

## HOUSE BILL No. 2906

By Committee on Appropriations

2-23

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9 AN ACT concerning the provision of financial assistance for kindergarten  
10 through twelfth grade for disadvantaged children.

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

13 Section 1. This act shall be known and may be cited as the oppor-  
14 tunity scholarship program for at-risk students.

15 Sec. 2. (a) The legislature hereby finds and declares that:

16 (1) Meeting the educational needs of high-poverty, low-achieving  
17 children in our state's public schools is of the greatest importance to the  
18 future welfare of Kansas;

19 (2) closing the achievement gap between high-performing and low-  
20 performing children, including the gap between economically disadvan-  
21 tagged students and their more advantaged peers, is a significant and pres-  
22 ent challenge; and

23 (3) providing a broader range of educational options to parents and  
24 utilizing existing resources and educational structures may help high-pov-  
25 erty, low-achieving students improve their academic achievement.

26 (b) The legislature further finds and declares that the program estab-  
27 lished by this act:

28 (1) Provides Kansas families with a financial tool to access additional  
29 educational resources in an effort to improve academic achievement;

30 (2) is not in violation of article 6 of the state constitution;

31 (3) meets the standards set forth in *Zelman V. Simmons-Harris*, 536  
32 U.S. 639, 122 S.Ct. 2460, 153 L.Ed.2d 604 (2002); and

33 (4) addresses the urgent concern for providing equal educational op-  
34 portunity in Kansas as emphasized in Judge Terry Bullock's holdings in  
35 the case of *Montoy et al v. State of Kansas et al*, case no. 99 C1738.

36 Sec. 3. As used in this act, unless the context otherwise requires:

37 (a) "Assistance" means the financial assistance provided by a school  
38 district to the parent of an eligible child attending a participating non-  
39 public school pursuant to this act.

40 (b) "Department" means the Kansas department of education.

41 (c) "Eligible child" means a child who meets the eligibility criteria  
42 for participation in the program as provided in section 4, and amendments  
43 thereto.

1 (d) “Nonpublic school program membership” means the number of  
2 eligible children who are attending a nonpublic school pursuant to this  
3 act on September 20 of each school year.

4 (e) “Opportunity scholarship agreement” means the agreement en-  
5 tered into between a school district and the parent of an eligible child  
6 pursuant to this act.

7 (f) “Parent” means an eligible child’s parent or legal guardian.

8 (g) “Participating nonpublic school” means a nonpublic school that  
9 meets the standards set forth in section 6, and amendments thereto, and  
10 that participates in the program.

11 (h) “Program” means the opportunity scholarship program for at-risk  
12 students established pursuant to section 4, and amendments thereto.

13 (i) “State aid per pupil” means all funds received by school districts  
14 from the state treasury for any purpose, with this total then divided by  
15 the unweighted full-time-equivalent student population.

16 (j) “State board” means the state board of education.

17 Sec. 4. (a) There is hereby established the opportunity scholarship  
18 program for at-risk students to provide assistance to eligible children in  
19 attending participating nonpublic schools.

20 (b) A child who wishes to attend a participating nonpublic school  
21 located within a school district may participate in the program if, at the  
22 time of applying, the school district determines that:

23 (1) The child meets the definition of “at-risk pupils” as defined by  
24 K.S.A. 72-6407, and amendments thereto; and

25 (2) the child was continuously enrolled in and attending a public  
26 school during the previous school year.

27 (c) The parent of a child who seeks to participate in the program and  
28 to enter into an opportunity scholarship agreement shall apply to the  
29 school district in which the nonpublic school the child desires to attend  
30 is located on or before January 1 of the school year preceding the school  
31 year in which the child intends to enroll in and attend a participating  
32 nonpublic school pursuant to the program. A copy of such application  
33 shall be sent to the school district where the child resides if such child is  
34 attending school in such school district at the time of application. On or  
35 before February 15 of the school year in which the application was re-  
36 ceived by the school district, the school district shall notify each applying  
37 parent whose child meets the criteria specified in subsection (b) of this  
38 section. A child must apply annually for eligibility to participate in the  
39 program.

40 (d) Each eligible child shall provide annual written notice of intent  
41 to participate in the program and to renew such child’s scholarship  
42 agreement.

43 (e) A parent may withdraw an eligible child from a participating non-

1 public school at any time during the school year and may either:

2 (1) Enroll the eligible child in a public school; or

3 (2) enroll the eligible child in another participating nonpublic school  
4 that has space for the eligible child and has accepted the eligible child  
5 for admission.

