

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1747

By: Nelson

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5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; creating the  
8 Oklahoma Special Education Scholarship Act; providing  
9 short title; providing for specified credit against  
10 income tax liability; specifying amount of credit for  
11 certain contribution by specified taxpayer type and  
12 limiting credit; providing conditions under which  
13 credit shall not be allowed; limiting total amount of  
14 credits allowed annually; defining terms; requiring  
15 Oklahoma Tax Commission to maintain certain list for  
16 purposes of allocating credit; establishing criteria  
17 for reserving credit; requiring Tax Commission to  
18 notify certain entities under certain circumstances;  
19 providing for carryover of unused credit; requiring  
20 Tax Commission to promulgate rules in consultation  
21 with State Department of Education; providing for  
22 codification; and providing an effective date.  
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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 Special Education Scholarship Act".  
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1 B. 1. For tax years beginning after December 31, 2011, 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, and

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 special-needs student" means a child of school age  
22          who has attended a public school in the 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           2. "Educational scholarships" means grants to an eligible  
2 special-needs student of up to Twenty-five Thousand Dollars  
3 (\$25,000.00) to cover all or part of the tuition, fees and  
4 transportation costs of a qualified school for eligible special-  
5 needs students which is accredited by the State Board of Education  
6 or an accrediting association approved by the Board pursuant to  
7 Section 3-104 of Title 70 of the Oklahoma Statutes;

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

10          4. "Qualified school for eligible special-needs students" means  
11 an elementary or secondary private school located in this state;

12          5. "Scholarship-granting organization" means an organization  
13 which:

14           a. is a nonprofit entity exempt from taxation pursuant to  
15 the provisions of the Internal Revenue Code, 26  
16 U.S.C., Section 501(c)(3),

17           b. distributes periodic scholarship payments as checks  
18 made out to the parent or guardian of an eligible  
19 special-needs student and mailed to the qualified  
20 school where the student is enrolled,

21           c. spends no more than ten percent (10%) of its annual  
22 revenue on expenditures other than educational  
23 scholarships as defined in paragraph 2 of this  
24 subsection,

1 d. spends a portion of its expenditures each year on  
2 educational scholarships for low-income eligible  
3 students, as defined in paragraph 3 of this  
4 subsection, in an amount equal to or greater than the  
5 percentage of low-income eligible students in the  
6 state,

7 e. ensures that scholarships are portable during the  
8 school year and can be used at any qualified school  
9 for eligible special-needs students that accepts the  
10 eligible special-needs student, and

11 f. has policies in place to:

12 (1) carry out criminal background checks on all  
13 employees and board members to ensure that no  
14 individual is involved with the organization who  
15 might reasonably pose a risk to the appropriate  
16 use of contributed funds, and

17 (2) maintain full and accurate records with respect  
18 to the receipt of contributions and expenditures  
19 of those contributions and supply the records and  
20 any other documentation required by the Tax  
21 Commission to demonstrate financial  
22 accountability; and

23 6. "Annual revenue" means the total amount or value of  
24 contributions received by an organization from taxpayers awarded

1 credits during the fiscal year of the organization and all amounts  
2 earned from interest or investments.

3 D. 1. In order to allocate the total credits authorized by  
4 this section against the taxes imposed by subsections D and E of  
5 Section 2355 of Title 68 of the Oklahoma Statutes, the Tax  
6 Commission shall maintain a list of the total credits reserved  
7 during any taxable year. Credits shall be considered reserved only  
8 when:

9 a. a scholarship-granting organization has received a  
10 pledge from a taxpayer to make a specified donation,  
11 and

12 b. the scholarship-granting organization has deposited  
13 the funds pledged within seven (7) business days from  
14 the date the pledge was received.

15 2. When the amount of total credits reserved has reached Ten  
16 Million Dollars (\$10,000,000.00), the Tax Commission shall notify  
17 all scholarship-granting organizations that no additional credit is  
18 available for the tax year.

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

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

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1 G. In consultation with the State Department of Education, the  
2 Tax Commission shall promulgate rules necessary to implement this  
3 act.

4 SECTION 2. This act shall become effective January 1, 2012.

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