

1 ENGROSSED SENATE
2 BILL NO. 969

By: Newberry, Ford, Holt,
Jolley, Stanislawski,
Simpson, Russell and Brown
of the Senate

4 and

5 Denney of the House

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9 [income tax - creating the Oklahoma Equal
10 Opportunity Education Scholarship Act - adjustments
of taxable income - codification]
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13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

19 B. 1. Except as provided in paragraph 4 of this subsection,
20 after the effective date of this act, there shall be allowed a
21 credit for any taxpayer who makes a contribution to an eligible
22 scholarship-granting organization, as follows:

23 a. the credit against the tax imposed by subsections B, C
24 and F of Section 2355 of Title 68 of the Oklahoma

1 Statutes shall be equal to fifty percent (50%) of the
2 total amount of contributions made during a taxable
3 year, not to exceed One Thousand Dollars (\$1,000.00)
4 for each taxpayer or Two Thousand Dollars (\$2,000.00)
5 for married individuals filing jointly for the taxable
6 year in which the credit provided in this section is
7 claimed; provided, if total credits claimed pursuant
8 to this subparagraph exceed the cap established
9 pursuant to paragraph 3 of this subsection, the credit
10 shall be equal to the taxpayer's proportionate share
11 of the cap for the taxable year, or

- 12 b. the credit against the tax imposed by subsections D
13 and E of Section 2355 of Title 68 of the Oklahoma
14 Statutes shall be equal to fifty percent (50%) of the
15 total contributions made during a taxable year;
16 provided, no credit authorized by this subparagraph
17 shall exceed an amount which is equal to One Hundred
18 Thousand Dollars (\$100,000.00) for the taxable year in
19 which the credit provided in this section is claimed;
20 provided, if total credits claimed pursuant to this
21 subparagraph exceed the cap established pursuant to
22 paragraph 3 of this subsection, the credit shall be
23 equal to the taxpayer's proportionate share of the cap
24 for the taxable year.

1 2. For credits claimed for eligible contributions made during
2 tax year 2014 and thereafter, a credit shall not be allowed by the
3 Oklahoma Tax Commission for contributions made to a scholarship-
4 granting organization if that organization's percentage of funds
5 actually awarded is less than ninety percent (90%). For purposes of
6 this section, the "percentage of funds actually awarded" shall be
7 determined by dividing the total amount of funds actually awarded as
8 educational scholarships over the most recent twenty-four (24)
9 months by the total amount available to award as educational
10 scholarships over the most recent twenty-four (24) months.

11 3. The total credits authorized by subparagraph b of paragraph
12 1 of this subsection against the taxes imposed by subsections D and
13 E of Section 2355 of Title 68 of the Oklahoma Statutes shall not
14 exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
15 annually and the total credits authorized by subparagraph a of
16 paragraph 1 of this subsection against the taxes imposed by
17 subsections B, C and F of Section 2355 of Title 68 of the Oklahoma
18 Statutes shall not exceed Two Million Five Hundred Thousand Dollars
19 (\$2,500,000.00) annually, to be allocated by the Oklahoma Tax
20 Commission as provided in subsection D of this section.

21 4. Any tax credits which are earned by a taxpayer pursuant to
22 this section during the time period beginning on the effective date
23 of this act through December 31, 2012, may not be claimed for any
24 period prior to the taxable year beginning January 1, 2013. No

1 credits which accrue during the time period beginning on the
2 effective date of this act through December 31, 2012, may be used to
3 file an amended tax return for any taxable year prior to the taxable
4 year beginning January 1, 2013.

