

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB969 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Lee Denney

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

PROPOSED SUBCOMMITTEE
SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 969

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

and

Denney of the House

PROPOSED SUBCOMMITTEE SUBSTITUTE

[income tax - creating the Oklahoma Equal
Opportunity Education Scholarship Act - adjustments
of taxable income -
codification]

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

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

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

3 B. 1. Except as provided in subsection E of this section,
4 after the effective date of this act, there shall be allowed a
5 credit for any taxpayer who makes a contribution to an eligible
6 scholarship-granting organization. The credit shall be equal to
7 fifty percent (50%) of the total amount of contributions made during
8 a taxable year, not to exceed One Thousand Dollars (\$1,000.00) for
9 single individual, Two Thousand Dollars (\$2,000.00) for married
10 individuals filing jointly, or One Hundred Thousand Dollars
11 (\$100,000.00) for any taxpayer which is a legal business entity
12 including limited and general partnerships, corporations, and
13 limited liability companies; provided, if total credits claimed
14 pursuant to this paragraph exceed the caps established pursuant to
15 paragraph 2 of this subsection, the credit shall be equal to the
16 taxpayer's proportionate share of the cap for the taxable year, as
17 determined pursuant to subsection G of this section.

18 2. a. The total credits authorized by paragraph 1 of this
19 subsection for all single individuals and married
20 individuals filing jointly shall not exceed One
21 Million Seven Hundred Fifty Thousand Dollars
22 (\$1,750,000.00) annually.

23 b. The total credits authorized by paragraph 1 of this
24 subsection for all other taxpayers not subject to

1 subparagraph a of this paragraph shall not exceed One
2 Million Seven Hundred Fifty Thousand Dollars
3 (\$1,750,000.00) annually.

4 c. Each cap on total credits as provided for in this
5 paragraph shall be allocated by the Oklahoma Tax
6 Commission as provided in subsection G of this
7 section.

8 C. 1. Except as provided in subsection E of this section,
9 after the effective date of this act, there shall be allowed a
10 credit for any taxpayer who makes a contribution to an eligible
11 educational improvement grant organization. The credit shall be
12 equal to fifty percent (50%) of the total amount of contributions
13 made during a taxable year, not to exceed One Thousand Dollars
14 (\$1,000.00) for single individual, Two Thousand Dollars (\$2,000.00)
15 for married individuals filing jointly, or One Hundred Thousand
16 Dollars (\$100,000.00) for any taxpayer which is a legal business
17 entity including limited and general partnerships, corporations, and
18 limited liability companies; provided, if total credits claimed
19 pursuant to this paragraph exceed the cap established pursuant to
20 paragraph 3 of this subsection, the credit shall be equal to the
21 taxpayer's proportionate share of the cap for the taxable year, as
22 determined pursuant to subsection G of this section.

23 2. For any taxpayer who makes a contribution to an eligible
24 educational improvement grant organization and makes a written

1 commitment to contribute the same amount for two (2) additional
2 consecutive years the credit shall be equal to seventy-five percent
3 (75%) of the total amount of the contribution established in
4 paragraph 1 of this subsection, not to exceed the amounts
5 established in paragraph 1 of this subsection for the taxable year
6 in which the credit provided in this subsection is claimed;
7 provided, if total credits claimed pursuant to this paragraph exceed
8 the cap established pursuant to paragraph 3 of this subsection, the
9 credit shall be equal to the taxpayer's proportionate share of the
10 cap for the taxable year, as determined pursuant to subsection G of
11 this section. The taxpayer shall provide evidence of the written
12 commitment to the Oklahoma Tax Commission at the time of filing the
13 refund claim.

14 3. a. The total credits authorized by paragraph 1 of this
15 subsection for all single individuals, married
16 individuals filing jointly and for all other taxpayers
17 shall not exceed One Million Five Hundred Thousand
18 Dollars (\$1,500,000.00) annually.

19 b. The cap on total credits as provided for in this
20 paragraph shall be allocated by the Oklahoma Tax
21 Commission as provided in subsection G of this
22 section.

23 D. For credits claimed for eligible contributions made during
24 tax year 2014 and thereafter, a credit shall not be allowed by the

1 Oklahoma Tax Commission for contributions made to a scholarship-
2 granting organization or an education improvement grant organization
3 if that organization's percentage of funds actually awarded is less
4 than ninety percent (90%). For purposes of this section, the
5 "percentage of funds actually awarded" shall be determined by
6 dividing the total amount of funds actually awarded as educational
7 scholarships or educational improvement grants over the most recent
8 twenty-four (24) months by the total amount available to award as
9 educational scholarships or educational improvement grants over the
10 most recent twenty-four (24) months.

