

SESSION OF 2020

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 382**

As Amended by House Committee on K-12  
Education Budget

**Brief\***

SB 382, as amended, would amend the Tax Credit for Low Income Students Scholarship Program (Program) by expanding student eligibility. The bill would also require the Kansas State Department of Education (KSDE) to publish one-page accountability reports for accredited nonpublic schools. Finally, the bill would amend the state aid schedule for Capital Improvement State Aid.

***Student Eligibility for the Tax Credit for Low Income  
Students Scholarship Program***

The bill would amend the Program to expand student eligibility in two ways. First, the bill would amend the definition of “eligible student” to include students who are eligible for free or reduced-priced meals under the National School Lunch Program, reside in Kansas, and are enrolled in a public school or are eligible to be enrolled in a public school. Current law limits eligibility to students who are eligible for free meals.

Second, the bill would amend the definition of “public school” for the purposes of determining student eligibility for the Program. The bill would define “public school” as any school operated by a unified school district in Kansas. Current law limits eligibility to those students enrolled or eligible to be enrolled in the lowest 100 performing elementary schools, as identified by the State Board of Education (State Board).

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The bill would also make technical amendments and retain a provision in current law that allows any student who has previously received a scholarship under the Program and has not graduated high school or is not 21 years old to remain eligible for the Program.

### ***Accountability Reports***

The bill would require KSDE to prepare one-page accountability reports for all accredited nonpublic schools in the state. The bill would also require KSDE to include accredited nonpublic schools in the longitudinal achievement report submitted to the Governor and Legislature each year.

The bill would require the websites of accredited nonpublic schools participating in the Program to include a prominent link to KSDE's website where the one-page accountability reports are published.

### ***Capital Improvement State Aid***

The bill would amend the Capital Improvement State Aid schedule for general obligation bonds issued by school districts. The bill would exclude Unified School District (USD) 207 (Fort Leavenworth) from the state aid schedule for general obligation bond issuances approved at an election held on or after July 1, 2020. The bill would also exclude students enrolled in virtual schools from the assessed valuation per pupil (AVPP) used when determining the state aid rate for bonds approved at an election held on or after July 1, 2020. [*Note:* For bonds approved prior to July 1, 2020, the AVPP used to calculate this state aid would continue to include virtual school students.]

Under current law, Capital Improvement State Aid for bonds approved at an election held on or after July 1, 2015, is calculated as follows:

- School districts are ranked according to their AVPP, as rounded to the nearest \$1,000;
- The school district with the lowest AVPP receives 75.0 percent state aid; and
- For every \$1,000 in AVPP above the lowest AVPP, state aid is decreased by 1.0 percent.

The bill would revise the calculation of Capital Improvement State Aid for bonds approved at an election held on or after July 1, 2020, as follows:

- School districts would be ranked according to their AVPP (excluding virtual school students), as rounded to the nearest \$1,000;
- The school district, other than USD 207, with the lowest AVPP would receive 75.0 percent state aid; and
- For every \$1,000 in AVPP above the lowest AVPP (excluding USD 207), state aid would be decreased by 1.0 percent.

### **Background**

The bill, as amended by the House Committee, includes amended contents of SB 382 and HB 2465, as amended by the House Committee on K-12 Education Budget on February 10, 2020.

### ***SB 382 (Capital Improvement State Aid)***

The bill was introduced by the Senate Committee on Education at the request of Senator Baumgardner.

In the Senate Committee hearing, proponent testimony was provided by representatives of the Kansas Association of

School Boards (KASB), Piper Sandler Companies, USD 230 (Spring Hill), and USD 233 (Concordia). Proponents stated removing USD 207 (Fort Leavenworth) from the state aid schedule would provide more equitable funding for capital improvements projects. Additionally, proponents stated the bill would provide some property tax relief to local taxpayers. Written-only proponent testimony was provided by representatives of USD 233 (Olathe) and USD 393 (Solomon).

Neutral testimony was provided by a representative of USD 266 (Maize). The representative stated the bill would make state aid for capital improvements more equitable but proposed the bill be made retroactive to include all bonds approved in elections since July 1, 2015.

No other testimony was provided on the bill.

The Senate Committee amended the bill to:

- Include all bonds approved at elections held on or after July 1, 2015. As introduced, the bill would have affected only bonds approved at an election held on or after July 1, 2020. [*Note*: This amendment is not included in SB 382, as amended by the House Committee]; and
- Exclude virtual school students from the AVPP used to calculate Capital Improvement State Aid for bonds approved at elections held on or after July 1, 2015. [*Note*: The House Committee retained this amendment but changed the effective date to July 1, 2020.]

In the House Committee hearing, proponent testimony was provided by representatives of KASB, USD 333 (Concordia), and USD 436 (Caney Valley). Proponents stated the bill would provide property tax relief to taxpayers and would allow school districts to address major capital needs. Written-only proponent testimony was provided by

representatives of Piper Sandler Companies, Schools for Quality Education, USD 202 (Turner-Kansas City), USD 230 (Spring Hill), USD 233 (Olathe), USD 266 (Maize), and USD 393 (Solomon). No other testimony was provided.

