

**SENATE BILL No. 382**

By Committee on Education

2-6

1 AN ACT concerning education; relating to **the tax credit for low income**  
2 **students scholarship program act; expanding student eligibility for**  
3 **the program; adjusting the calculation of** school district capital  
4 improvements state aid ~~determination~~; amending K.S.A. 2019 Supp.  
5 **72-4352, 72-4354, 72-5178 and 72-5462** and repealing the existing  
6 section sections.

7  
8 *Be it enacted by the Legislature of the State of Kansas:*

9 **Section 1. K.S.A. 2019 Supp. 72-4352 is hereby amended to read**  
10 **as follows: 72-4352. As used in the tax credit for low income students**  
11 **scholarship program act:**

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

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

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

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

23 (1) ~~(A) Is an at-risk student, as defined in K.S.A. 72-5132, and~~  
24 ~~amendments thereto, and who is attending a public school; or (B) has been~~  
25 ~~eligible to receive an educational scholarship under this program and has~~  
26 ~~not graduated from high school or reached 21 years of age;~~

27 (2) ~~Resides in Kansas while eligible for an educational scholarship;~~  
28 ~~and~~

29 ~~(3) (A) (i) is eligible for free or reduced-priced meals under~~  
30 ~~the national school lunch act; and~~

31 (ii) ~~(a) was enrolled in any public school in the previous school~~  
32 ~~year in which an educational scholarship is first sought for the child;~~  
33 ~~or~~

34 ~~(B) (b) is eligible to be enrolled in any public school in the school~~

1 year in which an educational scholarship is first sought for the child  
2 and the child is under the age of six years; or

3 (B) *has received an educational scholarship under the program and*  
4 *has not graduated from high school or reached the age of 21 years.*

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

7 (f) "Program" means the tax credit for low income students  
8 scholarship program established in K.S.A. 72-4351 through 72-4357,  
9 and amendments thereto.

10 (g) "Public school" means ~~an elementary school that is operated by~~  
11 ~~a school district, and identified by the state board as one of the lowest 100~~  
12 ~~performing elementary schools with respect to student achievement among~~  
13 ~~all elementary schools operated by school districts for the current school~~  
14 ~~year any school operated by a unified school district organized under the~~  
15 ~~laws of this state.~~

16 (h) "Qualified school" means any nonpublic school that:

17 (1) Provides education to elementary or secondary students;

18 (2) *is accredited by the state board or a national or regional*  
19 *accrediting agency that is recognized by the state board for the purpose of*  
20 *satisfying the teaching performance assessment for professional licensure;*

21 (3) has notified the state board of its intention to participate in  
22 the program; and

23 (4) complies with the requirements of the program. ~~On and after~~  
24 ~~July 1, 2020, a qualified school shall be accredited by the state board or a~~  
25 ~~national or regional accrediting agency that is recognized by the state~~  
26 ~~board for the purpose of satisfying the teaching performance assessment~~  
27 ~~for professional licensure.~~

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

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

34 (k) "School year" ~~shall have the meaning ascribed thereto~~ *means the*  
35 *same as* in K.S.A. 72-5132, and amendments thereto.

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

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

38 Sec. 2. K.S.A. 2019 Supp. 72-4354 is hereby amended to read as  
39 follows: 72-4354. (a) To be eligible to participate in the program, a  
40 scholarship granting organization shall comply with the following:

41 (1) The scholarship granting organization shall notify the  
42 secretary and the state board of the scholarship granting  
43 organization's intent to provide educational scholarships;

1       **(2) upon granting an educational scholarship, the scholarship**  
2 **granting organization shall report such information to the state**  
3 **board;**

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

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

11       **(A) A surety bond payable to the state in an amount equal to the**  
12 **aggregate amount of contributions expected to be received during the**  
13 **school year; or**

14       **(B) financial information demonstrating the scholarship granting**  
15 **organization's ability to pay an aggregate amount equal to the amount**  
16 **of the contributions expected to be received during the school year,**  
17 **which must be reviewed and approved of in writing by the state**  
18 **board;**

