

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB2093 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Tad Jones

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 PROPOSED COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 2093

6 By: Branan, Coffee, Jolley,
7 Mazzei, Bingman,
8 Barrington, Brown, Crain,
9 Ford, Lamb, Aldridge,
10 Myers, Reynolds and
11 Laughlin of the Senate

12 and

13 Miller of the House

14 PROPOSED COMMITTEE SUBSTITUTE

15 (Revenue and taxation - modifying requirements

16 relating to income tax credit - New Hope

17 Scholarship Act - codification -

18 effective dates)

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

20 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.41, as
21 last amended by Section 15, Chapter 272, O.S.L. 2006 (68 O.S. Supp.
22 2007, Section 2357.41), is amended to read as follows:

23 Section 2357.41 A. For tax years beginning after December 31,
24 2000, there shall be allowed a credit against the tax imposed by

1 Sections 2355 and 2370 of this title or that portion of the tax
2 imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes
3 that would otherwise have been apportioned to the General Revenue
4 Fund for qualified rehabilitation expenditures incurred in
5 connection with any certified historic hotel or historic newspaper
6 plant building located in an increment or incentive district created
7 pursuant to the Local Development Act or for qualified
8 rehabilitation expenditures incurred after January 1, 2006, in
9 connection with any certified historic structure.

10 B. The amount of the credit shall be one hundred percent (100%)
11 of the federal rehabilitation credit provided for in Section 47 of
12 Title 26 of the United States Code. The credit authorized by this
13 section may be claimed at any time after the relevant local
14 governmental body responsible for doing so issues a certificate of
15 occupancy or other document that is a precondition for the
16 applicable use of the building or structure that is the basis upon
17 which the credit authorized by this section is claimed.

18 C. All requirements with respect to qualification for the
19 credit authorized by Section 47 of Title 26 of the United States
20 Code shall be applicable to the credit authorized by this section.

21 D. If the credit allowed pursuant to this section exceeds the
22 amount of income taxes due or if there are no state income taxes due
23 on the income of the taxpayer, the amount of the credit allowed but
24 not used in any taxable year may be carried forward as a credit

1 against subsequent income tax liability for a period not exceeding
2 ten (10) years following the qualified expenditures.

3 E. All rehabilitation work to which the credit may be applied
4 shall be reviewed by the State Historic Preservation Office which
5 will in turn forward the information to the National Park Service
6 for certification in accordance with 36 C.F.R., Part 67. A
7 certified historic structure may be rehabilitated for any lawful use
8 or uses, including without limitation mixed uses and still retain
9 eligibility for the credit provided for in this section.

10 F. The amount of the credit allowed for any credit claimed for
11 a certified historic hotel or historic newspaper plant building or
12 any certified historic structure, but not used, shall be freely
13 transferable, in whole or in part, to subsequent transferees at any
14 time during the five (5) years following the year of qualification.
15 Any person to whom or to which a tax credit is transferred shall
16 have only such rights to claim and use the credit under the terms
17 that would have applied to the entity by whom or by which the tax
18 credit was transferred. The provisions of this subsection shall not
19 limit the ability of a tax credit transferee to reduce the tax
20 liability of the transferee regardless of the actual tax liability
21 of the tax credit transferor for the relevant taxable period. The
22 transferor ~~originally allowed~~ of the credit and the ~~subsequent~~
23 transferee shall jointly file a copy of the written credit transfer
24 agreement with the Oklahoma Tax Commission within thirty (30) days

1 of the transfer. Such filing of the written credit transfer
2 agreement with the Oklahoma Tax Commission shall perfect such
3 transfer. The written agreement shall contain the name, address and
4 taxpayer identification number of the parties to the transfer, the
5 amount of credit being transferred, the year the credit was
6 originally allowed to the transferor and, the tax year or years for
7 which the credit may be claimed, and a representation by the
8 transferor that the transferor has neither claimed for its own
9 benefit nor conveyed such credits to any other transferee. The Tax
10 Commission shall develop a standard form for use by subsequent
11 transferees of the credit demonstrating eligibility for the
12 transferee to reduce its applicable tax liabilities resulting from
13 ownership of the credit. The Tax Commission shall develop a system
14 to record and track the transfers of the credit and certify the
15 ownership of the credit and may promulgate rules to permit
16 verification of the validity and timeliness of a tax credit claimed
17 upon a tax return pursuant to this subsection but shall not
18 promulgate any rules which unduly restrict or hinder the transfers
19 of such tax credit.

