AN ACT concerning schools; enacting the Kansas education liberty program act; providing for educational scholarships; authorizing a tax credit.

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

Section 1. The provisions of sections 1 through 6, and amendments thereto, shall be known and may be cited as the Kansas education liberty program act.

Sec. 2. As used in sections 1 through 6, and amendments thereto:

(a) "At-risk pupils" shall have the meaning ascribed thereto in K.S.A. 72-6407, and amendments thereto;

(b) "adjusted enrollment" means enrollment, as defined by subsection (j), adjusted by adding: (1) At-risk pupil weighting, in accordance with K.S.A. 72-6414, and amendments thereto; (2) high density at-risk pupil weighting, in accordance with K.S.A. 2011 Supp. 72-6455, and amendments thereto; and (3) high enrollment weighting, in accordance with K.S.A. 2011 Supp. 72-6442b, and amendments thereto;

(c) "base state aid per pupil" shall have the meaning ascribed thereto in K.S.A. 72-6410, and amendments thereto;

(d) "contributions" means monetary gifts or donations and in-kind contributions, gifts or donations that have an established market value;

(e) "department" means the Kansas department of revenue;

(f) "declining enrollment" shall have the meaning ascribed thereto in subsection (a)(2) of K.S.A. 2011 Supp. 72-6451, and amendments thereto;

(g) "educational scholarship" means a grant to eligible students to cover all or a portion of the costs of tuition, fees and expenses of a qualified school;

(h) "eligible public school" means a public school located in a school district that was assigned a high density at-risk pupil weighting, as defined by K.S.A. 72-6407, and amendments thereto, but not a low enrollment weighting, as defined by K.S.A. 72-6407, and amendments thereto, in school year 2012-2013;

(i) "eligible student" means a child who: (1) Is a member of a household whose total annual income during the year prior to receiving an educational scholarship under this program does not exceed an amount equal to 3.5 times the income standard used to qualify for free meals under
the national school lunch act or has received an educational scholarship
under this program and has not graduated from high school or reached 21
years of age; (2) resides in Kansas while receiving an educational
scholarship; and (3) was enrolled in an eligible public school in the
previous school year or is eligible to enter an eligible public school in the
school year in which an educational scholarship is first sought for the child
and the child is under the age of seven years and is a resident of an eligible
public school district;

(j) "enrollment" shall have the meaning ascribed thereto in K.S.A. 72-
6407, and amendments thereto;

(k) "low-income eligible student" means a child who is an eligible
student, as defined by subsection (i), and is eligible for free meals under
the national school lunch act;

(l) "parent" includes a guardian, custodian or other person with
authority to act on behalf of the child;

(m) "program" means the Kansas education liberty program
established in sections 1 through 6, and amendments thereto;

(n) "qualified school" means any nonpublic elementary or secondary
school that complies with the requirements of the program and is
accredited by either the state board, independent schools association of the
central states or independent schools association of the southwest;

(o) "scholarship granting organization" means an organization that
complies with the requirements of this program and provides educational
scholarships to students attending qualified schools of their parents' choice;

(p) "school year" shall have the meaning ascribed thereto in K.S.A.
72-6408, and amendments thereto;

(q) "secretary" means the secretary of revenue;

(r) "special educational eligible student" means a child who is an
eligible student, as defined by subsection (i), and is an exceptional child
who receives special education services in the state of Kansas and has an
individualized education plan, as defined in K.S.A. 72-962, and
amendments thereto, in effect; and

(s) "state board" means the state board of education.

Sec. 3. (a) There is hereby established the Kansas education liberty
program. The program shall provide eligible students with an opportunity
to attend qualified schools of their parents' choice by receiving
scholarships funded by taxpayer contributions, a portion of which is
eligible for a tax credit pursuant to section 6, and amendments thereto.

(b) Each scholarship granting organization shall issue a receipt, in a
form prescribed by the secretary, to each contributing taxpayer indicating
the value of the contribution received. Each taxpayer shall provide a copy
of such receipt when claiming the tax credit established in section 6, and
amendments thereto.

(c) Prior to awarding an educational scholarship to an eligible student, unless such student is under the age of seven years, the scholarship granting organization shall receive written verification from the state board that such student is an eligible student under this program.

(d) Upon receipt of information in accordance with subsection (a)(2) of section 4, and amendments thereto, the state board shall inform the scholarship granting organization if such student has already been designated to receive an educational scholarship by another scholarship granting organization.

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

Sec. 4. (a) To be eligible to participate in the program, a scholarship granting organization shall comply with the following:

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

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

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

(4) upon receipt of contributions in an aggregate amount or value in excess of $50,000, during a school year, a scholarship granting organization shall file with the state board either: (A) A surety bond payable to the state in an amount equal to the aggregate amount of contributions expected to be received during the school year; or (B) financial information demonstrating the scholarship granting organization's ability to pay an aggregate amount equal to the amount of the contributions expected to be received during the school year, which must be reviewed and approved of in writing by the state board;