6 (f) While an eligible child may enroll in and attend more than one  
7 participating nonpublic school in a school year after withdrawing pursuant  
8 to subsection (e), a school district need not make more than one payment  
9 in a quarterly payment period described in section 8, and amendments  
10 thereto.

11 (g) A parent is deemed to have breached the opportunity scholarship  
12 agreement and to have relinquished the right to receive payments pur-  
13 suant to the program if:

14 (1) The parent voluntarily notifies the school district in writing of the  
15 parent's intent to relinquish the right;

16 (2) the parent fails to submit an application to a participating non-  
17 public school pursuant to section 5, and amendments thereto;

18 (3) the eligible child does not enroll in a participating nonpublic  
19 school by September 20 of the school year for which the eligible child  
20 was accepted by a participating nonpublic school;

21 (4) the eligible child's domicile becomes located outside the state; or

22 (5) the eligible child fails to take a statewide assessment required  
23 pursuant to law, unless the failure is excused by the state board.

24 (h) A child who was continuously enrolled in and attending a non-  
25 public school, or participating in a nonpublic home-based educational  
26 program, shall not be entitled to participate in the program in the school  
27 year following the school year in which the child attended the nonpublic  
28 school or participated in the nonpublic home-based educational program,  
29 except that the provisions of this subsection (h) shall not apply if the child  
30 was enrolled in the nonpublic school through participation in the  
31 program.

32 Sec. 5. (a) On or after April 1, but prior to June 1, of the school year  
33 in which the eligible child is deemed eligible and elects to participate in  
34 the program, a parent shall submit an application to the participating  
35 nonpublic school on a form provided by the school district. Within 15  
36 days after receiving the application, the participating nonpublic school  
37 shall notify the applicant, in writing, whether the eligible child has been  
38 accepted for admission. In addition to any other admission criteria used  
39 by a participating nonpublic school that is consistent with this act, the  
40 participating nonpublic school shall determine which eligible children to  
41 accept for admission on the basis of the order in which their applications  
42 are received.

43 (b) Notwithstanding the provisions of subsection (a) of this section, a

1 participating nonpublic school may give preference in accepting for  
2 admission:

- 3 (1) Eligible children who have attended the participating nonpublic  
4 school pursuant to the program in a previous school year; and  
5 (2) siblings of eligible children already accepted for admission.

6 Sec. 6. (a) A nonpublic school that chooses to participate in the pro-  
7 gram shall file an application with the school district where the nonpublic  
8 school is located. The nonpublic school shall provide information at the  
9 time of filing the application pursuant to this subsection (a), and annually  
10 thereafter as long as the nonpublic school seeks to participate in the pro-  
11 gram, that indicates that the nonpublic school meets the following  
12 standards:

13 (1) For the school year 2004-05, and for each school year thereafter,  
14 the nonpublic school notifies the school district of its intent to participate  
15 in the program;

16 (2) the nonpublic school does not discriminate against eligible chil-  
17 dren in admissions, dismissals, or other rights or privileges of parents or  
18 eligible children, on the basis of race or national origin;

19 (3) the nonpublic school permits the school district, at the school  
20 district's cost, to administer statewide assessments to the eligible children  
21 attending the nonpublic school pursuant to this act;

22 (4) the nonpublic school permits the eligible child attending the non-  
23 public school pursuant to the program to withdraw from the nonpublic  
24 school at any time without further obligation but without a right of re-  
25 covery for payments made prior to the withdrawal; and

26 (5) the nonpublic school provides information regarding the school's  
27 history and administrative structure and provides a description of the  
28 school's educational philosophy and curriculum.

29 (b) A nonpublic school shall provide the notice described in para-  
30 graph (1) of subsection (a) of this section by October 1 of the school year  
31 preceding the school year in which the nonpublic school intends to par-  
32 ticipate in the program. For the 2004-05 school year, the notice shall be  
33 given by July 31, 2004. The notice shall specify the number of eligible  
34 children for which the nonpublic school has space in each grade level  
35 offered by the nonpublic school and whether the nonpublic school is  
36 willing to accept eligible children for admission after the beginning of the  
37 school year. The nonpublic school may change the number of available  
38 spaces by written amendment at any time.

39 (c) Each participating nonpublic school shall annually affirm that it  
40 meets the standards described in subsection (a) of this section and notify  
41 the school district of its intent to continue as a participating nonpublic  
42 school. A nonpublic school that ceases participation in the program and  
43 later seeks to again become a participating nonpublic school shall file an

1 application with a school district pursuant to subsection (a).

