

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1804

By: Shumate

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5  
6 AS INTRODUCED

7 An act relating to revenue and taxation; creating New  
8 Hope Scholarship Act; creating income tax credit;  
9 limiting amount of credit; capping total amount of  
10 credit; defining terms; creating New Hope Scholarship  
11 Act Fund; providing for deposit of revenues;  
12 prescribing procedures; providing for refund claim  
13 process; imposing limitation upon payment of claims  
14 until specified period; allowing carryover; providing  
15 for recapture; prohibiting certain acts; requiring  
16 promulgation of rules; providing for codification;  
17 and providing an effective date.

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

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

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

24 B. For tax years beginning after December 31, 2009, there shall  
be allowed against the tax imposed by Section 2355 of Title 68 of  
the Oklahoma Statutes a credit for any taxpayer who makes a

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

11 C. As used in this section:

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

13 a. is lawfully present in the United States and who is a  
14 member of a household whose total annual income during  
15 the preceding tax year does not exceed an amount equal  
16 to the income standard used to qualify for a free or  
17 reduced-price school lunch. Once a student meets the  
18 requirements of this subparagraph, such student  
19 remains eligible regardless of household income until  
20 such student graduates high school or reaches twenty-  
21 one (21) years of age, whichever occurs first,

22 b. has not been enrolled in or attended an elementary or  
23 secondary private school in this state within eighteen  
24

1 (18) months preceding the award of an educational  
2 scholarship, and

3 c. during the immediately preceding school year, attended  
4 or, by virtue of the location of the place of  
5 residence of the student, was eligible to attend a  
6 public school in a county in this state with a  
7 population of more than four hundred fifty thousand  
8 (450,000) according to the latest Federal Decennial  
9 Census which had been identified for school  
10 improvement for three (3) or more years as determined  
11 by the State Board of Education pursuant to the  
12 requirements of the No Child Left Behind Act of 2001,  
13 P.L. No. 107-110;

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

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

3       4. "Qualified school" means an elementary or secondary private  
4 school in a county in this state with a population of more than four  
5 hundred fifty thousand (450,000) according to the latest Federal  
6 Decennial Census 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; and

18       5. "Scholarship-granting organization" means an organization  
19 which:

20           a. is a nonprofit entity exempt from taxation pursuant to  
21 the provisions of the Internal Revenue Code, 26  
22 U.S.C., Section 501(c)(3),

23          b. distributes periodic scholarship payments as checks  
24 which are made out to both the parent or guardian of

1 the student and the qualified school where the student  
2 is enrolled and then mailed to the qualified school  
3 where the student is enrolled,

4 c. expends at least ninety percent (90%) of its annual  
5 revenue on educational scholarships as defined in  
6 paragraph 2 of this subsection. For purposes of this  
7 paragraph, "annual revenue" means the total amount or  
8 value of contributions received by an organization  
9 from taxpayers awarded credits during the fiscal year  
10 of the organization and all amounts earned from  
11 interest or investments,

12 d. makes annual expenditures for educational scholarships  
13 for low-income eligible students, as defined in  
14 paragraph 3 of this subsection, in an amount equal to  
15 the percentage of low-income eligible students in the  
16 county where the scholarship-granting organization  
17 provides the majority of its scholarships,

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, and

21 f. has policies in place to:

22 (1) carry out criminal background checks on all  
23 employees and board members to ensure that no  
24 individual is involved with the organization who

1 might reasonably pose a risk to the appropriate  
2 use of contributed funds,

3 (2) maintain full and accurate records with respect  
4 to the receipt of contributions and expenditures  
5 of those contributions and supply such records  
6 and any other documentation required by the Tax  
7 Commission to demonstrate financial  
8 accountability,

9 (3) encourage the parents or guardians of students  
10 receiving scholarships to choose a qualified  
11 school in the area near the student's residence,  
12 and

13 (4) assure fair and equal access for eligible  
14 students by a lottery selection process for  
15 scholarships when the amount of funding available  
16 for full scholarship awards is insufficient to  
17 fully fund scholarships for all applicants. When  
18 there are insufficient funds the scholarship-  
19 granting organization shall give scholarship  
20 preference to eligible students based on the  
21 following priority:

22 (a) earlier grade,

23 (b) qualifies for free lunch, or

24 (c) qualifies for reduced-price lunch.

1 D. There is hereby created within the State Treasury a special  
2 fund for the Oklahoma Tax Commission to be designated the "New Hope  
3 Scholarship Act Fund". The Oklahoma Tax Commission is hereby  
4 authorized and directed to withhold a portion of the taxes levied  
5 and collected pursuant to Section 2355 of Title 68 of the Oklahoma  
6 Statutes for deposit into the fund. The amount deposited shall be  
7 appropriate to pay the claims for the credit provided in subsection  
8 B of this section. All of the amounts deposited in such fund shall  
9 be used and expended by the Oklahoma Tax Commission solely for the  
10 purpose of payment of the credits authorized by subsection B of this  
11 section. The liability of the State of Oklahoma to make the credit  
12 payments under subsection B of this section shall be limited to the  
13 balance contained in the fund created by this section. Provided, no  
14 claim for credit may be paid by the Tax Commission before July 1,  
15 2010.

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

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

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

4 G. This credit shall not be allowed if the taxpayer has  
5 deducted the contribution made to an eligible scholarship-granting  
6 organization pursuant to Section 170 of the Internal Revenue Code.

7 H. The Tax Commission shall promulgate rules necessary to  
8 implement this section.

9 SECTION 2. This act shall become effective January 1, 2010.

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