(5) scholarship granting organizations that provide other nonprofit services in addition to providing educational scholarships shall not commingle contributions made under the program with other contributions made to such organization. A scholarship granting organization under this subsection shall also file with the state board, prior to the commencement of each school year, either: (A) A surety bond payable to the state in an amount equal to the aggregate amount of contributions expected to be received during the school year; or (B) financial information demonstrating the nonprofit organization's ability to pay an aggregate amount equal to the amount of the contributions expected to be received...
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1. during the school year, which must be reviewed and approved of in writing
2. by the state board;
3. (6) the scholarship granting organization shall ensure that each
4. qualified school receiving educational scholarships from the scholarship
5. granting organization is in compliance with the requirements of the
6. program and has maintained its accreditation either with the state board,
7. independent schools association of the central states or independent
8. schools association of the southwest;
9. (7) at the end of the calendar year, the scholarship granting
10. organization shall have its accounts examined and audited by a certified
11. public accountant. Such audit shall include, but not be limited to,
12. information verifying that the educational scholarships awarded by the
13. scholarship granting organization were distributed to the eligible students
14. determined by the state board under subsection (c) of section 3, and
15. amendments thereto, and information specified in section 4, and
16. amendments thereto. Prior to filing a copy of the audit with the state board,
17. such audit shall be duly verified and certified by a certified public
18. accountant; and
19. (8) if a scholarship granting organization decides to limit the number
20. or type of qualified schools who will receive educational scholarships, the
21. scholarship granting organization shall provide, in writing, the name or
22. names of those qualified schools to any contributor and the state board.
23. (b) Any scholarship granting organization shall not provide
24. educational scholarships for students to attend any qualified school with
25. paid staff or paid board members, or relatives thereof, in common with the
26. scholarship granting organization.
27. (c) The scholarship granting organization shall disperse not less than
28. 90% of contributions received pursuant to the program to eligible students
29. in the form of educational scholarships within 36 months of receipt of such
30. contributions. If such contributions have not been dispersed within the
31. applicable 36-month time period, then the scholarship granting
32. organization shall not accept new contributions until 90% of the received
33. contributions have been dispersed in the form of educational scholarships.
34. Any income earned from contributions must be dispersed in the form of
35. educational scholarships.
36. (d) Prior to the commencement of each school year, a scholarship
37. granting organization shall provide educational scholarships to first-time
38. recipients in accordance with the requirements of this subsection.
39. (1) The number of new educational scholarships awarded each school
40. year shall be provided in the following order:
41. (A) To low-income or special educational eligible students: (i) In a
42. number not less than the proportion to the percentage of at-risk pupils in
43. the district where the residence of the low-income eligible student is
located plus 10%; and (ii) in an amount equal to 75% of the product of the adjusted enrollment multiplied by the base state aid per pupil; and

(B) any remaining educational scholarships not previously provided under subsection (d)(1)(A) shall be provided to eligible students in an amount equal to 75% of the base state aid per pupil.

(2) The total number of new educational scholarships awarded each school year under subsection (d)(1) shall be limited to the following:

(A) If the district does not have a declining enrollment, the total number of educational scholarships shall not exceed an amount equal to 2% of the previous year's enrollment of the district where the residence of the eligible student is located;

(B) if the district has a declining enrollment, the total number of educational scholarships shall not exceed an amount equal to 1% of the previous year's enrollment of the district where the residence of the eligible student is located; and

(C) educational scholarships provided to eligible students under the age of seven years shall not exceed an amount equal to 8% of the total number of educational scholarships provided under this subsection in the current school year.

(e) A scholarship granting organization shall direct payments of an educational scholarship to the qualified school on behalf of the eligible student. Payment shall be made by check made payable to both the parent and the qualified school. If an eligible student transfers to a new qualified school during a school year, the scholarship granting organization shall direct payment in a prorated amount to the original qualified school and the new qualified school based on the eligible student's attendance.

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

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

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

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

(4) the total number and total dollar amount of educational scholarships awarded during the 12-month reporting period, the total number and total dollar amount of educational scholarships awarded during the 12-month reporting period to low-income eligible students, the total number and total dollar amount of educational scholarships awarded during the 12-month reporting period to special educational eligible students and the percentage of first-time recipients of educational
scholarships who were continuously and previously enrolled in a public school during the 12-month reporting period.

Sec. 5. (a) (1) To qualify for the tax credit allowed by this act, each tax year the scholarship granting organization shall apply to the state board for a certification that the following requirements were met:

(A) That the scholarship granting organization is in substantial compliance with the program based on information received in the annual audit and yearly report filed by the scholarship granting organization with the state board; and

(B) that the qualified schools receiving educational scholarships from the scholarship granting organization are accredited by either the state board, independent schools association of the central states or independent schools association of the southwest.

(2) The state board shall prescribe the form of the application, which shall include, but not be limited to, the information set forth in subsection (a)(1).

(b) If the state board determines that the requirements under this section were met by the scholarship granting organization, the state board shall issue a certificate of compliance to the director of taxation.

(c) The state board shall adopt rules and regulations to implement the provisions of this section.

Sec. 6. (a) There shall be allowed a credit against the income tax liability imposed upon a taxpayer pursuant to the Kansas income tax act, the privilege tax liability imposed upon a taxpayer pursuant to the privilege tax imposed upon any national banking association, state bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and the premium tax liability imposed upon a taxpayer pursuant to the premiums tax and privilege fees imposed upon an insurance company pursuant to K.S.A. 40-252, and amendments thereto, for tax years commencing after December 31, 2012, an amount equal to 90% of the amount contributed to a scholarship granting organization authorized pursuant to section 1 et seq., and amendments thereto.

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

(c) If the amount of any such tax credit claimed by a taxpayer exceeds the taxpayer's income, privilege or premium tax liability, such excess amount may be carried over for deduction from the taxpayer's income, privilege or premium tax liability in the next succeeding year or years until the total amount of the credit has been deducted from tax liability, except that no such credit shall be carried over for deduction after the third taxable year succeeding the tax year in which the contribution
was made to any such scholarship granting organization.

(d) No credit under this section shall be claimed by a taxpayer who may be claimed as a dependent by another taxpayer for federal income tax purposes.

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

Sec. 7. This act shall take effect and be in force from and after January 1, 2013 and its publication in the statute book.