AN ACT concerning education; relating to scholarship programs; tax
credits; establishing the tax credit for low income postsecondary
students scholarship program act; providing for the elimination of the
tax credit for low income students scholarship program act; amending
K.S.A. 72-4352, 72-4354 and 72-4357 and K.S.A. 2018 Supp. 79-
32,138 and repealing the existing sections.

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

New Section 1. The provisions of sections 1 through 7, and
amendments thereto, shall be known and may be cited as the tax credit for
low income postsecondary students scholarship program act.

New Sec. 2. As used in the tax credit for low income postsecondary
students scholarship program act:
(a) "Contributions" means monetary gifts or donations and in-kind
contributions, gifts or donations that have an established market value.
(b) "Eligible student" means a person who:
(1) (A) Was identified as an at-risk student, as defined in K.S.A. 72-
5132, and amendments thereto, when such person attended grade 12 at a
school district of this state; (B) attended any public or nonpublic school in
this state immediately prior to graduation from such school and can
demonstrate financial need; or (C) previously received a postsecondary
educational scholarship pursuant to this program;
(2) resides in Kansas while receiving a postsecondary educational
scholarship; and
(3) is enrolled in at least 12 credit hours at a Kansas educational
institution for each semester that a postsecondary educational scholarship
is disbursed to such student.
(c) "Financial need" means the difference between a student's
available financial resources and the student's total anticipated cost of
attendance at a certain Kansas educational institution. A student's financial
resources shall be determined on the basis of criteria provided under the
federal methodology of need analysis.
(d) "Kansas educational institution" means any:
(1) State educational institution as such term is defined in K.S.A. 76-
711, and amendments thereto; or
(2) community college, municipal university, technical college or
independent postsecondary educational institution as such terms are
defined in K.S.A. 74-32,194, and amendments thereto.

(e) "Postsecondary educational scholarship" means an amount not to
exceed $8,000 per school year provided to an eligible student to attend a
Kansas educational institution to cover all or a portion of the costs of such
attendance including tuition, fees and expenses.

(f) "Program" means the tax credit for low income postsecondary
students scholarship program established pursuant to this act.

(g) "Scholarship granting organization" means an organization that
complies with the requirements of the program and provides
postsecondary educational scholarships to eligible students.

(i) "State board" means the state board of regents.

New Sec. 3. (a) There is hereby established the tax credit for low
income postsecondary students scholarship program. The program shall
provide an eligible student with an opportunity to attend a Kansas
educational institution of such student's choice.

(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 7, and
amendments thereto.

(c) Prior to awarding a postsecondary educational scholarship with
respect to an eligible student, the scholarship granting organization shall
receive written verification from the state board of regents that such
student is an eligible student under this program.

(d) Upon receipt of information in accordance with subsection (f)(2),
the state board shall inform the scholarship granting organization whether
a postsecondary educational scholarship has been awarded by another
scholarship granting organization with respect to the eligible student and
shall provide the amount awarded by such postsecondary educational
scholarship. In each school year, no more than $8,000 in postsecondary
educational scholarships may be awarded under this program with respect
to an eligible student.

New 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 of
revenue and the state board of the scholarship granting organization's
intent to provide postsecondary educational scholarships;

(2) upon granting a postsecondary educational scholarship, the
scholarship granting organization shall report such information to the state
board;

(3) the scholarship granting organization shall provide verification to
the secretary of revenue 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 in writing by the state board;
(5) scholarship granting organizations that provide other nonprofit
services in addition to providing postsecondary 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 during the school year, which must
be reviewed and approved in writing by the state board;
(6) at the end of the calendar year, the scholarship granting
organization shall have its accounts examined and audited by a certified
public accountant. Such audit shall include, but not be limited to,
information verifying that the postsecondary educational scholarships
awarded by the scholarship granting organization were appropriately
distributed to eligible students. Prior to filing a copy of the audit with the
state board, such audit shall be duly verified and certified by a certified
public accountant; and
(7) if a scholarship granting organization decides to limit which
Kansas educational institutions such scholarship granting organization will
provide educational scholarships for an eligible student to attend, the
scholarship granting organization shall provide in writing to the state board
the name or names of the specific Kansas educational institutions that such
scholarship organization will provide scholarships for an eligible student
to attend.
(b) The scholarship granting organization shall disburse not less than
90% of contributions received pursuant to the program in the form of
postsecondary educational scholarships within 36 months of receipt of
such contributions. If such contributions have not been disbursed within
the applicable 36-month time period, then the scholarship granting
organization shall not accept new contributions until 90% of the received
contributions have been disbursed in the form of postsecondary
educational scholarships. Any income earned from contributions must be
disbursed in the form of postsecondary educational scholarships.
(c) A scholarship granting organization may continue to provide a
postsecondary educational scholarship to any eligible student who has
previously received a postsecondary educational scholarship pursuant to
the program.
(d) A scholarship granting organization shall direct payments of
postsecondary educational scholarships on a per semester basis to an
eligible student or to the Kansas educational institution that such eligible
student attends.
(e) By June 1 of each year, each scholarship granting organization
shall submit a report to the state board, in a form and manner prescribed by
the state board, and such report shall contain the following information:
(1) The name and address of the scholarship granting organization;
(2) the name and address of each eligible student with respect to
whom a postsecondary educational scholarship was awarded 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 postsecondary
educational scholarships awarded during the 12-month reporting period
and the total number and total dollar amount of postsecondary educational
scholarships awarded during the 12-month reporting period.
(f) No scholarship granting organization shall:
(1) Provide a postsecondary educational scholarship with respect to
an eligible student that is established by funding from any contributions
made by any relative of such eligible student;
(2) accept a contribution from any source with the express or implied
condition that such contribution be directed toward a postsecondary
educational scholarship for a particular eligible student; or
(3) shall provide a postsecondary educational scholarship to any
eligible student, if such student has relatives in common with the
scholarship granting organization.
New Sec. 5. (a) To qualify for the tax credit allowed by this act, the
scholarship granting organization shall apply each tax year to the state
board for a certification 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. The state board shall prescribe the form
of such application.