2 (d) By December 1 of each school year, a school district shall provide  
3 information to eligible children and their parents who reside in the school  
4 district regarding the nonpublic schools participating in the program. The  
5 information shall be in a form that includes a description of the program,  
6 the identities of participating nonpublic schools, and an application for  
7 participation in the program. The information may be either in an elec-  
8 tronic format or in a mailing to parents. If the school district receives  
9 private moneys sufficient to pay for a mailing to the parents, the school  
10 district shall provide the information to the parents in such a mailing. The  
11 school district shall provide to participating nonpublic schools an elec-  
12 tronic file, if available, that includes the names and contact information  
13 of those eligible students who have applied to participate in the program.

14 Sec. 7. (a) The parent of an eligible child chosen to participate in the  
15 program and accepted by a participating nonpublic school shall enter into  
16 an opportunity scholarship agreement with the school district. The op-  
17 portunity scholarship agreement shall set forth the responsibilities of the  
18 parties, which shall include:

19 (1) The terms and procedures of payment made by the school district  
20 to the parent in accordance with section 8, and amendments thereto;

21 (2) the consequences for failure to abide by the terms of the  
22 agreement;

23 (3) the circumstances involving the administration of the statewide  
24 assessments to the eligible child, as described in section 6, and amend-  
25 ments thereto; and

26 (4) other matters, as required by the provisions of this act.

27 (b) In the case of an eligible child who has an individual educational  
28 program, the individual education program services and funding shall  
29 continue to be provided without regard to the provisions of this act.

30 (c) For purposes of determining pupil enrollment under the school  
31 district finance and quality performance act, the school district which  
32 encompasses the nonpublic school attended by an eligible child who is  
33 participating in the program shall be entitled to count the eligible child  
34 within the school district's enrollment in accordance with K.S.A. 72-6407,  
35 and amendments thereto.

36 Sec. 8. (a) On or before October 15, 2004, and on or before October  
37 15 of each year thereafter, each participating nonpublic school shall file  
38 with the department, and with the school district of attendance of each  
39 eligible child enrolled in the participating nonpublic school, a report stat-  
40 ing its nonpublic school program membership.

41 (b) For the school year 2004-05, and for each school year thereafter,  
42 upon receipt from a participating nonpublic school of proof of an eligible  
43 child's enrollment in a participating nonpublic school during a school year

1 and the signing of the opportunity scholarship agreement, the school dis-  
2 trict of attendance shall pay pursuant to subsections (c) and (d) an amount  
3 equal to 50% of the average state aid per pupil statewide for the preceding  
4 school year.

5 (c) If any school district in the preceding school year received state  
6 aid per pupil that is less than the scholarship amount described in sub-  
7 section (b), the state board shall pay to such school district the dollar  
8 difference between those figures for each eligible child who is partici-  
9 pating in the program.

10 (d) The school district shall pay assistance to the parent of an eligible  
11 child who is participating in the program as follows: Twenty-five percent  
12 of the amount described in subsection (b) of this section in September,  
13 25% of the amount in February, and the remainder in May.

14 (e) The school district of attendance shall issue a check for each pay-  
15 ment described in subsection (b) in the name of the eligible child's parent.  
16 The school district shall send the check to the participating nonpublic  
17 school in which the parent's child is enrolled, and the parent shall restric-  
18 tively endorse the check for the sole use of the participating nonpublic  
19 school. No payments to parents pursuant to this section shall be subject  
20 to Kansas income taxation.

21 Sec. 9. (a) On or before January 1, 2008, the legislative division of  
22 post audit shall conduct or cause to be conducted a performance and  
23 financial audit of the program. The division shall submit its findings, con-  
24 clusions, and recommendations in the form of a written report to the  
25 members of the legislative post audit committee and to the members of  
26 the education committees of the senate and the house of representatives.

27 (b) This section expires, effective January 15, 2008.

28 Sec. 10. (a) The state board shall evaluate the academic performance  
29 of each eligible child who is enrolled in a participating nonpublic school  
30 pursuant to the program. On or before January 1, 2008, the state board  
31 shall provide a written report to the members of the education commit-  
32 tees of the senate and the house of representatives and to the department.  
33 The report shall include non-identifying individual student data on the  
34 statewide assessments and an analysis of individual student achievement.

35 (b) This section expires, effective January 15, 2008.

36 Sec. 11. Nothing in this act shall be applied or construed in any man-  
37 ner so as to create, effectuate or change any power, duty or function of  
38 the state board with respect to regulation or supervision of nonpublic  
39 schools in this state. Nothing in this act shall be applied or construed in  
40 any manner so as to regulate or prohibit free exercise in matters of cur-  
41 riculum, creed or practice of any nonpublic Kansas school of choice.

42 Sec. 12. This act shall take effect and be in force from and after its  
43 publication in the statute book.