5 C. As used in this section:

6 1. "Eligible student" means a child of school age who is
7 lawfully present in the United States and who is a member of a
8 household in which the total annual income during the preceding tax
9 year does not exceed an amount equal to three hundred percent (300%)
10 of the income standard used to qualify for a free or reduced school
11 lunch or who, during the immediately preceding school year, attended
12 or, by virtue of the location of such student's place of residence,
13 was eligible to attend a public school in this state which has been
14 identified for school improvement as determined by the State Board
15 of Education pursuant to the requirements of the No Child Left
16 Behind Act of 2001, P.L. No. 107-110. Once a student has received
17 an educational scholarship, as defined in paragraph 3 of this
18 subsection, the student and any siblings who are members of the same
19 household shall remain eligible until they graduate from high school
20 or reach twenty-one (21) years of age, whichever occurs first;

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

1 3. "Educational scholarships" means:

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

12 b. grants to an eligible special needs student of up to
13 Twenty-five Thousand Dollars (\$25,000.00) to cover all
14 or part of the tuition, fees and transportation costs
15 of a qualified private school for eligible special
16 needs students which is accredited by the State Board
17 of Education or an accrediting association approved by
18 the Board pursuant to Section 3-104 of Title 70 of the
19 Oklahoma Statutes;

20 4. "Low-income eligible student" means an eligible student or
21 eligible special needs student who qualifies for a free or reduced-
22 price lunch;

1 5. "Qualified school" means an elementary or secondary private
2 school in this state, including schools which provide pre-
3 kindergarten educational programs for four-year-olds, which is:

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

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

17 7. "Scholarship-granting organization" means an organization
18 which:

- 19 a. is a nonprofit entity exempt from taxation pursuant to
20 the provisions of the Internal Revenue Code, 26
21 U.S.C., Section 501(c)(3),
- 22 b. distributes periodic scholarship payments as checks
23 made out to an eligible student's or eligible special
24

- 1 needs student's parent or guardian and mailed to the
2 qualified school where the student is enrolled,
- 3 c. spends no more than ten percent (10%) of its annual
4 revenue on expenditures other than educational
5 scholarships as defined in paragraph 3 of this
6 subsection,
- 7 d. spends each year a portion of its expenditures on
8 educational scholarships for low-income eligible
9 students, as defined in paragraph 4 of this
10 subsection, in an amount equal to or greater than the
11 percentage of low-income eligible students in the
12 state,
- 13 e. ensures that scholarships are portable during the
14 school year and can be used at any qualified school
15 that accepts the eligible student or at any qualified
16 school for special needs students that accepts the
17 eligible special needs student,
- 18 f. registers with the Oklahoma Tax Commission as a
19 scholarship-granting organization, and
- 20 g. has policies in place to:
- 21 (1) carry out criminal background checks on all
22 employees and board members to ensure that no
23 individual is involved with the organization who
24

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

- 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; and

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

13 D. In order to allocate the total credits authorized by this
14 section, the Tax Commission shall:

15 1. Maintain a list of the total credits reserved during any
16 taxable year. Credits shall be considered reserved only when:

17 a. a scholarship-granting organization has received a
18 pledge from a taxpayer to make a specified donation,
19 and

20 b. the scholarship-granting organization has deposited
21 the funds pledged within seven (7) business days from
22 the date the pledge was received.

23 When the amount of total credits reserved during the tax year
24 has reached the annual limit on the total amount of credits pursuant

1 to paragraph 3 of subsection B of this section, the Tax Commission
2 shall notify all registered scholarship-granting organizations that
3 no additional credit is available for the tax year; and

4 2. If total credits claimed for a taxable year exceed the cap
5 established pursuant to paragraph 3 of subsection B of this section,
6 determine each taxpayer's proportionate share of the total credit
7 amount available by dividing the total amount by the total number of
8 credits claimed pursuant to the applicable credit type.

9 E. The credit authorized by this section shall not be used to
10 reduce the tax liability of the taxpayer to less than zero (0).

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

14 G. In consultation with the State Department of Education, the
15 Tax Commission shall promulgate rules necessary to implement this
16 act. Such rules shall include procedures for the registration of a
17 scholarship-granting organization for purposes of determining if the
18 organization meets the requirements of this act, for the revocation
19 of the registration of a scholarship-granting organization, if
20 applicable, and for notice as required in paragraph 1 of subsection
21 D of this section.

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