

THE HOUSE OF REPRESENTATIVES
Tuesday, April 15, 2008

Committee Substitute for
ENGROSSED
Senate Bill No. 2093

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 2093 - By:
BRANAN, COFFEE, JOLLEY, MAZZEI, BINGMAN, BARRINGTON, BROWN, CRAIN,
FORD, LAMB, ALDRIDGE, MYERS, REYNOLDS AND LAUGHLIN of the Senate and
MILLER of the House.

An act relating to revenue and taxation; creating “New Hope Scholarship Act”;
creating income tax credit; limiting amount of credit; capping total amount of
credit; defining terms; prohibiting refund; creating New Hope Scholarship Act
Fund; providing for deposit of revenues; prescribing procedures; providing for
refund claim process; imposing limitation upon payment of claims until
specified period; allowing carryover; providing for recapture; requiring
promulgation of rules; providing for codification; and providing an effective
date.

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

1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 2357.206 of Title 68, unless there is created a duplication in
3 numbering, reads as follows:

4 A. This section shall be known and may be cited as the “New Hope Scholarship
5 Act”.

6 B. For tax years beginning after December 31, 2008, there shall be allowed against
7 the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes a credit for any

1 taxpayer who makes a contribution to an eligible scholarship-granting organization. The
2 credit authorized by this section shall be equal to fifty percent (50%) of the total amount
3 of contributions made during a taxable year, not to exceed an amount which is equal to
4 fifty percent (50%) of the total tax liability of the taxpayer for the taxable year in which
5 the credit provided in this section is claimed. The total of the credits authorized by this
6 section shall not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
7 annually, to be allocated by the Oklahoma Tax Commission on a first-come, first-served
8 basis.

9 C. As used in this section:

- 10 1. "Eligible student" means a student who:
- 11 a. is lawfully present in the United States and who is a member of a
12 household whose total annual income during the preceding tax year
13 does not exceed an amount equal to the income standard used to
14 qualify for a free or reduced-price school lunch. Once a student meets
15 the requirements of this subparagraph, such student remains eligible
16 regardless of household income until such student graduates high
17 school or reaches twenty-one (21) years of age, whichever occurs first,
 - 18 b. has not been enrolled in or attended an elementary or secondary
19 private school in this state within eighteen (18) months preceding the
20 award of an educational scholarship, and
 - 21 c. during the immediately preceding school year, attended or, by virtue of
22 the location of the place of residence of the student, was eligible to

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 attend a public school in a county in this state with a population of
2 more than four hundred fifty thousand (450,000) according to the
3 latest Federal Decennial Census which had been identified for school
4 improvement for three (3) or more years as determined by the State
5 Board of Education pursuant to the requirements of the No Child Left
6 Behind Act of 2001, P.L. No. 107-110;

7 2. "Educational scholarships" means grants of up to Five Thousand Dollars
8 (\$5,000.00) or eighty percent (80%) of average per pupil expenditure, whichever is
9 greater, to eligible students to cover all or part of the tuition, fees, uniform costs if
10 applicable, reasonable meal costs and transportation costs of a qualified private school,
11 located within the geographic boundaries of the school district of the residence of the
12 student, which is accredited by the State Board of Education or an accrediting
13 association approved by the Board pursuant to Section 3-104 of Title 70 of the Oklahoma
14 Statutes;

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

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

20 a. accredited by the State Board of Education or an accrediting
21 association approved by the Board pursuant to Section 3-104 of Title
22 70 of the Oklahoma Statutes,

- 1 b. in compliance with all applicable health and safety laws and codes,
- 2 c. has a stated policy against discrimination in admissions on the basis of
- 3 race, color, national origin or disability, and
- 4 d. ensures academic accountability to parents and guardians of students
- 5 through regular progress reports; and
- 6 5. “Scholarship-granting organization” means an organization which:
- 7 a. is a nonprofit entity exempt from taxation pursuant to the provisions
- 8 of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
- 9 b. distributes periodic scholarship payments as checks which are made
- 10 out to both the parent or guardian of the student and the qualified
- 11 school where the student is enrolled and then mailed to the qualified
- 12 school where the student is enrolled,
- 13 c. expends at least ninety percent (90%) of its annual revenue on
- 14 educational scholarships as defined in paragraph 2 of this subsection.
- 15 For purposes of this paragraph, “annual revenue” means the total
- 16 amount or value of contributions received by an organization from
- 17 taxpayers awarded credits during the fiscal year of the organization
- 18 and all amounts earned from interest or investments,
- 19 d. makes annual expenditures for educational scholarships for low-
- 20 income eligible students, as defined in paragraph 3 of this subsection,
- 21 in an amount equal to the percentage of low-income eligible students in

1 the county where the scholarship-granting organization provides the
2 majority of its scholarships,
3 e. ensures that scholarships are portable during the school year and can
4 be used at any qualified school that accepts the eligible student, and
5 f. has policies in place to:
6 (1) carry out criminal background checks on all employees and
7 board members to ensure that no individual is involved with the
8 organization who might reasonably pose a risk to the
9 appropriate use of contributed funds,
10 (2) maintain full and accurate records with respect to the receipt of
11 contributions and expenditures of those contributions and
12 supply such records and any other documentation required by
13 the Tax Commission to demonstrate financial accountability,
14 (3) encourage the parents or guardians of students receiving
15 scholarships to choose a qualified school in the area near the
16 student's residence, and
17 (4) assure fair and equal access for eligible students by a lottery
18 selection process for scholarships when the amount of funding
19 available for full scholarship awards is insufficient to fully fund
20 scholarships for all applicants. When there are insufficient
21 funds the scholarship-granting organization shall give

1 scholarship preference to eligible students based on the
2 following priority:

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

6 D. There is hereby created within the State Treasury a special fund for the
7 Oklahoma Tax Commission to be designated the “New Hope Scholarship Act Fund.” The
8 Oklahoma Tax Commission is hereby authorized and directed to withhold a portion of
9 the taxes levied and collected pursuant to Section 2355 of Title 68 of the Oklahoma
10 Statutes for deposit into the fund. The amount deposited shall be appropriate to pay the
11 claims for the credit provided in subsection B of this section. All of the amounts
12 deposited in such fund shall be used and expended by the Oklahoma Tax Commission
13 solely for the purpose of payment of the credits authorized by subsection B of this section.
14 The liability of the State of Oklahoma to make the credit payments under subsection B of
15 this section shall be limited to the balance contained in the fund created by this section.
16 Provided, no claim for credit may be paid by the Tax Commission before July 1, 2009.

17 E. The credit provided in subsection B of this section shall be perfected by a refund
18 claim filed by the taxpayer who shall provide evidence of the contribution satisfactory to
19 the Oklahoma Tax Commission. The Tax Commission shall provide the necessary forms
20 and instructions to taxpayers electing to make a refund claim as provided herein.

21 F. If an individual claims a credit under this section and later has any of the
22 contributions made to an eligible scholarship-granting organization for which the credit

1 was claimed returned, then the individual shall be required to add to the Oklahoma
2 income tax liability of the individual the amount of the credit claimed pursuant to this
3 section the following taxable year.

4 G. The Tax Commission shall promulgate rules necessary to implement this
5 section.

6 SECTION 2. This act shall become effective January 1, 2009.

7 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
8 dated 04-14-08 - DO PASS, As Amended.