AN ACT concerning schools; enacting the corporate education tax credit scholarship program act; providing for educational scholarships; authorizing a tax credit; amending K.S.A. 2012 Supp. 79-32,138 and repealing the existing section.

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 corporate education tax credit scholarship program act.

New Sec. 2. As used in the corporate education tax credit 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 provided to eligible students to cover all or a portion of the costs of 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 a member of a household whose total annual income during the year prior to receiving an educational scholarship under this program does not exceed 185% of the most recent federal poverty income guidelines published in the calendar year by the United States department of health and human services;
   (B) has an individualized education program and is considered a child with a disability, as defined by K.S.A. 72-962(z), and amendments thereto; or
   (C) has received an educational scholarship under this program and has not graduated from high school or reached 21 years of age;
   (2) resides in Kansas while receiving an educational scholarship; and
   (3) (A) was enrolled in any public school in the previous school year; 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;
   (e) "individualized education program" shall have the meaning
ascribed thereto in K.S.A. 72-962, and amendments thereto;
(f) "parent" includes a guardian, custodian or other person with
authority to act on behalf of the child;
(g) "program" means the corporate education tax credit scholarship
program established in sections 1 through 7, and amendments thereto;
(h) "public school" means a school operated by a school district;
(i) "qualified school" means any nonpublic school that provides
education to elementary and secondary students, has notified the state
board of their intention to participate in the program and complies with the
requirements of the program;
(j) "scholarship granting organization" means an organization that
complies with the requirements of this program and provides educational
scholarships to students attending qualified schools of their parents' choice;
(k) "school district" or "district" means any unified school district
organized and operating under the laws of this state;
(l) "school year" shall have the meaning ascribed thereto in K.S.A.
72-6408, and amendments thereto;
(m) "secretary" means the secretary of revenue; and
(n) "state board" means the state board of education.

New Sec. 3. (a) There is hereby established the corporate education
tax credit scholarship program. The program shall provide eligible students
with an opportunity to attend schools of their parents' 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 an educational scholarship to an eligible
student, unless such student is under the age of six years, the scholarship
granting organization shall receive written verification from the state board
that such student is an eligible student under this program, provided the
state board and the board of education of the school district in which the
eligible student was enrolled the previous school year have received
written consent from such eligible student's parent authorizing the release
of such information.
(d) Upon receipt of information in accordance with subsection (a)(2)
of section 4, and amendments thereto, the state board shall inform the
scholarship granting organization if such student has already been
designated to receive an educational scholarship by another scholarship
granting organization.
(e) In each school year, each eligible student under this program shall
not receive more than one educational scholarship under this program.
(f) An eligible student's participation in this program by receiving an
educational scholarship constitutes a waiver to special education services
provided by any school district, unless such school district agrees to
provide such services to the qualified school.

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
and the state board of the scholarship granting organization's intent to
provide educational scholarships to students attending qualified schools;
(2) upon granting an educational scholarship to an eligible student,
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) the scholarship granting organization shall ensure that each
qualified school receiving educational scholarships from the scholarship
granting organization is in 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 the eligible students determined by the state board under subsection (c) of section 3, and amendments thereto, and information specified in section 4, and amendments thereto. 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 for 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 to eligible students 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 to an eligible student who received an educational scholarship under this program in the year immediately preceding the current school year.

(e) A scholarship granting organization shall direct payments of an educational scholarship to the qualified school on behalf of the eligible student. Payment shall be made by check made payable to both the parent and 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. 72-8210, and amendments thereto, to
provide for the education of such eligible student.

(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 receiving an
educational scholarship 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, the total
number and total dollar amount of educational scholarships awarded
during the 12-month reporting period to eligible students who qualified
under subsection (d)(1)(A) of section 2, and amendments thereto, and total
number and total dollar amount of educational scholarships awarded
during the 12-month reporting period to eligible students who qualified
under subsection (d)(1)(B) of section 2, and amendments thereto.

(g) No scholarship granting organization shall:
(1) Provide an eligible student with an educational scholarship
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.

New Sec. 5. On or before the first day of the legislative session in
2014, and each year thereafter, the state board shall prepare and submit a
report to the legislature on the program. Annual reports shall include
information reported to the state board under subsection (f) of section 4,
and amendments thereto, and a summary of such information.

New Sec. 6. (a) (1) 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.

(2) The state board shall prescribe the form of the application, which
shall include, but not be limited to, the information set forth in subsection

(b) If the state board determines that the requirements under this
section were met by the scholarship granting organization, the state board shall issue a certificate of compliance to the director of taxation.

(c) The state board shall adopt rules and regulations to implement the provisions of this section.

New Sec. 7. (a) 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, 2012, an amount equal to 70% of the amount contributed to a scholarship granting organization authorized pursuant to section 1 et seq., and amendments thereto.

(b) The credit shall be claimed and deducted from the taxpayer's tax liability during the tax year which immediately follows 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.

(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. 8. K.S.A. 2012 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 subsection (b) of K.S.A. 79-32,117, 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) 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 section 7, and amendments thereto.

(c) There shall be subtracted from federal taxable income: (i) The same modifications as are set forth in subsection (c) of K.S.A. 79-32,117, 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.


(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.

(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 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any refund of federal income tax as determined under paragraph (iv) of
subsection (b) of K.S.A. 79-32,117, 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) of K.S.A. 79-32,138, and amendments thereto, and subtraction modifications as provided for in subsection (c)(iii) of K.S.A. 79-32,138, and amendments thereto, as those subsections existed prior to their amendment by this act, shall be required to be made for such taxable year.

Sec. 9. K.S.A. 2012 Supp. 79-32,138 is hereby repealed

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.