20 G. Notwithstanding any other provisions in this section, on or
21 after January 1, 2009, if a credit allowed pursuant to this section
22 which has been transferred is subsequently reduced as the result of
23 an adjustment by the Internal Revenue Service, Tax Commission, or
24 any other applicable government agency, only the transferor

1 originally allowed the credit and not any subsequent transferee of
2 the credit, shall be held liable to repay any amount of disallowed
3 credit.

4 H. As used in this section:

5 1. "Certified historic hotel or historic newspaper plant
6 building" means a hotel or newspaper plant building that is listed
7 on the National Register of Historic Places within thirty (30)
8 months of taking the credit pursuant to this section.;

9 2. "Certified historic structure" means a building that is
10 listed on the National Register of Historic Places within thirty
11 (30) months of taking the credit pursuant to this section or a
12 building located in Oklahoma which is certified by the State
13 Historic Preservation Office as contributing to the historic
14 significance of a certified historic district listed on the National
15 Register of Historic Places, or a local district that has been
16 certified by the State Historic Preservation Office as eligible for
17 listing in the National Register of Historic Places; and

18 3. "Qualified rehabilitation expenditures" means capital
19 expenditures that qualify for the federal rehabilitation credit
20 provided in Section 47 of Title 26 of the United States Code and
21 that were paid after December 31, 2000. Qualified rehabilitation
22 expenditures do not include capital expenditures for nonhistoric
23 additions except an addition that is required by state or federal
24 regulations that relate to safety or accessibility. In addition,

1 qualified rehabilitation expenditures do not include expenditures
2 related to the cost of acquisition of the property.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2357.206 of Title 68, unless
5 there is created a duplication in numbering, reads as follows:

6 A. This section shall be known and may be cited as the "New
7 Hope Scholarship Act".

8 B. For tax years beginning after December 31, 2008, there shall
9 be allowed against the tax imposed by Section 2355 of Title 68 of
10 the Oklahoma Statutes a credit for any taxpayer who makes a
11 contribution to an eligible scholarship-granting organization. The
12 credit authorized by this section shall be equal to fifty percent
13 (50%) of the total amount of contributions made during a taxable
14 year, not to exceed an amount which is equal to fifty percent (50%)
15 of the total tax liability of the taxpayer for the taxable year in
16 which the credit provided in this section is claimed. The total of
17 the credits authorized by this section shall not exceed Five Million
18 Dollars (\$5,000,000.00) annually, to be allocated by the Oklahoma
19 Tax Commission on a first-come, first-served basis.

20 C. As used in this section:

21 1. "Eligible student" means a student who:

22 a. is lawfully present in the United States and who is a
23 member of a household whose total annual income during
24 the preceding tax year does not exceed an amount equal

1 to the income standard used to qualify for a free or
2 reduced-price school lunch. Once a student meets the
3 requirements of this subparagraph, such student
4 remains eligible regardless of household income until
5 such student graduates high school or reaches twenty-
6 one (21) years of age, whichever occurs first,

7 b. has not been enrolled in or attended an elementary or
8 secondary private school in this state within eighteen
9 (18) months preceding the award of an educational
10 scholarship, and

11 c. during the immediately preceding school year, attended
12 or, by virtue of the location of the place of
13 residence of the student, was eligible to attend a
14 public school in a county in this state with a
15 population of more than four hundred fifty thousand
16 (450,000) according to the latest Federal Decennial
17 Census which had been identified for school
18 improvement for three (3) or more years as determined
19 by the State Board of Education pursuant to the
20 requirements of the No Child Left Behind Act of 2001,
21 P.L. No. 107-110;

22 2. "Educational scholarships" means grants of up to Five
23 Thousand Dollars (\$5,000.00) or eighty percent (80%) of average per
24 pupil expenditure, whichever is greater, to eligible students to