(b) If the state board determines that a scholarship granting organization is in substantial compliance with the program, the state board shall issue a certificate of compliance to the director of taxation.

(c) The state board shall prepare and submit an annual report to the legislature on the program. Annual reports shall include information reported to the state board pursuant to section 4, and amendments thereto, and a summary of such information.

(d) The state board may adopt rules and regulations to implement the provisions of the program.

New Sec. 6. (a) There shall be allowed a credit against the 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 year 2019 and each tax year thereafter, an amount equal to 70% of the amount contributed to a scholarship granting organization authorized pursuant to section 1 et seq., and amendments thereto. In no event shall the total amount of contributions for any taxpayer allowed under this subsection exceed $500,000 for any tax year.

(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) For each tax year, in no event shall the total amount of credits allowed under this section exceed $10,000,000 for any one tax year. Except as otherwise provided, the allocation of such tax credits for each scholarship granting organization shall be determined by the scholarship granting organization in consultation with the secretary of revenue, and such determination shall be completed prior to the issuance of any tax credits pursuant to this section.

(d) 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.

(e) The secretary of revenue may adopt rules and regulations regarding filing of documents that support the amount of credit claimed pursuant to this section.
New Sec. 7. The provisions of the tax credit for low income students scholarship program, K.S.A. 72-4351 through 72-4357, and amendments thereto, shall expire on June 30 of the same fiscal year in which no scholarships are reported as being provided by any scholarship granting organization pursuant to K.S.A. 72-4354, and amendments thereto. In any fiscal year that no scholarships are reported as being provided pursuant to such program, the state board of education shall certify the same to the revisor of statutes.

Sec. 8. K.S.A. 72-4352 is hereby amended to read as follows: 72-4352. As used in the tax credit for low income students scholarship program act:

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

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

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

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

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

2. (A) was enrolled in any public school in the previous school year in which an educational scholarship is first sought for the child; or (B) is eligible to be enrolled in any 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 six years has previously received an educational scholarship from a scholarship granting organization pursuant to the program.

3. (A) was enrolled in any public school in the previous school year in which an educational scholarship is first sought for the child; or (B) is eligible to be enrolled in any 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 six years has previously received an educational scholarship from a scholarship granting organization pursuant to the program.

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

(f) "Program" means the tax credit for low income students scholarship program established in K.S.A. 72-99a01 through 72-99a07, and amendments thereto.

(g) "Public school" means a school that is operated by a school district, and identified by the state board as one of the lowest 100 performing schools with respect to student achievement among all schools operated by school districts for the current school year.

(h) "Qualified school" means any nonpublic school that provides...
education to elementary or secondary students, has notified the state board of its intention to participate in the program and complies with the requirements of the program. On and after July 1, 2020, a qualified school shall be accredited by the state board or a national or regional accrediting agency that is recognized by the state board for the purpose of satisfying the teaching performance assessment for professional licensure.

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

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

(k) "School year" shall have the meaning ascribed thereto in section 4, and amendments thereto.

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

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

Sec. 9. K.S.A. 72-4354 is hereby amended to read as follows: 72-4354. (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;

(2) upon granting an educational scholarship, 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 during the school year, which must be reviewed and approved of in writing by the state board;

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

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

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

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

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

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

(e) A scholarship granting organization shall direct payments of educational scholarships to the qualified school attended by the eligible.
student or in which the eligible student is enrolled. Payment may be made by check made payable to both the parent and the qualified school or to only 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. If the eligible student transfers to a public school and enrolls in such public school after September 20 of the current school year, the scholarship granting organization shall direct payment in a prorated amount to the original qualified school and the public school based on the eligible student's attendance. The prorated amount to the public school shall be considered a donation and shall be paid to the school district of such public school in accordance with K.S.A. 72-1142, and amendments thereto.

(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 with respect to whom an educational scholarship was awarded 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 and the total number and total dollar amount of educational scholarships awarded during the 12-month reporting period with respect to eligible students who qualified under K.S.A. 72-4352(d), and amendments thereto.