19       **(5) scholarship granting organizations that provide other**  
20 **nonprofit services in addition to providing educational scholarships**  
21 **shall not commingle contributions made under the program with**  
22 **other contributions made to such organization. A scholarship granting**  
23 **organization under this subsection shall also file with the state board,**  
24 **prior to the commencement of each school year, either:**

25       **(A) A surety bond payable to the state in an amount equal to the**  
26 **aggregate amount of contributions expected to be received during the**  
27 **school year; or**

28       **(B) financial information demonstrating the nonprofit**  
29 **organization's ability to pay an aggregate amount equal to the amount**  
30 **of the contributions expected to be received during the school year,**  
31 **which must be reviewed and approved of in writing by the state**  
32 **board;**

33       **(6) each qualified school receiving educational scholarships from**  
34 **the scholarship granting organization shall annually certify to the**  
35 **scholarship granting organization its compliance with the**  
36 **requirements of the program;**

37       **(7) at the end of the calendar year, the scholarship granting**  
38 **organization shall have its accounts examined and audited by a**  
39 **certified public accountant. Such audit shall include, but not be**  
40 **limited to, information verifying that the educational scholarships**  
41 **awarded by the scholarship granting organization were distributed to**  
42 **qualified schools with respect to eligible students determined by the**  
43 **state board under K.S.A. 72-4353(c), and amendments thereto, and**

1 information specified in this section. Prior to filing a copy of the audit  
2 with the state board, such audit shall be duly verified and certified by  
3 a certified public accountant; and

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

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

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

23 (d) A scholarship granting organization may continue to provide  
24 an educational scholarship with respect to a student who was an  
25 eligible student in the year immediately preceding the current school  
26 year.

27 (e)-(1) A scholarship granting organization shall direct payments  
28 of educational scholarships to the qualified school attended by the  
29 eligible student or in which the eligible student is enrolled. Payment  
30 may be made by check made payable to both the parent and the  
31 qualified school or to only the qualified school. If an eligible student  
32 transfers to a new qualified school during a school year, the  
33 scholarship granting organization shall direct payment in a prorated  
34 amount to the original qualified school and the new qualified school  
35 based on the eligible student's attendance. If the eligible student  
36 transfers to a public school and enrolls in such public school after  
37 September 20 of the current school year, the scholarship granting  
38 organization shall direct payment in a prorated amount to the original  
39 qualified school and the public school based on the eligible student's  
40 attendance. The prorated amount to the public school shall be  
41 considered a donation and shall be paid to the school district of such  
42 public school in accordance with K.S.A. 72-1142, and amendments  
43 thereto.

1       ~~(2) As used in this subsection, the term "public school" means any~~  
2 ~~school operated by a school district.~~

3       **(f)** *Each qualified school shall provide a link to the state department*  
4 *of education's webpage where the reports prepared pursuant to K.S.A. 72-*  
5 *5170, and amendments thereto, and K.S.A. 2019 Supp. 72-5178, and*  
6 *amendments thereto, for such school are published. The link shall be*  
7 *prominently displayed on the school's accountability reports webpage.*

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

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

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

19       **(3) the total number and total dollar amount of contributions**  
20 **received 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**  
23 **total number and total dollar amount of educational scholarships**  
24 **awarded during the 12-month reporting period with respect to eligible**  
25 **students who qualified under K.S.A. 72-4352(d), and amendments**  
26 **thereto.**

27       ~~(g)~~**(h)** **No scholarship granting organization shall:**

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

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

34       **Sec. 3. K.S.A. 2019 Supp. 72-5178 is hereby amended to read as**  
35 **follows: 72-5178. (a) On or before January 15 of each year, the state**  
36 **department of education shall prepare and submit a performance**  
37 **accountability report and a longitudinal achievement report for all**  
38 **students enrolled in public school or accredited nonpublic school in the**  
39 **state, each school district and, each school operated by a school district**  
40 **and each accredited nonpublic school to the governor and to the**  
41 **legislature.**

42       **(b) Each performance accountability report shall be prepared in**  
43 **a single-page format containing the information that is required to be**

1 reported under the federal elementary and secondary education act,  
2 as amended by the federal every student succeeds act, public law 114-  
3 95, or any successor federal acts, and the college and career readiness  
4 metrics developed and implemented by the state board. The report  
5 shall use the categories for achievement identified under the federal  
6 every student succeeds act, public law 114-95, or any successor  
7 achievement categories. All categories and metrics included in the  
8 report shall be clearly defined.

