

As Further Amended by House Committee

As Amended by House Committee

Session of 2020

HOUSE BILL No. 2465

By Committee on Education

1-22

1 AN ACT concerning education; relating to the tax credit for low income
2 students scholarship program act; expanding student eligibility for the
3 program; **adjusting the schedule for determining school district**
4 **capital improvements state aid**; amending K.S.A. 2019 Supp. 72-
5 4352, ~~72-4354 and, 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 as
10 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-kind
13 contributions, gifts or donations that have an established market value.

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

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

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

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

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

28 ~~(3) (A) (i) Is eligible for free or reduced-priced meals under~~
29 ~~the national school lunch act in effect on January 1, 2020; and~~

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

32 ~~(B) (b) is eligible to be enrolled in any public school in the school~~
33 ~~year in which an educational scholarship is first sought for the child and~~
34 ~~the child is under the age of six years; or~~

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

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

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

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

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

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

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

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

21 (4) complies with the requirements of the program. ~~On and after July~~
22 ~~1, 2020, a qualified school shall be accredited by the state board or a~~
23 ~~national or regional accrediting agency that is recognized by the state~~
24 ~~board for the purpose of satisfying the teaching performance assessment~~
25 ~~for professional licensure.~~

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

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

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

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

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

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

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

42 **(2) upon granting an educational scholarship, the scholarship**
43 **granting organization shall report such information to the state**

1 board;

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

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

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

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

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

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

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

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

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

1 a certified public accountant; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (b) **Each performance accountability report shall be prepared in**
41 **a single-page format containing the information that is required to be**
42 **reported under the federal elementary and secondary education act,**
43 **as amended by the federal every student succeeds act, public law 114-**

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

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

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

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

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

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

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

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

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

43 (D) determine a state aid percentage factor for each school

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

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

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

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

22 (A) Determine the amount of the AVPP of each school district in
23 the state for the preceding school year and round such amount to the
24 nearest \$1,000. The rounded amount is the AVPP of a school district
25 for the purposes of this subsection (b)(2);

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

33 (C) determine a state aid percentage factor for each school
34 district by assigning a state aid computation percentage to the amount
35 of the lowest AVPP shown on the schedule and decreasing the state aid
36 computation percentage assigned to the amount of the lowest AVPP by
37 one percentage point for each \$1,000 interval above the amount of the
38 lowest AVPP. Except as provided by K.S.A. 72-5463, and amendments
39 thereto, the state aid percentage factor of a school district is the
40 percentage assigned to the schedule amount that is equal to the
41 amount of the AVPP of the school district. The state aid computation
42 percentage is 75%;

43 (D) determine the amount of payments that a school district is

1 obligated to make from its bond and interest fund attributable to
2 general obligation bonds approved for issuance at an election held on
3 or after July 1, 2015; and

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

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

12 (4) (A) For general obligation bonds approved for issuance at an
13 election held on or after July 1, 2016, the amount determined under
14 subsection (b)(2)(E) is the amount of payment the school district shall
15 receive from the school district capital improvements fund in the
16 school year, except the total amount of payments school districts
17 receive from the school district capital improvements fund in the
18 school year for such bonds shall not exceed the six-year average
19 amount of capital improvement state aid as determined by the state
20 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
24 school district capital improvements fund in the immediately
25 preceding six fiscal 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
28 capital improvements fund in accordance with the priorities set forth
29 as follows in order of highest priority to lowest priority:

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

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

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

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

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

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

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

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

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

26 (7) For general obligation bonds approved for issuance at an
27 election held on or after July 1, 2017, in determining the amount
28 under subsection (b)(2)(D), the state board shall exclude payments for
29 any capital improvement project, or portion thereof, that proposes to
30 construct, reconstruct or remodel a facility that would be used
31 primarily for extracurricular activities, unless the construction,
32 reconstruction or remodeling of such facility is necessary due to
33 concerns relating to the safety of the current facility or disability
34 access to such facility as demonstrated by a state fire marshal report,
35 an inspection under the Americans with disabilities act, 42 U.S.C. §
36 12101 et seq., or other similar evaluation.

37 (8) For general obligation bonds approved for issuance at an
38 election held on or after July 1, 2020, in preparing the schedule of dollar
39 amounts under subsection (b)(2)(B), the state board shall exclude unified
40 school district No. 207, Fort Leavenworth, from such schedule, and the
41 amount of the AVPP of the school district with the lowest AVPP of all
42 remaining school districts shall be the point of beginning.

43 (c) The state board of education shall certify to the director of

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

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

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

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

33 ~~Sec. 2-4-5.~~ K.S.A. 2019 Supp. 72-4352-is, ~~72-4354~~ and, ~~72-5178~~
34 and ~~72-5462~~ are hereby repealed.

35 ~~Sec. 3-5-6.~~ This act shall take effect and be in force from and after
36 its publication in the statute book.