

SENATE BILL No. 485

By Committee on Education

2-7

1 AN ACT concerning education; relating to the tax credit for low income
2 students scholarship program; authorizing students attending public
3 schools with low proficiency scores and certain private elementary and
4 secondary students to participate in such program; amending K.S.A.
5 72-4351 and K.S.A. 2023 Supp. 72-4352 and 72-5132 and repealing
6 the existing sections.
7

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

9 Section 1. K.S.A. 72-4351 is hereby amended to read as follows: 72-
10 4351. The provisions of K.S.A. 72-4351 through 72-4357, and
11 amendments thereto, shall be known and may be cited as the tax credit for
12 low income *or low proficient* students scholarship program act.

13 Sec. 2. K.S.A. 2023 Supp. 72-4352 is hereby amended to read as
14 follows: 72-4352. As used in the tax credit for low income students
15 scholarship program act:

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

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

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

25 (d) "Eligible student" means a child who *resides in Kansas and:*

26 (1) ~~Resides in Kansas; and~~ *Has received an educational scholarship*
27 *under the program and has not graduated from high school or reached 21*
28 *years of age;*

29 (2) ~~(A) (i)~~ *was enrolled in kindergarten or any of the grades one*
30 *through eight in a public school in the immediately preceding school year*
31 *in which an educational scholarship is first sought for the child and such*
32 *public school had less than 50% of the students enrolled in such school*
33 *who were administered the state assessments in English language arts and*
34 *mathematics score at level 3 or 4 on such assessments in the immediately*
35 *preceding school year; or*

36 (3) (A) has an annual family income that is less than or equal to 250%

1 of the federal poverty guidelines as determined annually in the federal
2 register by the United States department of health and human services
3 under 42 U.S.C. § 9902(2); and

4 ~~(ii)-(a)(B)~~ (i) was enrolled in kindergarten or any of the grades one
5 through eight in any public school in the previous school year in which an
6 educational scholarship is first sought for the child; ~~or~~

7 ~~(b)(ii)~~ is eligible to be enrolled in any public school in the school year
8 in which an educational scholarship is first sought for the child and the
9 child is seven years of age or under; or

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

12 (iii) is in kindergarten or any of the grades one through eight and
13 attends a private elementary or secondary school as defined in K.S.A. 72-
14 4345, and amendments thereto.

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

17 (f) "Program" means the tax credit for low income or low proficient
18 students scholarship program established in K.S.A. 72-4351 through 72-
19 4357, and amendments thereto.

20 (g) "Public school" means any school operated by a unified school
21 district under the laws of this state.

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

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

24 (2) is accredited by the state board or a national or regional
25 accrediting agency that is recognized by the state board for the purpose of
26 satisfying the teaching performance assessment for professional licensure
27 or is working in good faith toward such accreditation;

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

30 (4) complies with the requirements of the program.

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

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

37 (k) "School year" means the same as in K.S.A. 72-5132, and
38 amendments thereto.

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

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

41 Sec. 3. K.S.A. 2023 Supp. 72-5132 is hereby amended to read as
42 follows: 72-5132. As used in the Kansas school equity and enhancement
43 act, K.S.A. 72-5131 et seq., and amendments thereto:

1 (a) "Adjusted enrollment" means the enrollment of a school district,
2 excluding the remote enrollment determined pursuant to K.S.A. 2023
3 Supp. 72-5180, and amendments thereto, adjusted by adding the following
4 weightings, if any, to the enrollment of a school district: At-risk student
5 weighting; bilingual weighting; career technical education weighting;
6 high-density at-risk student weighting; high enrollment weighting; low
7 enrollment weighting; school facilities weighting; ancillary school
8 facilities weighting; cost-of-living weighting; special education and related
9 services weighting; and transportation weighting.

10 (b) "Ancillary school facilities weighting" means an addend
11 component assigned to the enrollment of school districts pursuant to
12 K.S.A. 72-5158, and amendments thereto, on the basis of costs attributable
13 to commencing operation of one or more new school facilities by such
14 school districts.

15 (c) (1) "At-risk student" means a student who is eligible for free
16 meals under the national school lunch act, and who is enrolled in a school
17 district that maintains an approved at-risk student assistance program.