9 (c) Each longitudinal achievement report shall provide the  
10 achievement rates on the state assessments for English language arts,  
11 math and science for all students and each student subgroup and the  
12 change in achievement rate year-over-year starting with the school  
13 year in which the state board first implemented new achievement  
14 standards on such state assessments.

15 (d) All reports prepared pursuant to this section shall be  
16 published in accordance with K.S.A. 2019 Supp. 72-1181, and  
17 amendments thereto.

18 ~~Section 4.~~ Sec. 4. K.S.A. 2019 Supp. 72-5462 is hereby amended to  
19 read as follows: 72-5462. (a) There is hereby established in the state  
20 treasury the school district capital improvements fund. The fund shall  
21 consist of all amounts transferred thereto under the provisions of  
22 subsection (c).

23 (b) In each school year, each school district ~~which~~ *that* is obligated to  
24 make payments from its capital improvements fund shall be entitled to  
25 receive payment from the school district capital improvements fund in an  
26 amount determined by the state board of education as provided in this  
27 subsection.

28 (1) For general obligation bonds approved for issuance at an election  
29 held prior to July 1, 2015, the state board of education shall:

30 (A) Determine the amount of the assessed valuation per pupil (AVPP)  
31 of each school district in the state for the preceding school year and round  
32 such amount to the nearest \$1,000. The rounded amount is the AVPP of a  
33 school district for the purposes of this subsection (b)(1);

34 (B) determine the median AVPP of all school districts;

35 (C) prepare a schedule of dollar amounts using the amount of the  
36 median AVPP of all school districts as the point of beginning. The  
37 schedule of dollar amounts shall range upward in equal \$1,000 intervals  
38 from the point of beginning to and including an amount that is equal to the  
39 amount of the AVPP of the school district with the highest AVPP of all  
40 school districts and shall range downward in equal \$1,000 intervals from  
41 the point of beginning to and including an amount that is equal to the  
42 amount of the AVPP of the school district with the lowest AVPP of all  
43 school districts;

1 (D) determine a state aid percentage factor for each school district by  
2 assigning a state aid computation percentage to the amount of the median  
3 AVPP shown on the schedule, decreasing the state aid computation  
4 percentage assigned to the amount of the median AVPP by one percentage  
5 point for each \$1,000 interval above the amount of the median AVPP, and  
6 increasing the state aid computation percentage assigned to the amount of  
7 the median AVPP by one percentage point for each \$1,000 interval below  
8 the amount of the median AVPP. Except as provided by K.S.A. 72-5463,  
9 and amendments thereto, the state aid percentage factor of a school district  
10 is the percentage assigned to the schedule amount that is equal to the  
11 amount of the AVPP of the school district. The state aid percentage factor  
12 of a school district shall not exceed 100%. The state aid computation  
13 percentage is 25%;

14 (E) determine the amount of payments that a school district is  
15 obligated to make from its bond and interest fund attributable to general  
16 obligation bonds approved for issuance at an election held prior to July 1,  
17 2015; and

18 (F) multiply the amount determined under subsection (b)(1)(E) by the  
19 applicable state aid percentage factor.

20 (2) For general obligation bonds approved for issuance at an election  
21 held on or after July 1, 2015, the state board of education shall:

22 (A) **Except as provided in subsection (b)(8)**, determine the amount  
23 of the AVPP of each school district in the state for the preceding school  
24 year and round such amount to the nearest \$1,000. ~~*When determining the*~~  
25 ~~*amount of the AVPP of each school district in the state, the state board*~~  
26 ~~*shall exclude the number of students enrolled in a virtual school offered*~~  
27 ~~*by a school district from the AVPP of such district.*~~ The rounded amount  
28 is the AVPP of a school district for the purposes of this subsection (b)(2);