1 cover all or part of the tuition, fees, uniform costs if applicable,
2 reasonable meal costs and transportation costs of a qualified
3 private school, located within the geographic boundaries of the
4 school district of the residence of the student, which is accredited
5 by the State Board of Education or an accrediting association
6 approved by the Board pursuant to Section 3-104 of Title 70 of the
7 Oklahoma Statutes;

8 3. "Low-income eligible student" means an eligible student who
9 qualifies for a free or reduced-price lunch;

10 4. "Qualified school" means an elementary or secondary private
11 school in a county in this state with a population of more than four
12 hundred fifty thousand (450,000) according to the latest Federal
13 Decennial Census which is:

- 14 a. accredited by the State Board of Education or an
15 accrediting association approved by the Board pursuant
16 to Section 3-104 of Title 70 of the Oklahoma Statutes,
- 17 b. in compliance with all applicable health and safety
18 laws and codes,
- 19 c. has a stated policy against discrimination in
20 admissions on the basis of race, color, national
21 origin or disability, and
- 22 d. ensures academic accountability to parents and
23 guardians of students through regular progress
24 reports; and

- 1 5. "Scholarship-granting organization" means an organization
2 which:
- 3 a. is a nonprofit entity exempt from taxation pursuant to
4 the provisions of the Internal Revenue Code, 26
5 U.S.C., Section 501(c)(3),
 - 6 b. distributes periodic scholarship payments as checks
7 which are made out to both the parent or guardian of
8 the student and the qualified school where the student
9 is enrolled and then mailed to the qualified school
10 where the student is enrolled,
 - 11 c. expends at least ninety percent (90%) of its annual
12 revenue on educational scholarships as defined in
13 paragraph 2 of this subsection. For purposes of this
14 paragraph, "annual revenue" means the total amount or
15 value of contributions received by an organization
16 from taxpayers awarded credits during the fiscal year
17 of the organization and all amounts earned from
18 interest or investments,
 - 19 d. makes annual expenditures for educational scholarships
20 for low-income eligible students, as defined in
21 paragraph 3 of this subsection, in an amount equal to
22 the percentage of low-income eligible students in the
23 county where the scholarship-granting organization
24 provides the majority of its scholarships,

1 e. ensures that scholarships are portable during the
2 school year and can be used at any qualified school
3 that accepts the eligible student, and

4 f. has policies in place to:

5 (1) carry out criminal background checks on all
6 employees and board members to ensure that no
7 individual is involved with the organization who
8 might reasonably pose a risk to the appropriate
9 use of contributed funds,

10 (2) maintain full and accurate records with respect
11 to the receipt of contributions and expenditures
12 of those contributions and supply such records
13 and any other documentation required by the Tax
14 Commission to demonstrate financial
15 accountability,

16 (3) encourage the parents or guardians of students
17 receiving scholarships to choose a qualified
18 school in the area near the student's residence,
19 and

20 (4) assure fair and equal access for eligible
21 students by a lottery selection process for
22 scholarships when the amount of funding available
23 for full scholarship awards is insufficient to
24 fully fund scholarships for all applicants. When

1 there are insufficient funds the scholarship-
2 granting organization shall give scholarship
3 preference to eligible students based on the
4 following priority:

- 5 (a) earlier grade,
- 6 (b) qualifies for free lunch, or
- 7 (c) qualifies for reduced-price lunch.

8 D. In no event shall the amount of the credit exceed the amount
9 of any tax liability of the taxpayer.

10 E. Any credits allowed but not used in any tax year may be
11 carried over, in order, to each of the three (3) years following the
12 year of qualification.

13 F. If an individual claims a credit under this section and
14 later has any of the contributions made to an eligible scholarship-
15 granting organization for which the credit was claimed returned,
16 then the individual shall be required to add to the Oklahoma income
17 tax liability of the individual the amount of the credit claimed
18 pursuant to this section the following taxable year.

19 G. The Tax Commission shall promulgate rules necessary to
20 implement this section.

21 SECTION 3. Section 1 of this act shall become effective January
22 1, 2009.

1 SECTION 4. Section 2 of this act shall become effective
2 November 1, 2008.

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