and rehabilitation services or in the custody of the commissioner of juvenile justice and enrolled in unified school district No. 409, Atchison, Kansas, but housed, maintained and receiving educational services at the youth residential center located on the grounds of the former Atchison juvenile correctional facility.

(D) A pupil in attendance part time shall be counted as that proportion of one pupil (to the nearest \( \frac{1}{10} \)) that the pupil's attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as \( \frac{1}{2} \) pupil.

(E) A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil's postsecondary education enrollment and attendance together with the pupil's attendance in either of the grades 11 or 12 is at least \( \frac{5}{6} \) time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest \( \frac{1}{10} \)) that the total time of the pupil's postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance.

(F) A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil's vocational education enrollment and attendance together with the pupil's attendance in any of grades nine through 12 is at least \( \frac{5}{6} \) time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest \( \frac{1}{10} \)) that the total time of the pupil's vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance.

(G) A pupil enrolled in a district and attending a nonvirtual school and also attending a virtual school shall be counted as that proportion of
one pupil (to the nearest \(\frac{1}{10}\)) that the pupil's attendance at the nonvirtual school bears to full-time attendance. Except as provided by this section for preschool-aged exceptional children and virtual school pupils, a pupil enrolled in a district and attending special education and related services, provided for by the district shall be counted as one pupil.

\[(H)\] A pupil enrolled in a district and attending special education and related services provided for by the district and also attending a virtual school shall be counted as that proportion of one pupil (to the nearest \(\frac{1}{10}\)) that the pupil's attendance at the nonvirtual school bears to full-time attendance. A pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district shall be counted as \(\frac{1}{2}\) pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as \(\frac{1}{2}\) pupil. A pupil in the custody of the secretary of social and rehabilitation services or in the custody of the commissioner of juvenile justice and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddel Boys Ranch, shall be counted as two pupils. Except as provided in section 1 of chapter 76 of the 2009 Session Laws of the state of Kansas, and amendments thereto, a pupil in the custody of the secretary of social and rehabilitation services or in the custody of the commissioner of juvenile justice and enrolled in unified school district No. 409, Atchison, Kansas, but housed, maintained and receiving educational services at the youth residential center located on the grounds of the former Atchison juvenile correctional facility, shall be counted as two pupils.

(3) The following shall not be counted:

(A) A pupil residing at the Flint Hills job corps center shall not be counted;

(B) except as provided in paragraph (2), a pupil confined in and receiving educational services provided for by a district at a juvenile detention facility shall not be counted;

(C) a pupil enrolled in a district but housed, maintained; and receiving educational services at a state institution or a psychiatric residential treatment facility shall not be counted; and

(D) a pupil that has been awarded a scholarship under the special education scholarship program, section 1 et seq., and amendments thereto.

(b) "Preschool-aged exceptional children" means exceptional children, except gifted children, who have attained the age of three years but are under the age of eligibility for attendance at kindergarten.

(c) "At-risk pupils" means pupils who are eligible for free meals
under the national school lunch act and who are enrolled in a district
which maintains an approved at-risk pupil assistance plan.

(d) "Preschool-aged at-risk pupil" means an at-risk pupil who has
attained the age of four years, is under the age of eligibility for attendance
at kindergarten, and has been selected by the state board in accordance
with guidelines consonant with guidelines governing the selection of
pupils for participation in head start programs.

(e) "Enrollment" means: (1) (A) Subject to the provisions of
paragraph (1)(B), for districts scheduling the school days or school hours
of the school term on a trimestral or quarterly basis, the number of pupils
regularly enrolled in the district on September 20 plus the number of
pupils regularly enrolled in the district on February 20 less the number of
pupils regularly enrolled on February 20 who were counted in the
enrollment of the district on September 20; and for districts not specified
in this paragraph (1), the number of pupils regularly enrolled in the
district on September 20; (B) a pupil who is a foreign exchange student
shall not be counted unless such student is regularly enrolled in the
district on September 20 and attending kindergarten or any of the grades
one through 12 maintained by the district for at least one semester or two
quarters or the equivalent thereof;

(2) if enrollment in a district in any school year has decreased from
enrollment in the preceding school year, enrollment of the district in the
current school year means whichever is the greater of (A) enrollment in
the preceding school year minus enrollment in such school year of
preschool-aged at-risk pupils, if any such pupils were enrolled, plus
enrollment in the current school year of preschool-aged at-risk pupils, if
any such pupils are enrolled, or (B) the sum of enrollment in the current
school year of preschool-aged at-risk pupils, if any such pupils are
enrolled and the average (mean) of the sum of (i) enrollment of the
district in the current school year minus enrollment in such school year of
preschool-aged at-risk pupils, if any such pupils are enrolled and (ii)
enrollment in the preceding school year minus enrollment in such school
year of preschool-aged at-risk pupils, if any such pupils were enrolled
and (iii) enrollment in the school year next preceding the preceding
school year minus enrollment in such school year of preschool-aged at-
risk pupils, if any such pupils were enrolled; or

