

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1749

By: Calvey

AS INTRODUCED

An Act relating to revenue and taxation; stating legislative intent; providing income tax credit for certain donations to school tuition organizations; defining term; specifying amount of credit; imposing limitations on total credit amounts; prescribing procedures; authorizing carryover; imposing conditions with respect to scholarships; defining terms; imposing conditions upon school tuition organizations; requiring certain reports; providing for use of credits against sales or gross receipts taxes; providing income tax credit for certain donations by individuals to school tuition organizations; prescribing procedures related to income tax credit; requiring reduction in certain education funding; providing income tax credit for donating to certain organizations having exempt status pursuant to Internal Revenue Code; prescribing requirements related to purposes and activities; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.200 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. It is the policy of the State of Oklahoma to promote freedom in education, including academic and religious freedom in education. All Oklahoma parents should have an equal right to send their children to a school at which the parents' religious or academic views are reflected. This principle has been recognized by the State of Oklahoma, and by the United States Supreme Court since at least the year 1925.

B. Many parents desire to teach their children to pray and to follow certain philosophical and religious precepts. And yet,

government schools are forbidden by federal and state law from teaching children to pray or obey religious or scriptural precepts.

C. Parents have the right to send their children to a school at which religious or scriptural precepts are taught. But this right is not currently an equal right.

D. Parents are forced to pay extra if they wish to send their children to a school at which certain values such as prayer are taught.

E. Parents who are not wealthy, in particular, are in many cases practically unable to exercise their right to send their children to a school at which religious or scriptural precepts are taught.

F. Therefore, it is the policy of the State of Oklahoma to give parents a more equal right to send their children to a school at which the parents' religious and or philosophical values are taught.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.201 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this section "taxpayer" means a natural person.

B. For taxable years beginning after December 31, 2003, there shall be allowed as a credit against the taxes imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for the amount of voluntary cash contributions made by a taxpayer during the taxable year to a school tuition organization but not exceeding:

1. Two Hundred Fifty Dollars (\$250.00) for a single individual or a head of household; or

2. Five Hundred Dollars (\$500.00) in any taxable year for a married couple filing a joint return.

C. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim

not used to offset the taxes under Title 68 of the Oklahoma Statutes forward for not more than five (5) consecutive taxable years.

D. The tax credit authorized by this section is not allowed if:

1. The taxpayer designates the taxpayer's donation to the school tuition organization for the direct benefit of any dependent of the taxpayer; or

2. The gross household income of the taxpayer is in excess of Ninety-five Thousand Dollars (\$95,000.00).

E. For purposes of this section:

1. "Qualified school" means a nongovernmental primary school or secondary school which is located in this state that does not discriminate on the basis of race, color, handicap, familial status or national origin and that satisfies the requirements prescribed by law for private schools in this state on January 1, 2002; and

2. "School tuition organization" means a charitable organization in this state that is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and that allocates at least ninety percent (90%) of its annual revenue for educational scholarships or tuition grants to children to allow them to attend any qualified school of their parents' choice. In addition, to qualify as a school tuition organization the charitable organization shall provide educational scholarships or tuition grants to students without limiting availability to only students of one school.

F. In order to claim the credit authorized by this section, the school tuition organization to which the donation is made:

1. Must provide at least fifty percent (50%) of all scholarship funds for each school year to or for the benefit of students enrolled in a governmental primary or secondary school for taxable years ending not later than December 31, 2012;

2. Must not provide any scholarship in an amount which is in excess of the lower amount of:

- a. eighty percent (80%) of the tuition at a qualified school or One Thousand Eight Hundred Dollars (\$1,800.00) per student per year for students who could qualify for free or reduced-cost school lunches as provided by law. The dollar amount prescribed by this subparagraph shall be adjusted for any increase in the Consumer Price Index for All Urban Consumers (CPI-U), or
- b. eighty percent (80%) of the tuition at a qualified school or Nine Hundred Dollars (\$900.00) per student per year for students who could not qualify for free or reduced-cost school lunches as provided by law. The dollar amount prescribed by this subparagraph shall be adjusted for any increase in the Consumer Price Index for All Urban Consumers (CPI-U);

3. Must provide at least twenty percent (20%) of the total amount of scholarship funds under its control to students who qualify for free or reduced-cost school lunches as provided by law; and

4. Must award scholarships qualifying for the credit authorized by this section on or before February 1 of the calendar year prior to the beginning of the academic or school year for which the scholarship is actually used.

G. Each school tuition organization shall report, on a form prescribed for this purpose by the Oklahoma Tax Commission:

1. The total amount of donations received each year;
2. The total amount of scholarships granted each year;
3. The grade level of each student to whom or for whose benefit a scholarship is granted;
4. The name of the school attended by each student to whom or for whose benefit a scholarship is granted;

5. The name of the governmental or other school attended by each student prior to receiving any scholarship funds provided by the organization;

6. The total tuition amount for each such student; and

7. Such other information as the Tax Commission may require.

H. If the credit authorized by this section cannot be taken or claimed as a result of the elimination of the state income tax, the credit shall be available to reduce the tax liability of the claimant imposed pursuant to Section 1354 of Title 68 of the Oklahoma Statutes or imposed pursuant to any gross receipts tax imposed by law.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.202 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this section "taxpayer" means a legal entity other than a natural person and shall include, but not be limited to corporations, trusts, estates and any other legal entity, other than a natural person having an income tax liability pursuant to Section 2355 of Title 68 of the Oklahoma Statutes.

