

SESSION OF 2013

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 22**

As Amended by House Committee of the Whole

Brief*

House Sub. for SB 22 would create the Corporate Education Tax Credit Scholarship Program Act (Act), which would provide eligible students with scholarships to pay all or a portion of tuition to attend a qualified school in Kansas.

Scholarship Eligibility

An “eligible student” would be a child who:

- Is a member of a household having an annual income not exceeding 185 percent of the federal poverty level (about \$43,000 for a family of four); or
- Has an individualized education program (IEP).

In addition, a student who received a scholarship under the Act, has not graduated from high school, and is under 21, would be eligible.

Eligible students would be required to:

- Reside in Kansas while receiving a scholarship; and
- Be enrolled in a public school in the year prior to receiving the scholarship or be eligible to be enrolled in a public school, if under the age of six.

*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>

Tax Credits

The scholarship would be financed *via* a tax credit against corporate income and premium (insurance companies) or privilege (financial institutions) tax liability beginning with tax year 2013 in an amount equal to 70 percent of the amount contributed for scholarships. The credit would be claimed and deducted from the taxpayer's tax liability during the tax year immediately following the tax year in which the contribution was made. However, if the credit would exceed the donor's tax liability for a particular year, the excess amount could be carried over in future years until the total credit was used.

The total amounts of credits allowed in each tax year would not exceed \$10.0 million.

Scholarship Granting Organizations

The bill would create a scholarship granting organization (SGO) to administer the Act. The SGO would be required to provide verification to the Secretary of Revenue of the SGO's federal income tax exemption *via* section 501(c)(3) of the federal Internal Revenue Code. The SGO would be required to disburse not less than 90 percent of the contributions received within a 36-month time period in educational scholarships not to exceed \$8,000 per eligible student. Allocation of the tax credits would be determined by the SGO in consultation with the Secretary of Revenue.

Applications for a scholarship would be made to the SGO, which would be required to verify students meet the eligibility criteria of the bill and report that information – which eligibility criteria the student met – to the State Board of Education (State Board) by June 1 of each year. Other information required to be reported to the State Board includes name and address of the SGO and of each scholarship recipient, and the total number and amount of contributions and scholarships received and awarded during a 12-month period.

Each SGO would be required to have its accounts examined and audited by a certified public accountant annually. An SGO having contributions in excess of \$50,000 during a school year would be required to provide a surety bond to the State Board or financial information demonstrating an ability to pay an amount equal to contributions received.

An SGO would be responsible for ensuring schools receiving scholarships comply with the Corporate Education Tax Credit Program requirements.

Finally, an SGO would be prohibited from providing an eligible student with a scholarship funded by a student's relative or accepting a contribution directed toward a specific student.

Qualified Schools

The bill would provide eligible students with an opportunity to attend qualified schools chosen by their parents. "Qualified school" would be defined as any nonpublic school providing education to elementary and secondary students. The school would be required to notify the State Board of its intention to participate in the scholarship program.

Report to the Legislature and Act Duration

The bill would require the State Board, by the first day of the 2014 Legislative Session, to report activity undertaken under the Act. The Act would expire on June 30, 2018.

Decreasing Enrollment Provision for Public Schools

The bill would add a provision to current law allowing a public school district which loses students due to the Act to continue to count the weighted enrollment of the students

using the tax credit scholarship program in the pupil count of the public school district in the year after the tax credit scholarship students leave the school district.

Background

The original SB 22 would postpone the termination date of the Postsecondary Technical Education Authority. The contents of SB 22 were moved into SB 128. The contents of HB 2400 were placed into House Sub. for SB 22.

The bill was introduced as HB 2400 in the House Committee on Taxation and later referred to the House Education Committee.

In the hearing on the bill in the House Education Committee, proponents included representatives of the Kansas Catholic Conference, Kansas Chamber of Commerce, Kansas Policy Institute, and Oklahoma Council of Public Affairs. Opponents included representatives of the Cowley County Special Services Cooperative, Kansas Association of School Boards, Kansas Association of Special Education Administrators, Kansas National Education Association, Northwest Kansas Education Service Center, Shawnee Mission School District, and Wichita Public Schools. There was no neutral testimony.

In addition to removing the contents of SB 22 and inserting the contents of HB 2400, the following amendments were made:

- Allocation of tax credits would be conducted by the SGO in consultation with the Secretary of Revenue to assist in administration of the annual tax credit cap;
- A decreasing enrollment provision would be added to other such provisions in KSA 72-6407;

- Provisions of the Act would expire on June 30, 2015; and
- Technical amendments.

The House Committee of the Whole amended the bill by adding the following:

- Allow a public school district which loses students due to the Act to continue to count the weighted enrollment of the students using the tax credit scholarship program from the preceding school year in the pupil count of the public school district in the year after the tax credit scholarship students leave the school district; and
- Change the Act's expiration date to June 30, 2018.

There was no fiscal note from the Division of the Budget on the final bill. A corrected fiscal note by the Division of the Budget on the original bill presented two scenarios related to utilization of the tax credit scholarship: one with a 70 percent utilization rate and a second with a 30 percent utilization rate. The fiscal note then went on to say: "Under each of these scenarios, the amount of tax credit claimed by corporations would be eventually offset by a lower enrollment of students in public schools."

Regarding administering the provisions of the bill, the fiscal note estimated the Department of Revenue would require expenditures totaling \$190,953 all from the State General Fund for 1.00 full-time equivalent employee with associated costs for bill administration. Likewise, the Department of Education estimated additional expenditures of \$68,631, all from the State General Fund, for 1.00 full-time equivalent employee with associated costs for bill administration.