(3) the number of pupils as determined under K.S.A. 72-6447 or

(f) "Adjusted enrollment" means: (1) Enrollment adjusted by adding
at-risk pupil weighting, program weighting, low enrollment weighting, if
any, high density at-risk pupil weighting, if any, medium density at-risk
pupil weighting, if any, nonproficient pupil weighting, if any, high
enrollment weighting, if any, declining enrollment weighting, if any,
school facilities weighting, if any, ancillary school facilities weighting, if
any, cost of living weighting, if any, special education and related
services weighting, and transportation weighting to enrollment; or (2)
adjusted enrollment as determined under K.S.A. 2010 Supp. 72-6457 or
72-6458, and amendments thereto.

(g) "At-risk pupil weighting" means an addend component assigned
to enrollment of districts on the basis of enrollment of at-risk pupils.

(h) "Program weighting" means an addend component assigned to
enrollment of districts on the basis of pupil attendance in educational
programs which differ in cost from regular educational programs.

(i) "Low enrollment weighting" means an addend component
assigned to enrollment of districts pursuant to K.S.A. 72-6412, and
amendments thereto, on the basis of costs attributable to maintenance of
educational programs by such districts in comparison with costs
attributable to maintenance of educational programs by districts having to
which high enrollment weighting is assigned pursuant to K.S.A. 2010
Supp. 72-6442b, and amendments thereto.

(j) "School facilities weighting" means an addend component
assigned to enrollment of districts on the basis of costs attributable to
commencing operation of new school facilities.

(k) "Transportation weighting" means an addend component
assigned to enrollment of districts on the basis of costs attributable to the
provision or furnishing of transportation.

(l) "Cost-of-living weighting" means an addend component assigned
to enrollment of districts to which the provisions of K.S.A. 2010 Supp.
72-6449, and amendments thereto, apply on the basis of costs attributable
to the cost of living in the district.

(m) "Ancillary school facilities weighting" means an addend
component assigned to enrollment of districts to which the provisions of
K.S.A. 72-6441, and amendments thereto, apply on the basis of costs
attributable to commencing operation of new school facilities. Ancillary
school facilities weighting may be assigned to enrollment of a district
only if the district has levied a tax under authority of K.S.A. 72-6441, and
amendments thereto, and remitted the proceeds from such tax to the state
treasurer. Ancillary school facilities weighting is in addition to
assignment of school facilities weighting to enrollment of any district
eligible for such weighting.

(n) "Juvenile detention facility" has the meaning ascribed thereto by
K.S.A. 72-8187, and amendments thereto.

(o) "Special education and related services weighting" means an
addend component assigned to enrollment of districts on the basis of
costs attributable to provision of special education and related services for
pupils determined to be exceptional children.
(p) "Virtual school" means any school or educational program that:
(1) Is offered for credit; (2) uses distance-learning technologies which
predominately use internet-based methods to deliver instruction; (3)
involves instruction that occurs asynchronously with the teacher and
pupil in separate locations; (4) requires the pupil to make academic
progress toward the next grade level and matriculation from kindergarten
through high school graduation; (5) requires the pupil to demonstrate
competence in subject matter for each class or subject in which the pupil
is enrolled as part of the virtual school; and (6) requires age-appropriate
pupils to complete state assessment tests.

(q) "Declining enrollment weighting" means an addend component
assigned to enrollment of districts to which the provisions of K.S.A. 2010
Supp. 72-6451, and amendments thereto, apply on the basis of reduced
revenues attributable to the declining enrollment of the district.

(r) "High enrollment weighting" means an addend component
assigned to enrollment of districts pursuant to K.S.A. 2010 Supp. 72-
6442b, and amendments thereto, on the basis of costs attributable to
maintenance of educational programs by such districts as a correlate to
low enrollment weighting assigned to enrollment of districts pursuant to
K.S.A. 72-6412, and amendments thereto.

(s) "High density at-risk pupil weighting" means an addend
component assigned to enrollment of districts to which the provisions of

(t) "Nonproficient pupil" means a pupil who is not eligible for free
meals under the national school lunch act and who has scored less than
proficient on the mathematics or reading state assessment during the
preceding school year and who is enrolled in a district which maintains
an approved proficiency assistance plan.

(u) "Nonproficient pupil weighting" means an addend component
assigned to enrollment of districts on the basis of enrollment of
nonproficient pupils pursuant to K.S.A. 2010 Supp. 72-6454, and
amendments thereto.

(v) "Psychiatric residential treatment facility" has the meaning
ascribed thereto by K.S.A. 72-8187, and amendments thereto.

(w) "Medium density at-risk pupil weighting" means an
addend component assigned to enrollment of districts to which the
provisions of K.S.A. 2010 Supp. 72-6459, and amendments thereto,
apply.

Sec. 10. K.S.A. 2010 Supp. 72-6407 is hereby repealed.

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