

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1922

By: Newberry

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; creating the
8 Oklahoma Equal Opportunity Education Scholarship Act;
9 providing short title; providing for specified credit
10 against income tax liability; specifying amount of
11 credit for certain contribution by specified taxpayer
12 type and limiting credit; providing conditions under
13 which credit shall not be allowed; limiting total
14 amount of credits allowed annually; defining terms;
15 requiring Oklahoma Tax Commission to maintain certain
16 list for purposes of allocating credit; establishing
17 criteria for reserving credit; requiring Tax
18 Commission to notify certain entities under certain
19 circumstances; providing for carryover of unused
20 credit; requiring Tax Commission to promulgate rules
21 in consultation with State Department of Education;
22 providing for codification; and providing an
23 effective date.
24

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 act shall be known and may be cited as the "Oklahoma
23 Equal Opportunity Education Scholarship Act".
24

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

4 a. the credit against the tax imposed by subsections B, C
5 and F of Section 2355 of Title 68 of the Oklahoma
6 Statutes shall be equal to one hundred percent (100%)
7 of the total amount of contributions made during a
8 taxable year, not to exceed One Thousand Dollars
9 (\$1,000.00) for each taxpayer or Two Thousand Dollars
10 (\$2,000.00) for married individuals filing jointly for
11 the taxable year in which the credit provided in this
12 section is claimed,

13 b. the credit against the tax imposed by subsections D
14 and E of Section 2355 of Title 68 of the Oklahoma
15 Statutes shall be equal to a percentage of the total
16 amount of contributions made as specified in this
17 subparagraph. For the first tax year in which a
18 taxpayer makes an eligible contribution, the credit
19 shall be equal to eighty percent (80%) of the amount
20 of the contribution. For the second and subsequent
21 years a taxpayer makes an eligible contribution the
22 credit shall be equal to ninety percent (90%) of any
23 amount equal to or less than the amount of the
24 contribution made during the first year and eighty

1 percent (80%) of any amount which is greater than the
2 contribution made during the first year; provided, no
3 credit authorized by this subparagraph shall exceed an
4 amount which is equal to One Hundred Thousand Dollars
5 (\$100,000.00) for the taxable year in which the credit
6 provided in this section is claimed;

7 2. A credit shall not be allowed for contributions made to a
8 scholarship-granting organization in any month in which it has
9 actually awarded less than ninety percent (90%) of funds available
10 and dedicated for educational scholarships. The percentage of funds
11 actually awarded, compared to the total available and dedicated for
12 educational scholarships, shall be measured as a monthly average
13 over the most recent twenty-four month period.

14 3. The total credits authorized by subparagraph b of paragraph
15 1 of this subsection against the taxes imposed by subsections D and
16 E of Section 2355 of Title 68 of the Oklahoma Statutes shall not
17 exceed Ten Million Dollars (\$10,000,000.00) annually, to be
18 allocated by the Oklahoma Tax Commission as provided in Subsection D
19 of this section.

20 C. As used in this section:

21 1. "Eligible student" means a child of school age who is
22 lawfully present in the United States and who is a member of a
23 household in which the total annual income during the preceding tax
24 year does not exceed an amount equal to three hundred percent (300%)

1 of the income standard used to qualify for a free or reduced school
2 lunch. Once a student has received an educational scholarship, as
3 defined in paragraph 2 of this subsection, the student and any
4 siblings who are members of the same household shall remain eligible
5 until they graduate from high school or reach twenty-one (21) years
6 of age, whichever occurs first;

7 2. "Eligible special needs student" means a child of school age
8 who has attended public school in our state with an individualized
9 education program pursuant to the Individuals With Disabilities
10 Education Act, 20 U.S.C.A., Section 1400 et seq.;

11 3. "Educational scholarships" means

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

22 b. grants to an eligible special needs student of up to
23 Twenty-five Thousand Dollars (\$25,000.00) to cover all
24 or part of the tuition, fees and transportation costs

1 of a qualified private school for eligible special
2 needs students which is accredited by the State Board
3 of Education or an accrediting association approved by
4 the Board pursuant to Section 3-104 of Title 70 of the
5 Oklahoma Statutes;

6 4. "Low-income eligible student" means an eligible student or
7 eligible special needs student who qualifies for a free or reduced-
8 price lunch;

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

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

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

- 1 7. "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 made out to an eligible student's or eligible special
8 needs student's parent or guardian and mailed to the
9 qualified school where the student is enrolled,
 - 10 c. spends no more than ten percent (10%) of its annual
11 revenue on expenditures other than educational
12 scholarships as defined in paragraph 2 of this
13 subsection,
 - 14 d. spends each year a portion of its expenditures on
15 educational scholarships for low-income eligible
16 students, as defined in paragraph 3 of this
17 subsection, in an amount equal to or greater than the
18 percentage of low-income eligible students in the
19 state,
 - 20 e. ensures that scholarships are portable during the
21 school year and can be used at any qualified school
22 that accepts the eligible student or qualified school
23 for special needs students that accepts the eligible
24 special needs student, and

1 f. has policies in place to:

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

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

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

17 D. 1. In order to allocate the total credits authorized by
18 this section against the taxes imposed by subsections D and E of
19 Section 2355 of Title 68 of the Oklahoma Statutes, the Tax
20 Commission shall maintain a list of the total credits reserved
21 during any taxable year. Credits shall be considered reserved only
22 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.
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