11 E. Any tax credits which are earned by a taxpayer pursuant to
12 this section during the time period beginning on the effective date
13 of this act through December 31, 2012, may not be claimed for any
14 period prior to the taxable year beginning January 1, 2013. No
15 credits which accrue during the time period beginning on the
16 effective date of this act through December 31, 2012, may be used to
17 file an amended tax return for any taxable year prior to the taxable
18 year beginning January 1, 2013.

19 F. As used in this section:

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

1 lunch or who, during the immediately preceding school year, attended
2 or, by virtue of the location of such student's place of residence,
3 was eligible to attend a public school in this state which has been
4 identified for school improvement as determined by the State Board
5 of Education pursuant to the requirements of the No Child Left
6 Behind Act of 2001, P.L. No. 107-110. Once a student has received
7 an educational scholarship, as defined in paragraph 3 of this
8 subsection, the student and any siblings who are members of the same
9 household shall remain eligible until they graduate from high school
10 or reach twenty-one (21) years of age, whichever occurs first;

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

15 3. "Educational scholarships" means:

16 a. scholarships to an eligible student of up to Five
17 Thousand Dollars (\$5,000.00) or eighty percent (80%)
18 of the average per-pupil expenditure in the school
19 district where the recipient student resides,
20 whichever is greater, to cover all or part of the
21 tuition, fees and transportation costs of a qualified
22 school which is accredited by the State Board of
23 Education or an accrediting association approved by
24

1 the Board pursuant to Section 3-104 of Title 70 of the
2 Oklahoma Statutes, or

- 3 b. scholarships to an eligible special needs student of
4 up to Twenty-five Thousand Dollars (\$25,000.00) to
5 cover all or part of the tuition, fees and
6 transportation costs of a qualified school for
7 eligible special needs students which is accredited by
8 the State Board of Education or an accrediting
9 association approved by the Board pursuant to Section
10 3-104 of Title 70 of the Oklahoma Statutes;

11 4. "Low-income eligible student" means an eligible student or
12 eligible special needs student who qualifies for a free or reduced-
13 price lunch;

14 5. "Qualified school" means an elementary or secondary private
15 school in this state, including schools which provide
16 prekindergarten educational programs for four-year-olds, which is:

- 17 a. accredited by the State Board of Education or an
18 accrediting association approved by the Board pursuant
19 to Section 3-104 of Title 70 of the Oklahoma Statutes,
20 b. in compliance with all applicable health and safety
21 laws and codes,
22 c. has a stated policy against discrimination in
23 admissions on the basis of race, color, national
24 origin or disability, and

d. ensures academic accountability to parents and guardians of students through regular progress reports;

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

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

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

b. distributes periodic scholarship payments as checks made out to an eligible student's or eligible special needs student's parent or guardian and mailed to the qualified school where the student is enrolled,

c. spends no more than ten percent (10%) of its annual revenue on expenditures other than educational scholarships as defined in paragraph 3 of this subsection,

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

- e. ensures that scholarships are portable during the school year and can be used at any qualified school that accepts the eligible student or at any qualified school for special needs students that accepts the eligible special needs student,
- f. registers with the Oklahoma Tax Commission as a scholarship-granting organization, and
- g. has policies in place to:
 - (1) 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
 - (2) maintain 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 Tax Commission to demonstrate financial accountability;

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

1 9. "Public school" means public schools as defined in Section
2 1-106 of Title 70 of the Oklahoma Statutes;

3 10. "Eligible school" means any public school that is not
4 located within a ten-mile radius of a qualified school in this
5 state, or any public school that is located within a ten-mile radius
6 of a qualified school in this state but offers grade-level
7 instruction different from the qualified school or any public school
8 located within a public school district with fewer than four
9 thousand five hundred (4,500) students;

10 11. "Early childhood education programs" means a program
11 provided to children who are at least four (4) years of age but not
12 more than five (5) years of age on or before September 1;

13 12. "Innovative educational program" means an advanced academic
14 or academic improvement program that is not part of the regular
15 coursework of a public school but that enhances the curriculum or
16 academic program of the school or provides early childhood education
17 programs to students;

18 13. "Educational improvement grant" means a grant to an
19 eligible public school to implement an innovative educational
20 program for students, including the ability for multiple public
21 schools to make an application and be awarded a grant to jointly
22 provide an innovative educational program; and

23 14. "Educational improvement grant organization" means an
24 organization which:

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), and

4 b. contributes at least ninety percent (90%) of its
5 annual receipts as grants to eligible schools for
6 innovative educational programs. For purposes of this
7 subparagraph, an educational improvement grant
8 organization contributes its annual cash receipts when
9 it expends or otherwise irrevocably encumbers those
10 funds for expenditure during the then current fiscal
11 year of the organization or during the next succeeding
12 fiscal year of the organization.