18 (2) "At-risk student" does not include any student enrolled in any of
19 the grades one through 12 who is in attendance less than full time, or any
20 student who is over 19 years of age. The provisions of this paragraph shall
21 not apply to any student who has an individualized education program.

22 (d) "At-risk student weighting" means an addend component assigned
23 to the enrollment of school districts pursuant to K.S.A. 72-5151(a), and
24 amendments thereto, on the basis of costs attributable to the maintenance
25 of at-risk educational programs by such school districts.

26 (e) "Base aid for student excellence" or "BASE aid" means an amount
27 appropriated by the legislature in a fiscal year for the designated year. The
28 amount of BASE aid shall be as follows:

29 (1) For school year 2018-2019, \$4,165;

30 (2) for school year 2019-2020, \$4,436;

31 (3) for school year 2020-2021, \$4,569;

32 (4) for school year 2021-2022, \$4,706;

33 (5) for school year 2022-2023, \$4,846; and

34 (6) for school year 2023-2024, and each school year thereafter, the
35 BASE aid shall be the BASE aid amount for the immediately preceding
36 school year plus an amount equal to the average percentage increase in the
37 consumer price index for all urban consumers in the midwest region as
38 published by the bureau of labor statistics of the United States department
39 of labor during the three immediately preceding school years rounded to
40 the nearest whole dollar amount.

41 (f) "Bilingual weighting" means an addend component assigned to
42 the enrollment of school districts pursuant to K.S.A. 72-5150, and
43 amendments thereto, on the basis of costs attributable to the maintenance

1 of bilingual educational programs by such school districts.

2 (g) "Board" means the board of education of a school district.

3 (h) "Budget per student" means the general fund budget of a school
4 district divided by the enrollment of the school district.

5 (i) "Categorical fund" means and includes the following funds of a
6 school district: Adult education fund; adult supplementary education fund;
7 at-risk education fund; bilingual education fund; career and postsecondary
8 education fund; driver training fund; educational excellence grant program
9 fund; extraordinary school program fund; food service fund; parent
10 education program fund; preschool-aged at-risk education fund;
11 professional development fund; special education fund; and summer
12 program fund.

13 (j) "Cost-of-living weighting" means an addend component assigned
14 to the enrollment of school districts pursuant to K.S.A. 72-5159, and
15 amendments thereto, on the basis of costs attributable to the cost of living
16 in such school districts.

17 (k) "Current school year" means the school year during which state
18 foundation aid is determined by the state board under K.S.A. 72-5134, and
19 amendments thereto.

20 (l) "Enrollment" means, except as provided in K.S.A. 2023 Supp. 72-
21 5180, and amendments thereto:

22 (1) The number of students regularly enrolled in kindergarten and
23 grades one through 12 in the school district on September 20 of the
24 preceding school year plus the number of preschool-aged at-risk students
25 regularly enrolled in the school district on September 20 of the current
26 school year, except a student who is a foreign exchange student shall not
27 be counted unless such student is regularly enrolled in the school district
28 on September 20 and attending kindergarten or any of the grades one
29 through 12 maintained by the school district for at least one semester or
30 two quarters, or the equivalent thereof.

31 (2) If the enrollment in a school district in the preceding school year
32 has decreased from enrollment in the second preceding school year, the
33 enrollment of the school district in the current school year means the sum
34 of:

35 (A) The enrollment in the second preceding school year, excluding
36 students under paragraph (2)(B), minus enrollment in the preceding school
37 year of preschool-aged at-risk students, if any, plus enrollment in the
38 current school year of preschool-aged at-risk students, if any; and

39 (B) the adjusted enrollment in the second preceding school year of
40 any students participating in the tax credit for low income *or low*
41 *proficient* students scholarship program pursuant to K.S.A. 72-4351 et
42 seq., and amendments thereto, in the preceding school year, if any, plus the
43 adjusted enrollment in the preceding school year of preschool-aged at-risk

1 students who are participating in the tax credit for low income *or low*
2 *proficient* students scholarship program pursuant to K.S.A. 72-4351 et
3 seq., and amendments thereto, in the current school year, if any.