(g) No scholarship granting organization shall:

(1) Provide an educational scholarship with respect to an eligible student that is established by funding from any contributions made by any relative of such eligible student; or
(2) accept a contribution from any source with the express or implied condition that such contribution be directed toward an educational scholarship for a particular eligible student.

(h) On and after July 1, 2019, no contribution shall be accepted by any scholarship organization for the purposes of the tax credit for low income students scholarship program.

Sec. 10. K.S.A. 72-4357 is hereby amended to read as follows: 72-4357. (a) (1) There shall be allowed a credit against the corporate 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, 2014, and ending before January 1, 2017, an amount equal to 70% of the amount contributed to a scholarship granting organization authorized pursuant to K.S.A. 72-4351 et seq., and amendments thereto.

(2) There shall be allowed a credit against the 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, 2017, 2018 and 2019, an amount equal to 70% of the amount contributed to a scholarship granting organization authorized pursuant to K.S.A. 72-4351 et seq., and amendments thereto. In no event shall the total amount of contributions for any taxpayer allowed under this subsection exceed $500,000 for any tax year.

(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) For each tax year, in no event shall the total amount of credits allowed under this section exceed $10,000,000 for any one tax year. Except as otherwise provided, the allocation of such tax credits for each scholarship granting organization shall be determined by the scholarship granting organization in consultation with the secretary, and such determination shall be completed prior to the issuance of any tax credits pursuant to this section.

(d) 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.

(e) The secretary shall adopt rules and regulations regarding filing of documents that support the amount of credit claimed pursuant to this section.
Sec. 11. K.S.A. 2018 Supp. 79-32,138 is hereby amended to read as follows: 79-32,138. (a) Kansas taxable income of a corporation taxable under this act shall be the corporation's federal taxable income for the taxable year with the modifications specified in this section.

(b) There shall be added to federal taxable income: (i) The same modifications as are set forth in K.S.A. 79-32,117(b), and amendments thereto, with respect to resident individuals, except subsections (b)(xix), (b)(xx), (b)(xxi), (b)(xxii) and (b)(xxiii);


(iii) the amount of any charitable contribution deduction claimed for any contribution or gift to or for the use of any racially segregated educational institution;

(iv) for taxable years commencing December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid by a taxpayer for health care when such expenses were paid or incurred for abortion coverage, a health benefit plan, as defined in K.S.A. 65-6731, and amendments thereto, when such expenses were paid or incurred for abortion coverage or amounts contributed to health savings accounts for such taxpayer's employees for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2018 Supp. 40-2,190, and amendments thereto;

(v) the amount of any charitable contribution deduction claimed for any contribution or gift made to a scholarship granting organization to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 72-4357, and amendments thereto, or section 6, and amendments thereto; and

(vi) the federal net operating loss deduction.

(c) There shall be subtracted from federal taxable income: (i) The same modifications as are set forth in K.S.A. 79-32,117(c), and amendments thereto, with respect to resident individuals, except subsection (c)(xx);

(ii) the federal income tax liability for any taxable year commencing prior to December 31, 1971, for which a Kansas return was filed after reduction for all credits thereon, except credits for payments on estimates of federal income tax, credits for gasoline and lubricating oil tax, and for foreign tax credits if, on the Kansas income tax return for such prior year, the federal income tax deduction was computed on the basis of the federal income tax paid in such prior year, rather than as accrued. Notwithstanding the foregoing, the deduction for federal income tax liability for any year shall not exceed that portion of the total federal income tax liability for
such year which bears the same ratio to the total federal income tax
liability for such year as the Kansas taxable income, as computed before
any deductions for federal income taxes and after application of
subsections (d) and (e) of this section as existing for such year, bears to the
federal taxable income for the same year;
   (iii) an amount for the amortization deduction allowed pursuant to
32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto;
   (iv) for all taxable years commencing after December 31, 1987, the
amount included in federal taxable income pursuant to the provisions of
section 78 of the internal revenue code; and
   (v) for all taxable years commencing after December 31, 1987, 80%
of dividends from corporations incorporated outside of the United States
or the District of Columbia which are included in federal taxable income.

(d) If any corporation derives all of its income from sources within
Kansas in any taxable year commencing after December 31, 1979, its
Kansas taxable income shall be the sum resulting after application of
subsections (a) through (c) hereof. Otherwise, such corporation's Kansas
taxable income in any such taxable year, after excluding any refunds of
federal income tax and before the deduction of federal income taxes
provided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-
3271 through K.S.A. 79-3293, and amendments thereto, plus any refund of
federal income tax as determined under K.S.A. 79-32,117(b)(iv), and
amendments thereto, and minus the deduction for federal income taxes as
provided by subsection (c)(ii) shall be such corporation's Kansas taxable
income.

   (e) A corporation may make an election with respect to its first
taxable year commencing after December 31, 1982, whereby no addition
modifications as provided for in subsection (b)(ii) and subtraction
modifications as provided for in subsection (c)(iii) as those subsections
existed prior to their amendment by this act, shall be required to be made
for such taxable year.

Sec. 12. K.S.A. 72-4352, 72-4354 and 72-4357 and K.S.A. 2018
Supp. 79-32,138 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its
publication in the statute book.