

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1805

By: Shumate

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5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; enacting the  
8 Oklahoma Great Schools Tax Credit Program Act;  
9 defining terms; providing tax credit for certain  
10 donations; limiting amount of credit; providing for  
11 carryover; providing organization requirements for  
12 donations to be eligible for credit; requiring  
13 organization to verify that schools in program meet  
14 certain requirements; limiting eligibility for  
15 credit; requiring certain public annual reports;  
16 directing Tax Commission to implement program in  
17 certain manner; providing program procedures;  
18 providing requirements for schools; providing for  
19 codification; and providing an effective date.

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

21 SECTION 1. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 2357.501 of Title 68, unless  
23 there is created a duplication in numbering, reads as follows:

24 This act shall be known and may be cited as the "Oklahoma Great  
Schools Tax Credit Program Act".

SECTION 2. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 2357.502 of Title 68, unless  
there is created a duplication in numbering, reads as follows:

1 As used in the Oklahoma Great Schools Tax Credit Program Act:

2 1. "Program" means the Great Schools Tax Credit Program;

3 2. "Eligible student" means a student who:

4 a. is a member of a household whose total annual income  
5 during the year before the student receives an  
6 educational scholarship under this program does not  
7 exceed an amount equal to two and one-half (2 1/2)  
8 times the income standard used to qualify for a free  
9 or reduced price lunch under the Free or Reduced Price  
10 Lunch Program established under 42 USC, Sections 1751  
11 through 1769h. Once a student receives a scholarship  
12 under this program, the student will remain eligible  
13 regardless of household income until the student  
14 graduates from high school or reaches twenty-one (21)  
15 years of age,

16 b. was eligible to attend a public school in the  
17 preceding semester or is starting school in the state  
18 for the first time, and

19 c. resides in the state while receiving an educational  
20 scholarship;

21 3. "Low-income eligible student" means a student who qualifies  
22 for free or reduced price lunch under the national Free or Reduced  
23 Price Lunch Program established under 42 USC, Sections 1751 through  
24 1769h;

1 4. "Educational scholarships" means grants to students to pay  
2 for all or part of the tuition and fees at either a qualified  
3 nonpublic school or a qualified public school, including  
4 transportation to a public school outside of the resident school  
5 district of the student;

6 5. "Qualified school" means either a public elementary or  
7 secondary school outside of the district in which a student resides  
8 or a nonpublic elementary or secondary school in the state that  
9 complies with all of the requirements of the program;

10 6. "Parent" includes a guardian, custodian or other person with  
11 authority to act on behalf of the child;

12 7. "Scholarship-granting organization" means an organization  
13 that complies with the requirements of this program and provides  
14 educational scholarships to students attending qualified schools  
15 chosen by the parent of the child; and

16 8. "Tax Commission" means the Oklahoma Tax Commission.

17 SECTION 3. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 2357.503 of Title 68, unless  
19 there is created a duplication in numbering, reads as follows:

20 A. For tax years beginning after December 31, 2009, there shall  
21 be allowed as a credit against the tax imposed pursuant to Section  
22 2355 of Title 68 of the Oklahoma Statutes an amount equal to the  
23 contributions made by a taxpayer to a scholarship-granting  
24 organization for educational scholarships.

1 B. The credit provided by this section shall not reduce the tax  
2 liability of the taxpayer more than fifty percent (50%) in any given  
3 taxable year.

4 C. The tax credit provided by this section may be carried  
5 forward for three (3) years.

6 SECTION 4. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 2357.504 of Title 68, unless  
8 there is created a duplication in numbering, reads as follows:

9 A. Each scholarship-granting organization shall:

- 10 1. Notify the Tax Commission of its intent to provide  
11 educational scholarships to students attending qualified schools;
- 12 2. Demonstrate to the Tax Commission that it has been granted  
13 exemption from the federal income tax as an organization described  
14 in Section 501(c)(3) of the Internal Revenue Code;
- 15 3. Provide a Tax-Commission-approved receipt to taxpayers for  
16 contributions made to the organization;
- 17 4. Ensure that at least ninety percent (90%) of its revenue  
18 from donations is spent on educational scholarships, and that all  
19 revenue from interest or investments is spent on educational  
20 scholarships;
- 21 5. Spend each year a portion of its expenditures on  
22 scholarships for low-income eligible students equal to the  
23 percentage of low-income eligible students in the county where the  
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1 scholarship-granting organization expends the majority of its  
2 scholarships;

3 6. Ensure that first-time recipients of educational  
4 scholarships were not continuously enrolled in a nonpublic school  
5 during the previous year;

6 7. Distribute periodic scholarship payments as checks made out  
7 to the parent or guardian of the student and mailed to the qualified  
8 school where the student is enrolled. The parent or guardian must  
9 endorse the check before it can be deposited;