4 (3) For any school district that has a military student, as that term is
5 defined in K.S.A. 72-5139, and amendments thereto, enrolled in such
6 district, and that received federal impact aid for the preceding school year,
7 if the enrollment in such school district in the preceding school year has
8 decreased from enrollment in the second preceding school year, the
9 enrollment of the school district in the current school year means
10 whichever is the greater of:

11 (A) The enrollment determined under paragraph (2); or

12 (B) the sum of the enrollment in the preceding school year of
13 preschool-aged at-risk students, if any, and the arithmetic mean of the sum
14 of:

15 (i) The enrollment of the school district in the preceding school year
16 minus the enrollment in such school year of preschool-aged at-risk
17 students, if any;

18 (ii) the enrollment in the second preceding school year minus the
19 enrollment in such school year of preschool-aged at-risk students, if any;
20 and

21 (iii) the enrollment in the third preceding school year minus the
22 enrollment in such school year of preschool-aged at-risk students, if any.

23 (4) The enrollment determined under paragraph (1), (2) or (3), except
24 if the school district begins to offer kindergarten on a full-time basis in
25 such school year, students regularly enrolled in kindergarten in the school
26 district in the preceding school year shall be counted as one student
27 regardless of actual attendance during such preceding school year.

28 (m) "February 20" has its usual meaning, except that in any year in
29 which February 20 is not a day on which school is maintained, it means
30 the first day after February 20 on which school is maintained.

31 (n) "Federal impact aid" means an amount equal to the federally
32 qualified percentage of the amount of moneys a school district receives in
33 the current school year under the provisions of title I of public law 874 and
34 congressional appropriations therefor, excluding amounts received for
35 assistance in cases of major disaster and amounts received under the low-
36 rent housing program. The amount of federal impact aid shall be
37 determined by the state board in accordance with terms and conditions
38 imposed under the provisions of the public law and rules and regulations
39 thereunder.

40 (o) "General fund" means the fund of a school district from which
41 operating expenses are paid and in which is deposited all amounts of state
42 foundation aid provided under this act, payments under K.S.A. 72-528,
43 and amendments thereto, payments of federal funds made available under

1 the provisions of title I of public law 874, except amounts received for
2 assistance in cases of major disaster and amounts received under the low-
3 rent housing program and such other moneys as are provided by law.

4 (p) "General fund budget" means the amount budgeted for operating
5 expenses in the general fund of a school district.

6 (q) "High-density at-risk student weighting" means an addend
7 component assigned to the enrollment of school districts pursuant to
8 K.S.A. 72-5151(b), and amendments thereto, on the basis of costs
9 attributable to the maintenance of at-risk educational programs by such
10 school districts.

11 (r) "High enrollment weighting" means an addend component
12 assigned to the enrollment of school districts pursuant to K.S.A. 72-
13 5149(b), and amendments thereto, on the basis of costs attributable to
14 maintenance of educational programs by such school districts.

15 (s) "Juvenile detention facility" means the same as such term is
16 defined in K.S.A. 72-1173, and amendments thereto.

17 (t) "Local foundation aid" means the sum of the following amounts:

18 (1) An amount equal to any unexpended and unencumbered balance
19 remaining in the general fund of the school district, except moneys
20 received by the school district and authorized to be expended for the
21 purposes specified in K.S.A. 72-5168, and amendments thereto;

22 (2) an amount equal to any remaining proceeds from taxes levied
23 under authority of K.S.A. 72-7056 and 72-7072, prior to their repeal;

24 (3) an amount equal to the amount deposited in the general fund in
25 the current school year from moneys received in such school year by the
26 school district under the provisions of K.S.A. 72-3123(a), and amendments
27 thereto;

28 (4) an amount equal to the amount deposited in the general fund in
29 the current school year from moneys received in such school year by the
30 school district pursuant to contracts made and entered into under authority
31 of K.S.A. 72-3125, and amendments thereto;

32 (5) an amount equal to the amount credited to the general fund in the
33 current school year from moneys distributed in such school year to the
34 school district under the provisions of articles 17 and 34 of chapter 12 of
35 the Kansas Statutes Annotated, and amendments thereto, and under the
36 provisions of articles 42 and 51 of chapter 79 of the Kansas Statutes
37 Annotated, and amendments thereto;

38 (6) an amount equal to the amount of payments received by the
39 school district under the provisions of K.S.A. 72-3423, and amendments
40 thereto; and

41 (7) an amount equal to the amount of any grant received by the
42 school district under the provisions of K.S.A. 72-3425, and amendments
43 thereto.

