

# SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

## FLOOR AMENDMENT

No. \_\_\_\_\_

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 969, by striking the title, enacting clause and entire body of the bill and substituting the attached floor substitute.

Submitted by:

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Senator Newberry

Newberry-JCR-FS-Req#1609  
3/9/2011 4:02 PM

1 STATE OF OKLAHOMA

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

3 FLOOR SUBSTITUTE

FOR

4 SENATE BILL NO. 969

By: Newberry of the Senate

5 and

6 Denney of the House

7

8

9 FLOOR SUBSTITUTE

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

13

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

15 SECTION 1. NEW LAW A new section of law to be codified

16 in the Oklahoma Statutes as Section 2357.206 of Title 68, unless  
17 there is created a duplication in numbering, reads as follows:

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

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

1                   a. the credit against the tax imposed by subsections B, C  
2                   and F of Section 2355 of Title 68 of the Oklahoma  
3                   Statutes shall be equal to fifty percent (50%) of the  
4                   total amount of contributions made during a taxable  
5                   year, not to exceed One Thousand Dollars (\$1,000.00)  
6                   for each taxpayer or Two Thousand Dollars (\$2,000.00)  
7                   for married individuals filing jointly for the taxable  
8                   year in which the credit provided in this section is  
9                   claimed; provided, if total credits claimed pursuant  
10                  to this subparagraph exceed the cap established  
11                  pursuant to paragraph 3 of this subsection, the credit  
12                  shall be equal to the taxpayer's proportionate share  
13                  of the cap for the taxable year, or

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

equal to the taxpayer's proportionate share of the cap for the taxable year.

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

13       3. The total credits authorized by subparagraph b of paragraph  
14       1 of this subsection against the taxes imposed by subsections D and  
15       E of Section 2355 of Title 68 of the Oklahoma Statutes shall not  
16       exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00)  
17       annually and the total credits authorized by subparagraph a of  
18       paragraph 1 of this subsection against the taxes imposed by  
19       subsections B, C and F of Section 2355 of Title 68 of the Oklahoma  
20       Statutes shall not exceed Two Million Five Hundred Thousand Dollars  
21       (\$2,500,000.00) annually, to be allocated by the Oklahoma Tax  
22       Commission as provided in subsection D of this section.

23       4. Any tax credits which are earned by a taxpayer pursuant to  
24 this section during the time period beginning on the effective date

1 of this act through December 31, 2012, may not be claimed for any  
2 period prior to the taxable year beginning January 1, 2013. No  
3 credits which accrue during the time period beginning on the  
4 effective date of this act through December 31, 2012, may be used to  
5 file an amended tax return for any taxable year prior to the taxable  
6 year beginning January 1, 2013.

7 C. As used in this section:

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

1 education program pursuant to the Individuals With Disabilities  
2 Education Act, 20 U.S.C.A., Section 1400 et seq.;

3 . "Educational scholarships" means:

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

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

22 4. "Low-income eligible student" means an eligible student or  
23 eligible special needs student who qualifies for a free or reduced-  
24 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

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

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; 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:

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.