

SB 1922

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THE STATE SENATE
Monday, February 22, 2010

Senate Bill No. 1922
As Amended

SENATE BILL NO. 1922 - By: Newberry of the Senate and Denney of the House.

[revenue and taxation - Oklahoma Equal Opportunity Education Scholarship Act - codification - 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 2357.206 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Oklahoma Equal Opportunity Education Scholarship Act".

B. 1. For tax years beginning after December 31, 2010, there shall be allowed a credit for any taxpayer who makes a contribution to an eligible scholarship-granting organization, as follows:

- a. the credit against the tax imposed by subsections B, C and F of Section 2355 of Title 68 of the Oklahoma Statutes shall be equal to one hundred percent (100%) of the total amount of contributions made during a taxable year, not to exceed One Thousand Dollars (\$1,000.00) for each taxpayer or Two Thousand Dollars (\$2,000.00) for married individuals filing jointly for

1 the taxable year in which the credit provided in this
2 section is claimed,
3 b. the credit against the tax imposed by subsections D
4 and E of Section 2355 of Title 68 of the Oklahoma
5 Statutes shall be equal to a percentage of the total
6 amount of contributions made as specified in this
7 subparagraph. For the first tax year in which a
8 taxpayer makes an eligible contribution, the credit
9 shall be equal to eighty percent (80%) of the amount
10 of the contribution. For the second and subsequent
11 years a taxpayer makes an eligible contribution the
12 credit shall be equal to ninety percent (90%) of any
13 amount equal to or less than the amount of the
14 contribution made during the first year and eighty
15 percent (80%) of any amount which is greater than the
16 contribution made during the first year; provided, no
17 credit authorized by this subparagraph shall exceed an
18 amount which is equal to One Hundred Thousand Dollars
19 (\$100,000.00) for the taxable year in which the credit
20 provided in this section is claimed;

21 2. A credit shall not be allowed for contributions made to a
22 scholarship-granting organization in any month in which it has
23 actually awarded less than ninety percent (90%) of funds available

1 and dedicated for educational scholarships. The percentage of funds
2 actually awarded, compared to the total available and dedicated for
3 educational scholarships, shall be measured as a monthly average
4 over the most recent twenty-four month period.

5 3. The total credits authorized by this subsection against the
6 taxes imposed by Section 2355 of Title 68 of the Oklahoma Statutes
7 shall not exceed Ten Million Dollars (\$10,000,000.00) annually, to
8 be allocated by the Oklahoma Tax Commission as provided in
9 Subsection D of this section.

10 C. As used in this section:

11 1. "Eligible student" means a child of school age who is
12 lawfully present in the United States and who is a member of a
13 household in which the total annual income during the preceding tax
14 year does not exceed an amount equal to three hundred percent (300%)
15 of the income standard used to qualify for a free or reduced school
16 lunch. Once a student has received an educational scholarship, as
17 defined in paragraph 2 of this subsection, the student and any
18 siblings who are members of the same household shall remain eligible
19 until they graduate from high school or reach twenty-one (21) years
20 of age, whichever occurs first;

21 2. "Eligible special needs student" means a child of school age
22 who has attended public school in our state with an individualized

1 education program pursuant to the Individuals With Disabilities
2 Education Act, 20 U.S.C.A., Section 1400 et seq.;

3 3. "Educational scholarships" means

- 4 a. grants to an eligible student of up to Five Thousand
5 Dollars (\$5,000.00) or eighty percent (80%) of the
6 average per-pupil expenditure in the school district
7 where the recipient student resides, whichever is
8 greater, to cover all or part of the tuition, fees and
9 transportation costs of a qualified private school
10 which is accredited by the State Board of Education or
11 an accrediting association approved by the Board
12 pursuant to Section 3-104 of Title 70 of the Oklahoma
13 Statutes, or
- 14 b. grants to an eligible special needs student of up to
15 Twenty-five Thousand Dollars (\$25,000.00) to cover all
16 or part of the tuition, fees and transportation costs
17 of a qualified private school for eligible special
18 needs students which is accredited by the State Board
19 of Education or an accrediting association approved by
20 the Board pursuant to Section 3-104 of Title 70 of the
21 Oklahoma Statutes;

1 4. "Low-income eligible student" means an eligible student or
2 eligible special needs student who qualifies for a free or reduced-
3 price lunch;

4 5. "Qualified school" means an elementary or secondary private
5 school in this state, including schools which provide pre-
6 kindergarten educational programs for 4-year olds, which is:

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

18 6. "Qualified school for eligible special needs students" means
19 an elementary or secondary private school in a county in this state;

20 7. "Scholarship-granting organization" means an organization
21 which:

- 1 a. is a nonprofit entity exempt from taxation pursuant to
2 the provisions of the Internal Revenue Code, 26
3 U.S.C., Section 501(c)(3),
- 4 b. distributes periodic scholarship payments as checks
5 made out to an eligible student's or eligible special
6 needs student's parent or guardian and mailed to the
7 qualified school where the student is enrolled,
- 8 c. spends no more than ten percent (10%) of its annual
9 revenue on expenditures other than educational
10 scholarships as defined in paragraph 2 of this
11 subsection,
- 12 d. spends each year a portion of its expenditures on
13 educational scholarships for low-income eligible
14 students, as defined in paragraph 3 of this
15 subsection, in an amount equal to or greater than the
16 percentage of low-income eligible students in the
17 state,
- 18 e. ensures that scholarships are portable during the
19 school year and can be used at any qualified school
20 that accepts the eligible student or qualified school
21 for special needs students that accepts the eligible
22 special needs student, and
- 23 f. has policies in place to:

- 1 (1) carry out criminal background checks on all
2 employees and board members to ensure that no
3 individual is involved with the organization who
4 might reasonably pose a risk to the appropriate
5 use of contributed funds, and
- 6 (2) maintain full and accurate records with respect
7 to the receipt of contributions and expenditures
8 of those contributions and supply such records
9 and any other documentation required by the Tax
10 Commission to demonstrate financial
11 accountability; and

12 8 "Annual revenue" means the total amount or value of
13 contributions received by an organization from taxpayers awarded
14 credits during the organization's fiscal year and all amounts earned
15 from interest or investments.

16 D. 1. In order to allocate the total credits authorized by
17 this section against the taxes imposed by subsections D and E of
18 Section 2355 of Title 68 of the Oklahoma Statutes, the Tax
19 Commission shall maintain a list of the total credits reserved
20 during any taxable year. Credits shall be considered reserved only
21 when:

1 a. a scholarship-granting organization has received a
2 pledge from a taxpayer to make a specified donation,
3 and

4 b. the scholarship-granting organization has deposited
5 the funds pledged within seven (7) business days from
6 the date the pledge was received.

7 2. When the amount of total credits reserved has reached Ten
8 Million Dollars (\$10,000,000.00), the Tax Commission shall notify
9 all scholarship-granting organizations that no additional credit is
10 available for the tax year.

11 E. The credit authorized by this section shall not be used to
12 reduce the tax liability of the taxpayer to less than zero (0).

13 F. Any credits allowed but not used in any tax year may be
14 carried over, in order, to each of the three (3) years following the
15 year of qualification.

16 G. In consultation with the State Department of Education, the
17 Tax Commission shall promulgate rules necessary to implement this
18 act.

19 SECTION 2. This act shall become effective January 1, 2011.

20 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-16-10 - DO PASS,
21 As Amended and Coauthored.