10 8. Cooperate with the Tax Commission to conduct criminal  
11 background checks on all of its employees and board members and  
12 exclude from employment or governance any individual that might  
13 reasonably pose a risk to the appropriate use of contributed funds;

14 9. Ensure that scholarships are portable during the school year  
15 and can be used at any qualified school that accepts the eligible  
16 student according to the wishes of the parent. If a student moves  
17 to a new qualified school during a school year, the scholarship  
18 amount may be prorated;

19 10. Demonstrate its financial accountability by:

20 a. submitting a financial information report for the  
21 organization that complies with uniform financial  
22 accounting standards established by the Tax Commission  
23 and conducted by a certified public accountant, and  
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1           b.    having the auditor certify that the report is free of  
2                    material misstatements; and

3           11.  Demonstrate its financial viability, if it is to receive  
4 donations of Fifty Thousand Dollars (\$50,000.00) or more during the  
5 school year, by:

6           a.    filing with the Tax Commission prior to the start of  
7                    the school year a surety bond payable to the state in  
8                    an amount equal to the aggregate amount of  
9                    contributions expected to be received during the  
10                  school year, or

11          b.    filing with the Tax Commission prior to the start of  
12                    the school year financial information that  
13                    demonstrates the financial viability of the  
14                    scholarship-granting organization.

15          B.    Each scholarship-granting organization shall ensure that  
16 participating schools that accept its scholarship students will:

17          1.    Comply with all health and safety laws or codes that apply  
18 to nonpublic schools;

19          2.    Hold a valid occupancy permit if required by their  
20 municipality;

21          3.    Certify that they will not discriminate in admissions on the  
22 basis of race, color, national origin, religion or disability; and  
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1 4. Provide academic accountability to parents of the students  
2 in the program by regularly reporting to the parents on the progress  
3 of the student.

4 C. Scholarship-granting organizations shall not provide  
5 educational scholarships for students to attend any school with paid  
6 staff or board members, or relatives thereof, in common with the  
7 scholarship-granting support organization.

8 D. A scholarship-granting organization shall publicly report to  
9 the Tax Commission by June 1 of each year the following information  
10 prepared by a certified public accountant regarding its grants in  
11 the previous calendar year:

12 1. The name and address of the student support organization;

13 2. The total number and total dollar amount of contributions  
14 received during the previous calendar year; and

15 3. The total number and total dollar amount of educational  
16 scholarships awarded during the previous calendar year, the total  
17 number and total dollar amount of educational scholarships awarded  
18 during the previous year to students qualifying for the Free or  
19 Reduced Lunch Program, and the percentage of first-time recipients  
20 of educational scholarships who were continuously enrolled in a  
21 public school during the previous year.

22 SECTION 5. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 2357.505 of Title 68, unless  
24 there is created a duplication in numbering, reads as follows:

1       A. The Tax Commission shall adopt rules and procedures  
2 consistent with this act as necessary to implement the  
3 program.

4       B. The Tax Commission shall provide a standardized format for a  
5 receipt to be issued by a scholarship-granting organization to a  
6 taxpayer to indicate the value of a contribution received. The Tax  
7 Commission shall require a taxpayer to provide a copy of this  
8 receipt when claiming the Great Schools Tax Credit.

9       C. The Tax Commission shall provide a standardized format for  
10 scholarship-granting organizations to report the information in  
11 subsection D of Section 4 of this act.

12       D. The Tax Commission shall have the authority to conduct  
13 either a financial review or audit of a student support organization  
14 if possessing evidence of fraud.

15       E. The Tax Commission may bar a scholarship-granting  
16 organization from participating in the program if the Tax Commission  
17 establishes that the scholarship-granting organization has  
18 intentionally and substantially failed to comply with the  
19 requirements in Section 4 of this act.

20       F. If the Tax Commission decides to bar a scholarship-granting  
21 organization from the program, it shall notify affected scholarship  
22 students and their parents of this decision as quickly as possible.

23       G. The Tax Commission shall allow a taxpayer to divert a  
24 prorated amount of state income tax withholdings to a scholarship-

1 granting organization of the choice of the taxpayer up to the  
2 maximum credit allowed by law, including carry-over credits. The  
3 Tax Commission shall have the authority to develop a procedure to  
4 facilitate this process.

5 SECTION 6. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 2357.506 of Title 68, unless  
7 there is created a duplication in numbering, reads as follows:

8 A. All qualified schools shall be required to operate in this  
9 state.

10 B. All qualified schools shall comply with all state laws that  
11 apply to nonpublic schools regarding criminal background checks for  
12 employees and exclude from employment any people not permitted by  
13 state law to work in a nonpublic school.

14 SECTION 7. This act shall become effective January 1, 2010.

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16 52-1-5888 CJB 12/29/08

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