29 (B) *except as provided in subsection (b)(8)*, prepare a schedule of  
30 dollar amounts using the amount of the AVPP of the school district with  
31 the lowest AVPP of all school districts as the point of beginning. The  
32 schedule of dollar amounts shall range upward in equal \$1,000 intervals  
33 from the point of beginning to and including an amount that is equal to the  
34 amount of the AVPP of the school district with the highest AVPP of all  
35 school districts;

36 (C) determine a state aid percentage factor for each school district by  
37 assigning a state aid computation percentage to the amount of the lowest  
38 AVPP shown on the schedule and decreasing the state aid computation  
39 percentage assigned to the amount of the lowest AVPP by one percentage  
40 point for each \$1,000 interval above the amount of the lowest AVPP.  
41 Except as provided by K.S.A. 72-5463, and amendments thereto, the state  
42 aid percentage factor of a school district is the percentage assigned to the  
43 schedule amount that is equal to the amount of the AVPP of the school

1 district. The state aid computation percentage is 75%;

2 (D) determine the amount of payments that a school district is  
3 obligated to make from its bond and interest fund attributable to general  
4 obligation bonds approved for issuance at an election held on or after July  
5 1, 2015; and

6 (E) multiply the amount determined under subsection (b)(2)(D) by  
7 the applicable state aid percentage factor.

8 (3) For general obligation bonds approved for issuance at an election  
9 held on or before June 30, 2016, the sum of the amount determined under  
10 subsection (b)(1)(F) and the amount determined under subsection (b)(2)(E)  
11 is the amount of payment the school district is entitled to receive from the  
12 school district capital improvements fund in the school year.

13 (4) (A) For general obligation bonds approved for issuance at an  
14 election held on or after July 1, 2016, the amount determined under  
15 subsection (b)(2)(E) is the amount of payment the school district shall  
16 receive from the school district capital improvements fund in the school  
17 year, except the total amount of payments school districts receive from the  
18 school district capital improvements fund in the school year for such bonds  
19 shall not exceed the six-year average amount of capital improvement state  
20 aid as determined by the state board of education.

21 ~~(A)~~(B) The state board of education shall determine the six-year  
22 average amount of capital improvement state aid by calculating the  
23 average of the total amount of moneys expended per year from the school  
24 district capital improvements fund in the immediately preceding six fiscal  
25 years, not to include the current fiscal year.

26 ~~(B)~~(C) (i) Subject to clause (ii), the state board of education shall  
27 prioritize the allocations to school districts from the school district capital  
28 improvements fund in accordance with the priorities set forth as follows in  
29 order of highest priority to lowest priority:

30 (a) Safety of the current facility and disability access to such facility  
31 as demonstrated by a state fire marshal report, an inspection under the  
32 Americans with disabilities act, 42 U.S.C. § 12101 et seq., or other similar  
33 evaluation;

34 (b) enrollment growth and imminent overcrowding as demonstrated  
35 by successive increases in enrollment of the school district in the  
36 immediately preceding three school years;

37 (c) impact on the delivery of educational services as demonstrated by  
38 restrictive inflexible design or limitations on installation of technology;  
39 and

40 (d) energy usage and other operational inefficiencies as demonstrated  
41 by a district-wide energy usage analysis, district-wide architectural  
42 analysis or other similar evaluation.

43 (ii) In allocating capital improvement state aid, the state board shall



1 give higher priority to those school districts with a lower AVPP compared  
2 to the other school districts that are to receive capital improvement state  
3 aid under this section.

4 ~~(C)(D)~~ On and after July 1, 2016, the state board of education shall  
5 approve the amount of state aid payments a school district shall receive  
6 from the school district capital improvements fund pursuant to subsection  
7 (b)(5) prior to an election to approve the issuance of general obligation  
8 bonds.

9 (5) Except as provided in subsections (b)(6)~~and (b)(7) through (b)(8)~~,  
10 the sum of the amounts determined under subsection (b)(3) and the amount  
11 determined or allocated to the district by the state board of education  
12 pursuant to subsection (b)(4), is the amount of payment the school district  
13 is entitled to receive from the school district capital improvements fund in  
14 the school year.

