

OKLAHOMA TAX COMMISSION

FISCAL IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT
FIRST REGULAR SESSION, FIFTY-SECOND OKLAHOMA LEGISLATURE

DATE OF IMPACT STATEMENT: February 3, 2009

BILL NUMBER: SB 882 **STATUS AND DATE OF BILL:** Introduced 1/15/09

AUTHORS: House n/a Senate Eason McIntyre

TAX TYPE (S): Income Tax **SUBJECT:** Credit

PROPOSAL: New Law

SB 882 proposes to enact the *Oklahoma Equal Opportunity Education Scholarship Act*, which allows an Oklahoma income tax credit for any taxpayer who makes a contribution to an eligible scholarship-granting organization.

EFFECTIVE DATE: November 1, 2009

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 09: -0-

FY 10: -0-

FY 11: Projected revenue decrease of \$5 million.

ADMINISTRATIVE IMPACT:

Insert the estimated cost or savings to the Tax Commission due to this proposed legislation.

FY 10: Unknown

DATE DIVISION DIRECTOR mck

DATE REECE WOMACK, ECONOMIST

DATE FOR THE COMMISSION

ATTACHMENT TO FISCAL IMPACT - SB 882[Introduced] Prepared: February 3, 2009

SB 882 proposes to enact the *Oklahoma Equal Opportunity Education Scholarship Act*, which allows an Oklahoma income tax credit for any taxpayer who makes a contribution to an eligible scholarship-granting organization.

The credit will be the total contributions made during a taxable year but may not exceed one thousand dollars (\$1,000); two thousand dollars (\$2,000) for taxpayers filing married joint returns. There also exists an annual cap of five million dollars (\$5,000,000) to be allocated by the Oklahoma Tax Commission.

Eligible scholarship-granting organization must meet the following criteria:

1. Is a nonprofit entity exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(3).
2. Distributes periodic scholarship payments as checks made out to a student's parent or guardian and mailed to the qualified school where the student is enrolled.
3. Expends at least ninety percent (90%) of its annual revenue on educational scholarships.
4. Makes annual expenditures for educational scholarships for low income eligible students in an amount equal to the percentage of low income eligible students in the county where the scholarship-granting organization provides the majority of its scholarships.
5. Ensures that scholarships are portable during the school year and can be used at any qualified school that accepts the eligible student.
6. Has policies in place to carry out criminal background checks on all employees and board members to ensure that no individual is involved with the organization who might reasonably pose a risk to the appropriate use of contributed funds, and maintains full and accurate records with respect to the receipt of contributions and expenditures of those contributions and supply such records and any other documentation required by the Oklahoma Tax Commission to demonstrate financial accountability.

Qualified schools are elementary or secondary **private** schools in this state which are accredited by the State Board of Education or an approved accrediting association approved by the Board pursuant to Section 3-104 of Title 70 of the Oklahoma Statutes, are in compliance with all applicable health and safety laws and codes, has a stated policy against discrimination in admissions on the basis of race, color, national origin or disability, and ensures academic accountability to parents and guardians of students through regular progress reports. Further schools must be in a county with a population of at least 450,000.

Eligible students (scholarship recipients) are those students who are a member of a household whose total annual income during the preceding tax year does not exceed an amount equal to one hundred eighty five percent (185%) of the income standard used to qualify for a free or reduced school lunch. Further the eligible student must have attended (or would have been eligible to attend) a public school that has been identified as a school for improvement three (3) years or more by the Oklahoma State Board of Education state during the immediately preceding semester. The eligible student cannot have been enrolled in or attended a private school within eighteen months of receiving the scholarship. Once a student receives a scholarship from a scholarship-granting organization, such student remains eligible regardless of household income until such student graduates high school or reaches twenty-one (21) years of age, whichever occurs first.

We looked a similar credit program in Arizona. The latest data from Arizona indicates that 69,232

returns made eligible donations for their credit in the amount of \$42.2 million.¹ Arizona receives approximately 2.2 million individual income tax returns. Using the Arizona experience and applying it based on Oklahoma individual income tax filers we would estimate that 44,000 filers would take advantage of the credit. Arizona's credit is capped based on filing status, so their average contribution (\$609) may be low. Using the Arizona average, less than 8,300 returns with the average contribution would hit the proposed cap. Based on this, we believe the \$5 million cap will be met. This proposal is effective for tax year 2010; we would anticipate no revenue impact until FY11 when the tax year 2010 returns are filed.

¹ *Individual Income Tax Credit for Donations to Private School Tuition Organizations: Reporting For 2005*, Arizona Department of Revenue.