As Amended by House Committee

As Amended by Senate Committee

Session of 2020

SENATE BILL No. 382

By Committee on Education

2-6

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

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

Section 1. K.S.A. 2019 Supp. 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) Resides in Kansas while eligible for an educational scholarship; and

(3) (A) (2) (A) (i) is eligible for free or reduced-priced meals under the national school lunch act; and

(ii) (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) (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; or

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

(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. 72-4351 through 72-4357, and amendments thereto.

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

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

(1) Provides education to elementary or secondary students;

(2) is 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;

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

(4) 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 means the same as in K.S.A. 72-5132, and amendments thereto.

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

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

Sec. 2. K.S.A. 2019 Supp. 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.
(2) As used in this subsection, the term "public school" means any school operated by a school district.

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

(g) 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)(h) 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.

Sec. 3. K.S.A. 2019 Supp. 72-5178 is hereby amended to read as follows: 72-5178. (a) On or before January 15 of each year, the state department of education shall prepare and submit a performance accountability report and a longitudinal achievement report for all students enrolled in public school or accredited nonpublic school in the state, each school district and each school operated by a school district and each accredited nonpublic school to the governor and to the legislature.
(b) Each performance accountability report shall be prepared in a single-page format containing the information that is required to be
reported under the federal elementary and secondary education act, as amended by the federal every student succeeds act, public law 114-95, or any successor federal acts, and the college and career readiness metrics developed and implemented by the state board. The report shall use the categories for achievement identified under the federal every student succeeds act, public law 114-95, or any successor achievement categories. All categories and metrics included in the report shall be clearly defined.

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

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

Section 1. Sec. 4. K.S.A. 2019 Supp. 72-5462 is hereby amended to read as follows: 72-5462. (a) There is hereby established in the state treasury the school district capital improvements fund. The fund shall consist of all amounts transferred thereto under the provisions of subsection (c).

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

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

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

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

(C) prepare a schedule of dollar amounts using the amount of the median AVPP of all school districts as the point of beginning. The schedule of dollar amounts shall range upward in equal $1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the highest AVPP of all school districts and shall range downward in equal $1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the lowest AVPP of all school districts;
(D) determine a state aid percentage factor for each school district by assigning a state aid computation percentage to the amount of the median AVPP shown on the schedule, decreasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each $1,000 interval above the amount of the median AVPP, and increasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each $1,000 interval below the amount of the median AVPP. Except as provided by K.S.A. 72-5463, and amendments thereto, the state aid percentage factor of a school district is the percentage assigned to the schedule amount that is equal to the amount of the AVPP of the school district. The state aid percentage factor of a school district shall not exceed 100%. The state aid computation percentage is 25%;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) In allocating capital improvement state aid, the state board shall
give higher priority to those school districts with a lower AVPP compared to the other school districts that are to receive capital improvement state aid under this section.

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

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

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

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

(8) For general obligation bonds approved for issuance at an election held on or after July 1, 2015:

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

(B) in determining the amount of the AVPP of a school district,
the state board shall exclude the number of students enrolled in a
virtual school offered by such school district from the calculation of
the AVPP of such school district.

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

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

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

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

Sec. 5. K.S.A. 2019 Supp. 72-4352, 72-4354, 72-5178 and 72-
5462 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its
publication in the statute book.