On March 11, 2020, the House Committee amended the bill to:

- Include bonds approved at an election held on or after July 1, 2020. [*Note: As recommended by the Senate Committee on Education, the bill would have affected all bonds approved at elections held on or after July 1, 2015.*];
- Change the effective date for the exclusion of virtual students from the calculation of the AVPP used to determine Capital Improvement State Aid to July 1, 2020; and
- Insert the contents of HB 2465, as amended by the House Committee on February 10, 2020.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the KSDE indicates the state aid rates for school districts would increase by removing USD 207 from the AVPP schedule for calculating Capital Improvement State Aid. According to the KSDE, much of the real property located in USD 207 is owned by the federal government and, therefore, exempt from property taxes. As a result, USD 207 is always the lowest ranked district based on AVPP. Under current law, USD 207 would be entitled to 75.0 percent state aid for capital improvements. However, KSA 72-1210(b) prohibits USD 207 from issuing general obligation bonds and, therefore, it cannot receive state aid for capital improvements.

According to the fiscal note, the short-term fiscal effect of the bill would be negligible. The KSDE indicates few, if any, school districts would pass a bond issuance after July 1, 2020, and then issue bonds in time to qualify for state aid for

FY 2021. The long-term fiscal effect of the bill would be to increase Capital Improvement State Aid expenditures due to the increase in state aid rates caused by the removal of USD 207 from the state aid schedule. However, the KSDE cannot estimate the increase in state aid without knowing which school districts would approve bond issuances and how much bonding authority would be authorized. Any fiscal effect associated with the bill is not reflected in *The FY 2021 Governor's Budget Report*.

According to analysis of SB 382 performed by the Kansas Legislative Research Department (KLRD) and presented to the Senate Committee prior to working the bill, removing USD 207 from the state aid schedule would increase state aid rates for Capital Improvement State Aid by approximately 24.0 percent and increase the number of school districts eligible to receive state aid by 52 (from 126 to 179). This analysis was conducted using the AVPP for the 2018-2019 school year. Any analysis using the AVPP for the 2019-2020 school year would produce different results.

Additional analyses conducted by KLRD staff included the projected impact of excluding virtual students from the AVPP used for Capital Improvement State Aid. According to this analysis, excluding virtual students from the AVPP would have the effect of increasing the AVPP of any school district that operates a virtual school, thereby decreasing the state aid rate for those school districts. This effect would be most pronounced in school districts in which virtual school students make up a large percentage of full-time equivalent enrollment. It is estimated 175 school districts would be eligible to receive Capital Improvement State Aid if the bill, as amended by the Senate Committee, were enacted.

Prior to the House Committee working the bill, KLRD staff presented information on the estimated impact of including all bonds approved at elections held on or after July 1, 2015. According to KLRD staff, doing so would increase expenditures for Capital Improvement State Aid by approximately \$15.0 million.

***HB 2465 (Student Eligibility for the Tax Credit for Low Income Students Scholarship Program and Accountability Reports)***

The bill was introduced by the House Committee on Education at the request of Representative Huebert.

In the House Committee on K-12 Education Budget hearing, proponent testimony was provided by representatives of ACE Scholarships, All Saints Catholic School, Bishop Ward High School, the Catholic Education Foundation, EdChoice, ExcelinEd, Hayden High School, Holy Savior Catholic Academy, Kansas Policy Institute, Support for Catholic Schools, and the Urban Preparatory Academy and by a private citizen. The proponents favored expanding student eligibility for the Program due to the impact of the Program on current scholarship recipients, and generally favored expanding school choice programs in Kansas as a way to help low-performing students. Written-only proponent testimony was provided by representatives of Americans for Prosperity–Kansas and the Kansas Catholic Conference.

Neutral testimony was provided by a representative of the State Board. The representative indicated the State Board had not determined an official position on the bill and encouraged the Legislature to ensure that performance data for accredited nonpublic schools be made available to parents.

Opponent testimony was provided by representatives of Game On for Kansas Schools, the Kansas National Education Association, KASB, the Kansas School Superintendents' Association, Stand Up Blue Valley, and United School Administrators of Kansas. Opponents generally opposed providing public funding to private schools and favored funding for public schools to help low-performing students. Written-only opponent testimony was provided by representatives of Education First Shawnee Mission, Mainstream Coalition, the Olathe Public Education Network,

One United Voice, the Overland Park Chamber of Commerce, and USD 512 (Shawnee Mission), and by a private citizen.

On February 10, 2020, the House Committee amended the bill to:

- Delete language specifying student eligibility for free or reduced meals would be based on the requirements of the National School Lunch Program as it existed on January 1, 2020. [Note: This amendment is included in SB 382, as amended by the House Committee.]; and
- Add language that would require KSDE to include accredited nonpublic schools in accountability reporting and require nonpublic schools participating in the Program to include a link to the one-page accountability reports produced by KSDE on the school's website. [Note: This amendment is included in SB 382, as amended by the House Committee.]

On February 26, 2020, the bill, as amended by the House Committee, was withdrawn from the House Calendar and referred to the House Committee on Appropriations.

On March 4, 2020, the bill was withdrawn from the Committee on Appropriations and rereferred to the House Committee on K-12 Education Budget. On the same day, the House Committee further amended the bill to insert the contents of HB 2526, as recommended by the House Committee. [Note: This amendment is not included in SB 382, as amended by the House Committee.]

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the bill would increase the number of students eligible for scholarships under the Program. However, the additional number of contributions to scholarship granting organizations cannot be estimated. Additionally, any additional tax credits claimed would reduce

revenues to the State General Fund. The total amount of tax credits for contributions is capped at \$10.0 million per tax year. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2021 Governor's Budget Report*.