1 (u) "Low enrollment weighting" means an addend component
2 assigned to the enrollment of school districts pursuant to K.S.A. 72-
3 5149(a), and amendments thereto, on the basis of costs attributable to
4 maintenance of educational programs by such school districts.

5 (v) "Operating expenses" means the total expenditures and lawful
6 transfers from the general fund of a school district during a school year for
7 all purposes, except expenditures for the purposes specified in K.S.A. 72-
8 5168, and amendments thereto.

9 (w) "Preceding school year" means the school year immediately
10 before the current school year.

11 (x) "Preschool-aged at-risk student" means an at-risk student who has
12 attained the age of three years, is under the age of eligibility for attendance
13 at kindergarten, and has been selected by the state board in accordance
14 with guidelines governing the selection of students for participation in
15 head start programs.

16 (y) "Preschool-aged exceptional children" means exceptional
17 children, except gifted children, who have attained the age of three years
18 but are under the age of eligibility for attendance at kindergarten.
19 "Exceptional children" and "gifted children" mean the same as those terms
20 are defined in K.S.A. 72-3404, and amendments thereto.

21 (z) "Psychiatric residential treatment facility" means the same as such
22 term is defined in K.S.A. 72-1173, and amendments thereto.

23 (aa) (1) "Remote enrollment" means the number of students regularly
24 enrolled in kindergarten and grades one through 12 in the school district
25 who attended school through remote learning in excess of the remote
26 learning limitations provided in K.S.A. 2023 Supp. 72-5180, and
27 amendments thereto.

28 (2) This subsection shall not apply in any school year prior to the
29 2021-2022 school year.

30 (bb) (1) "Remote learning" means a method of providing education in
31 which the student, although regularly enrolled in a school district, does not
32 physically attend the attendance center such student would otherwise
33 attend in person on a full-time basis and curriculum and instruction are
34 prepared, provided and supervised by teachers and staff of such school
35 district to approximate the student learning experience that would take
36 place in the attendance center classroom.

37 (2) "Remote learning" does not include virtual school as such term is
38 defined in K.S.A. 72-3712, and amendments thereto.

39 (3) This subsection shall not apply in any school year prior to the
40 2021-2022 school year.

41 (cc) "School district" means a school district organized under the
42 laws of this state that is maintaining public school for a school term in
43 accordance with the provisions of K.S.A. 72-3115, and amendments

1 thereto.

2 (dd) "School facilities weighting" means an addend component
3 assigned to the enrollment of school districts pursuant to K.S.A. 72-5156,
4 and amendments thereto, on the basis of costs attributable to commencing
5 operation of one or more new school facilities by such school districts.

6 (ee) "School year" means the 12-month period ending June 30.

7 (ff) "September 20" has its usual meaning, except that in any year in
8 which September 20 is not a day on which school is maintained, it means
9 the first day after September 20 on which school is maintained.

10 (gg) "Special education and related services weighting" means an
11 addend component assigned to the enrollment of school districts pursuant
12 to K.S.A. 72-5157, and amendments thereto, on the basis of costs
13 attributable to the maintenance of special education and related services by
14 such school districts.

15 (hh) "State board" means the state board of education.

16 (ii) "State foundation aid" means the amount of aid distributed to a
17 school district as determined by the state board pursuant to K.S.A. 72-
18 5134, and amendments thereto.

19 (jj) (1) "Student" means any person who is regularly enrolled in a
20 school district and attending kindergarten or any of the grades one through
21 12 maintained by the school district or who is regularly enrolled in a
22 school district and attending kindergarten or any of the grades one through
23 12 in another school district in accordance with an agreement entered into
24 under authority of K.S.A. 72-13,101, and amendments thereto, or who is
25 regularly enrolled in a school district and attending special education
26 services provided for preschool-aged exceptional children by the school
27 district.

28 (2) (A) Except as otherwise provided in this subsection, the following
29 shall be counted as one student:

30 (i) A student in attendance ~~full-time~~ *full time*; and

31 (ii) a student enrolled in a school district and attending special
32 education and related services, provided for by the school district.