B. For taxable years beginning after December 31, 2003, and subject to the limitation imposed pursuant to subsection C of this section, there shall be allowed as a credit against the taxes imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes one hundred percent (100%) of the amount of voluntary cash contributions made by a taxpayer during the taxable year to a school tuition organization.

C. The total amount of income tax credits which may be claimed as otherwise authorized by this section for a fiscal year shall be equal to:

1. Two Million Dollars (\$2,000,000.00) for the fiscal year ending June 30, 2004;

2. Four Million Dollars (\$4,000,000.00) for the fiscal year ending June 30, 2005;

3. Six Million Dollars (\$6,000,000.00) for the fiscal year ending June 30, 2006;

4. Eight Million Dollars (\$8,000,000.00) for the fiscal year ending June 30, 2007; and

5. Ten Million Dollars (\$10,000,000.00) for the fiscal year ending June 30, 2008.

For any taxable year during which claims are filed for the credit authorized by this section, the Oklahoma Tax Commission shall authorize the credit, if all other conditions for the credit have been met, in the order in which the claim for the credit is received.

D. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under Title 68 of the Oklahoma Statutes forward for not more than five (5) consecutive taxable years.

E. The tax credit authorized by this section is not allowed if:

1. The taxpayer designates the taxpayer's donation to the school tuition organization for the direct benefit of any dependent of the taxpayer; or

2. The gross household income of the taxpayer is in excess of Ninety-five Thousand Dollars (\$95,000.00).

F. For purposes of this section:

1. "Qualified school" means a nongovernmental primary school or secondary school which is located in this state that does not discriminate on the basis of race, color, handicap, familial status or national origin and that satisfies the requirements prescribed by law for private schools in this state on January 1, 2002; and

2. "School tuition organization" means a charitable organization in this state that is exempt from federal taxation

under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and that allocates at least ninety percent (90%) of its annual revenue for educational scholarships or tuition grants to children to allow them to attend any qualified school of their parents' choice. In addition, to qualify as a school tuition organization the charitable organization shall provide educational scholarships or tuition grants to students without limiting availability to only students of one school.

G. In order to claim the credit authorized by this section, the school tuition organization to which the donation is made:

1. Must provide at least fifty percent (50%) of all scholarship funds for each school year to or for the benefit of students enrolled in a governmental primary or secondary school for taxable years ending not later than December 31, 2012;

2. Must not provide any scholarship in an amount which is in excess of the lower amount of:

a. eighty percent (80%) of the tuition at a qualified school or One Thousand Eight Hundred Dollars (\$1,800.00) per student per year for students who could qualify for free or reduced-cost school lunches as provided by law. The dollar amount prescribed by this subparagraph shall be adjusted for any increase in the Consumer Price Index for All Urban Consumers (CPI-U), or

b. eighty percent (80%) of the tuition at a qualified school or Nine Hundred Dollars (\$900.00) per student per year for students who could not qualify for free or reduced-cost school lunches as provided by law. The dollar amount prescribed by this subparagraph shall be adjusted for any increase in the Consumer Price Index for All Urban Consumers (CPI-U);

3. Must provide at least twenty percent (20%) of the total amount of scholarship funds under its control to students who qualify for free or reduced-cost school lunches as provided by law; and

4. Must award scholarships qualifying for the credit authorized by this section on or before February 1 of the calendar year prior to the beginning of the academic or school year for which the scholarship is actually used.

H. Each school tuition organization shall report, on a form prescribed for this purpose by the Oklahoma Tax Commission:

1. The total amount of donations received each year;
2. The total amount of scholarships granted each year;
3. The grade level of each student to whom or for whose benefit a scholarship is granted;
4. The name of the school attended by each student to whom or for whose benefit a scholarship is granted;
5. The name of the governmental or other school attended by each student prior to receiving any scholarship funds provided by the organization;
6. The total tuition amount for each such student; and
7. Such other information as the Tax Commission may require.

I. If the credit authorized by this section cannot be taken or claimed as a result of the elimination of the state income tax, the credit shall be available to reduce the tax liability of the claimant imposed pursuant to Section 1354 of Title 68 of the Oklahoma Statutes or imposed pursuant to any gross receipts tax imposed by law.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 18-200.2 of Title 70, unless there is created a duplication in numbering, reads as follows:

The amount of State Aid which would otherwise be paid to a school pursuant to the provisions of Section 18-200.1 of Title 70 of

the Oklahoma Statutes shall be reduced by an amount equal to the funds attributable to and which would have been paid to the district on behalf of students who transfer from the school district and who receive a scholarship from a qualified school tuition organization as defined by Section 2 and Section 3 of this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.203 of Title 68, unless there is created a duplication in numbering, reads as follows:

For taxable years beginning after December 31, 2003, there shall be allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes equal to one hundred percent (100%) of the amount of a voluntary cash contribution to an entity having exempt status pursuant to Section 501 of the Internal Revenue Code of 1986, as amended, and which is organized for the purpose of providing assistance and support to a school district or to a single school or multiple schools located within the state offering instruction to students in kindergarten through twelfth grade, or any grouping of such grades, and which provides financial or other assistance to such school district or school.

SECTION 6. This act shall become effective January 1, 2004.

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