15 (6) A school district that had an enrollment of less than 260 students  
16 in the school year immediately preceding the school year in which an  
17 election is held to approve the issuance of general obligation bonds shall  
18 not be entitled to receive payments from the school district capital  
19 improvements fund unless such school district applied for and received  
20 approval from the state board of education to issue such bonds prior to  
21 holding an election to approve such bond issuance. The provisions of this  
22 paragraph shall apply to general obligation bonds approved for issuance at  
23 an election held on or after July 1, 2017, that are issued for the purpose of  
24 financing the construction of new school facilities.

25 (7) For general obligation bonds approved for issuance at an election  
26 held on or after July 1, 2017, in determining the amount under subsection  
27 (b)(2)(D), the state board shall exclude payments for any capital  
28 improvement project, or portion thereof, that proposes to construct,  
29 reconstruct or remodel a facility that would be used primarily for  
30 extracurricular activities, unless the construction, reconstruction or  
31 remodeling of such facility is necessary due to concerns relating to the  
32 safety of the current facility or disability access to such facility as  
33 demonstrated by a state fire marshal report, an inspection under the  
34 Americans with disabilities act, 42 U.S.C. § 12101 et seq., or other similar  
35 evaluation.

36 (8) *For general obligation bonds approved for issuance at an*  
37 *election held on or after July 1, ~~2020-2015, 2020:~~*

38 **(A)** *In preparing the schedule of dollar amounts under subsection (b)*  
39 *(2)(B), the state board shall exclude unified school district No. 207, Fort*  
40 *Leavenworth, from such schedule, and the amount of the AVPP of the*  
41 *school district with the lowest AVPP of all remaining school districts shall*  
42 *be the point of beginning; and*

43 **(B)** **in determining the amount of the AVPP of a school district,**

1 **the state board shall exclude the number of students enrolled in a**  
2 **virtual school offered by such school district from the calculation of**  
3 **the AVPP of such school district.**

4 (c) The state board of education shall certify to the director of  
5 accounts and reports the entitlements of school districts determined under  
6 the provisions of subsection (b), and an amount equal thereto shall be  
7 transferred by the director from the state general fund to the school district  
8 capital improvements fund for distribution to school districts. All transfers  
9 made in accordance with the provisions of this subsection shall be  
10 considered to be demand transfers from the state general fund, except that  
11 all such transfers during the fiscal years ending June 30, 2020, June 30,  
12 2021, and June 30, 2022, shall be considered to be revenue transfers from  
13 the state general fund.

14 (d) Payments from the school district capital improvements fund shall  
15 be distributed to school districts at times determined by the state board of  
16 education to be necessary to assist school districts in making scheduled  
17 payments pursuant to contractual bond obligations. The state board of  
18 education shall certify to the director of accounts and reports the amount  
19 due each school district entitled to payment from the fund, and the director  
20 of accounts and reports shall draw a warrant on the state treasurer payable  
21 to the treasurer of the school district. Upon receipt of the warrant, the  
22 treasurer of the school district shall credit the amount thereof to the bond  
23 and interest fund of the school district to be used for the purposes of such  
24 fund.

25 (e) The provisions of this section apply only to contractual  
26 obligations incurred by school districts pursuant to general obligation  
27 bonds issued upon approval of a majority of the qualified electors of the  
28 school district voting at an election upon the question of the issuance of  
29 such bonds.

30 (f) On or before the first day of the legislative session in 2017, and  
31 each year thereafter, the state board of education shall prepare and submit  
32 a report to the legislature that includes information on school district  
33 elections held on or after July 1, 2016, to approve the issuance of general  
34 obligation bonds and the amount of payments school districts were  
35 approved to receive from the school district capital improvements fund  
36 pursuant to subsection ~~(b)(4)(C)~~ (b)(4)(D).

37 **Sec. ~~2~~ 5.** K.S.A. 2019 Supp. **72-4352, 72-4354, 72-5178 and 72-**  
38 **5462-~~is~~ are** hereby repealed.

39 **Sec. ~~3~~ 6.** This act shall take effect and be in force from and after its  
40 publication in the statute book.