33 (B) The following shall be counted as $\frac{1}{2}$ student:

34 (i) A student enrolled in a school district and attending special
35 education and related services for preschool-aged exceptional children
36 provided for by the school district; and

37 (ii) a preschool-aged at-risk student enrolled in a school district and
38 receiving services under an approved at-risk student assistance plan
39 maintained by the school district.

40 (C) A student in attendance part-time shall be counted as that
41 proportion of one student, to the nearest $\frac{1}{10}$, that the student's attendance
42 bears to full-time attendance.

43 (D) A student enrolled in and attending an institution of

1 postsecondary education that is authorized under the laws of this state to
2 award academic degrees shall be counted as one student if the student's
3 postsecondary education enrollment and attendance together with the
4 student's attendance in either of the grades 11 or 12 is at least $\frac{5}{6}$ time,
5 otherwise the student shall be counted as that proportion of one student, to
6 the nearest $\frac{1}{10}$, that the total time of the student's postsecondary education
7 attendance and attendance in grades 11 or 12, as applicable, bears to full-
8 time attendance.

9 (E) A student enrolled in and attending a technical college, a career
10 technical education program of a community college or other approved
11 career technical education program shall be counted as one student, if the
12 student's career technical education attendance together with the student's
13 attendance in any of grades nine through 12 is at least $\frac{5}{6}$ time, otherwise
14 the student shall be counted as that proportion of one student, to the
15 nearest $\frac{1}{10}$, that the total time of the student's career technical education
16 attendance and attendance in any of grades nine through 12 bears to full-
17 time attendance.

18 (F) A student enrolled in a school district and attending a non-virtual
19 school and also attending a virtual school shall be counted as that
20 proportion of one student, to the nearest $\frac{1}{10}$, that the student's attendance at
21 the non-virtual school bears to full-time attendance.

22 (G) A student enrolled in a school district and attending special
23 education and related services provided for by the school district and also
24 attending a virtual school shall be counted as that proportion of one
25 student, to the nearest $\frac{1}{10}$, that the student's attendance at the non-virtual
26 school bears to full-time attendance.

27 (H) A student enrolled in a school district and attending school on a
28 part-time basis through remote learning and also attending school in
29 person on a part-time basis shall be counted as that proportion of one
30 student, to the nearest $\frac{1}{10}$, that the student's in-person attendance bears to
31 full-time attendance.

32 (I) A student enrolled in a school district who is not a resident of
33 Kansas shall be counted as $\frac{1}{2}$ of a student.

34 This subparagraph shall not apply to:

35 (i) A student whose parent or legal guardian is an employee of the
36 school district where such student is enrolled; or

37 (ii) a student who attended public school in Kansas during school
38 year 2016-2017 and who attended public school in Kansas during the
39 immediately preceding school year.

40 (3) The following shall not be counted as a student:

41 (A) An individual residing at the Flint Hills job corps center;

42 (B) except as provided in paragraph (2), an individual confined in and
43 receiving educational services provided for by a school district at a

1 juvenile detention facility; and

2 (C) an individual enrolled in a school district but housed, maintained
3 and receiving educational services at a state institution or a psychiatric
4 residential treatment facility.

5 (4) A student enrolled in virtual school pursuant to K.S.A. 72-3711 et
6 seq., and amendments thereto, shall be counted in accordance with the
7 provisions of K.S.A. 72-3715, and amendments thereto.

8 (5) A student enrolled in a school district who attends school through
9 remote learning shall be counted in accordance with the provisions of this
10 section and K.S.A. 2023 Supp. 72-5180, and amendments thereto.

11 (kk) "Total foundation aid" means an amount equal to the product
12 obtained by multiplying the BASE aid by the adjusted enrollment of a
13 school district.

14 (ll) "Transportation weighting" means an addend component assigned
15 to the enrollment of school districts pursuant to K.S.A. 72-5148, and
16 amendments thereto, on the basis of costs attributable to the provision or
17 furnishing of transportation.

18 (mm) "Virtual school" means the same as such term is defined in
19 K.S.A. 72-3712, and amendments thereto.

20 Sec. 4. K.S.A. 72-4351 and K.S.A. 2023 Supp. 72-4352 and 72-5132
21 are hereby repealed.

22 Sec. 5. This act shall take effect and be in force from and after its
23 publication in the statute book.