

1 STATE OF OKLAHOMA

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

3 SENATE BILL 882

By: Eason McIntyre and Ford

4  
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; defining terms; providing  
13 for carryover of unused credit; requiring Oklahoma  
14 Tax Commission to promulgate rules in consultation  
15 with State Department of Education; providing for  
16 codification; and providing an effective date.

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

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

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

23 B. For tax years beginning after December 31, 2009, there shall  
24 be allowed a credit for any taxpayer who makes a contribution to an  
eligible scholarship-granting organization. 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%)

1 of the total amount of contributions made during a taxable year, not  
2 to exceed One Thousand Dollars (\$1,000.00) for each taxpayer or Two  
3 Thousand Dollars (\$2,000.00) for married individuals filing jointly  
4 for the taxable year in which the credit provided in this section is  
5 claimed. The credit against the tax imposed by subsections D and E  
6 of Section 2355 of Title 68 of the Oklahoma Statutes shall be equal  
7 to one hundred percent (100%) of the total amount of contributions  
8 made during a taxable year, not to exceed an amount which is equal  
9 to one hundred percent (100%) of the taxpayer's total tax liability  
10 for the taxable year in which the credit provided in this section is  
11 claimed. A credit shall not be allowed for contributions received  
12 by a scholarship-granting organization in any month in which it has  
13 actually awarded less than ninety percent (90%) of funds available  
14 and dedicated for educational scholarships. The percentage of funds  
15 actually awarded, compared to the total available and dedicated for  
16 educational scholarships, shall be measured as a monthly average  
17 over the most recent twenty-four month period. The total credits  
18 authorized by this section against the taxes imposed by subsections  
19 D and E of Section 2355 of Title 68 of the Oklahoma Statutes shall  
20 not exceed Five Million Dollars (\$5,000,000.00) annually, to be  
21 allocated by the Oklahoma Tax Commission as provided in Subsection D  
22 of this section.

23 C. As used in this section:

24 1. "Eligible student" means a child of school age who:

- 1 a. is lawfully present in the United States and who is a  
2 member of a household in which the total annual income  
3 during the preceding tax year does not exceed an  
4 amount equal to one hundred eighty-five percent (185%)  
5 of the income standard used to qualify for a free or  
6 reduced school lunch,
- 7 b. has not been enrolled in or attended an elementary or  
8 secondary private school in this state within eighteen  
9 (18) months preceding the award of an educational  
10 scholarship, and
- 11 c. during the immediately preceding school year, attended  
12 or, by virtue of the location of such student's place  
13 of residence, was eligible to attend a public school  
14 in this state which had been identified for school  
15 improvement for three (3) or more years as determined  
16 by the State Board of Education pursuant to the  
17 requirements of the No Child Left Behind Act of 2001,  
18 P.L. No. 107-110.

19 Once a student has received an educational scholarship, as defined  
20 in paragraph 2 of this subsection, the student and any siblings who  
21 are members of the same household shall remain eligible until they  
22 graduate from high school or reach twenty-one (21) years of age,  
23 whichever occurs first;

24

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

5        3. "Educational scholarships" means

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

16            b. grants to an eligible special needs student of up to  
17                Twenty Five Thousand Dollars (\$25,000.00) to cover all  
18                or part of the tuition, fees and transportation costs  
19                of a qualified private school for eligible special  
20                needs students which is accredited by the State Board  
21                of Education or an accrediting association approved by  
22                the Board pursuant to Section 3-104 of Title 70 of the  
23                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 a county in this state with a population of more than four  
6 hundred fifty thousand (450,000) according to the latest Federal  
7 Decennial Census which is:

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

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

22 7. "Scholarship-granting organization" means an organization  
23 which:  
24

- 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 the percentage of  
16 low-income eligible students in the state,
- 17 e. ensures that scholarships are portable during the  
18 school year and can be used at any qualified school  
19 that accepts the eligible student or qualified school  
20 for special needs students that accepts the eligible  
21 special needs student, and
- 22 f. has policies in place to:
- 23 (1) carry out criminal background checks on all  
24 employees and board members to ensure that no

1 individual is involved with the organization who  
2 might reasonably pose a risk to the appropriate  
3 use of contributed funds, and

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

10 8 "Annual revenue" means the total amount or value of  
11 contributions received by an organization from taxpayers awarded  
12 credits during the organization's fiscal year and all amounts earned  
13 from interest or investments.

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

20 a. a scholarship-granting organization has received a  
21 pledge from a taxpayer to make a specified donation,  
22 and  
23  
24

1           b.    the scholarship-granting organization has deposited  
2                    the funds pledged within seven (7) business days from  
3                    the date the pledge was received.

4           2.    When the amount of total credits reserved has reached Five  
5 Million Dollars (\$5,000,000.00), the Tax Commission shall notify all  
6 scholarship-granting organizations that no additional credit is  
7 available for the tax year.

8           E.    In no event shall the amount of the credit exceed the amount  
9 of any tax liability of the taxpayer.

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

13          G.    In consultation with the State Department of Education, the  
14 Tax Commission shall promulgate rules necessary to implement this  
15 act.

16          SECTION 2.   This act shall become effective November 1, 2009.

17  
18          52-1-13            JCR            3/6/2009 7:23:56 AM