13 G. Total credits authorized by this section shall be allocated
14 as follows:

15 1. By January 10 of the year immediately following each
16 calendar year, a scholarship-granting organization or an educational
17 improvement grant organization which accepts contributions pursuant
18 to this section shall provide electronically to the Tax Commission
19 information on each contribution accepted during such taxable year.
20 At least once each taxable year, the scholarship-granting
21 organization or the educational improvement grant organization shall
22 notify each contributor that Oklahoma law provides for a total,
23 statewide cap on the amount of income tax credits allowed annually;

1 2. a. If the Tax Commission determines the total combined
2 contributions made to scholarship-granting
3 organizations during the most recently completed
4 calendar year by all single individual taxpayers and
5 married individuals filing jointly are in excess of
6 One Million Seven Hundred Fifty Thousand Dollars
7 (\$1,750,000.00), the Tax Commission shall determine
8 the percentage of the contribution which establishes
9 the proportionate share of the credit which may be
10 claimed by any taxpayer so that the maximum credits
11 authorized by subparagraph a of paragraph 2 of
12 subsection B of this section are not exceeded.

13 b. If the Tax Commission determines the total combined
14 contributions made to scholarship-granting
15 organizations during the most recently completed
16 calendar year by all taxpayers not subject to
17 subparagraph a of this paragraph are in excess of One
18 Million Seven Hundred Fifty Thousand Dollars
19 (\$1,750,000.00), the Tax Commission shall determine
20 the percentage of the contribution which establishes
21 the proportionate share of the credit which may be
22 claimed by any taxpayer so that the maximum credits
23 authorized by subparagraph b of paragraph 2 of
24 subsection B of this section are not exceeded.

1 c. If the Tax Commission determines the total combined
2 contributions made to educational improvement grant
3 organizations during the most recently completed
4 calendar year by all single individual taxpayers,
5 married individuals filing jointly and all other
6 taxpayers are in excess of One Million Five Hundred
7 Thousand Dollars (\$1,500,000.00), the Tax Commission
8 shall determine the percentage of the contribution
9 which establishes the proportionate share of the
10 credit which may be claimed by any taxpayer so that
11 the maximum credits authorized by subparagraph a of
12 paragraph 3 of subsection C of this section are not
13 exceeded; and

14 3. The Tax Commission shall publish the percentage of the
15 contribution which may be claimed as a credit by contributors for
16 the most recently completed calendar year on the Tax Commission
17 website no later than February 15 of each calendar year for
18 contributions made the previous year. Each scholarship-granting
19 organization or educational improvement grant organization shall
20 notify contributors of that amount annually.

21 H. The credit authorized by this section shall not be used to
22 reduce the tax liability of the taxpayer to less than zero (0).
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1 I. Any credits allowed but not used in any tax year may be
2 carried over, in order, to each of the three (3) years following the
3 year of qualification.

4 J. 1. In order to qualify under this section, an educational
5 improvement grant organization shall submit an application with
6 information to the Oklahoma Tax Commission on a form prescribed by
7 the Commission that:

8 a. enables the Commission to confirm that the
9 organization is a nonprofit entity exempt from
10 taxation pursuant to the provisions of the Internal
11 Revenue Code, 26 U.S.C., Section 501(c)(3), and

12 b. describes the proposed innovative educational program
13 or programs supported by the organization.

14 2. The Commission shall review and approve or disapprove the
15 application, in consultation with the State Department of Education.

16 3. In order to maintain eligibility under this section, an
17 educational improvement grant organization shall annually report the
18 following information to the Commission by September 1 of each year:

19 a. the name of the innovative educational program or
20 programs and the total amount of the grant or grants
21 made to those programs during the immediately preceding
22 school year,

23 b. a description of how each grant was utilized during the
24 immediately preceding school year and a description of

1 any demonstrated or expected innovative educational
2 improvements,

3 c. the names of the public school and school districts
4 where innovative educational programs that received
5 grants during the immediately preceding school year
6 were implemented,

7 d. where the organization collects information on a
8 county-by-county basis, and

9 e. the total number and total amount of grants made during
10 the immediately preceding school year for innovative
11 educational programs at public school by each county in
12 which the organization made grants.

13 4. The information required under paragraph 3 of this
14 subsection shall be submitted on a form provided by the Commission.
15 No later than May 1 of each year, the Commission shall annually
16 distribute sample forms together with the forms on which the reports
17 are required to be made to each approved organization.

18 5. The Commission shall not require any other information be
19 provided by an organization, except as expressly authorized in this
20 section.

21 K. In consultation with the State Department of Education, the
22 Tax Commission shall promulgate rules necessary to implement this
23 act. The rules shall include procedures for the registration of a
24 scholarship-granting organization or an educational improvement

1 grant organization for purposes of determining if the organization
2 meets the requirements of this act, for the revocation of the
3 registration of an organization, if applicable, and for notice as
4 required in subsection G of this section.

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