

House Bill 2754

Sponsored by Representative WINGARD; Representatives BRUUN, CAMERON, ESQUIVEL, FREEMAN, GARRARD, GILLIAM, GILMAN, HANNA, JENSON, KRIEGER, MAURER, OLSON, RICHARDSON, G SMITH, THATCHER, THOMPSON, WEIDNER, WHISNANT, Senators BOQUIST, GEORGE, GIROD, MORSE, STARR, WHITSETT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates tax credit for educational expenses or contributions to qualified scholarship granting organization.

Applies to tax years beginning on or after January 1, 2010.

A BILL FOR AN ACT

1 Relating to tax credits for educational expenses.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1. Section 3 of this 2009 Act shall be known as the Rose Friedman Educational**
4 **Opportunity Tax Act.**

5 **SECTION 2. Section 3 of this 2009 Act is added to and made a part of ORS chapter 315.**

6 **SECTION 3. (1) As used in this section:**

7 **(a)(A) "Educational expenses" means expenses for:**

8 **(i) Tuition and fees for educational services, including tutoring, whether delivered in**
9 **person or by electronic means.**

10 **(ii) Transportation related to educational activities.**

11 **(iii) Educational association memberships.**

12 **(iv) Testing fees.**

13 **(v) Educational materials, including books, school supplies, academic lessons, instruc-**
14 **tional software and academic curricula.**

15 **(B) "Educational expenses" does not include fees or expenses for athletic activities.**

16 **(b) "Educational scholarship" means a grant from a scholarship granting organization to**
17 **a low-income eligible student or an eligible student with special needs to cover part or all**
18 **of the educational expenses of the student.**

19 **(c) "Eligible student" means a student who:**

20 **(A) Is a resident of this state;**

21 **(B) Is five years of age or older but not more than 21 years of age;**

22 **(C) Has not graduated from high school; and**

23 **(D)(i) Is not a resident of the school district of the public elementary or secondary school**
24 **in which the student is enrolled; or**

25 **(ii) If not enrolled in a public elementary or secondary school, was eligible to attend a**
26 **public school in this state in a preceding academic term or is starting school in this state**
27 **for the first time.**

28 **(d) "Eligible student with special needs" means an eligible student:**
29

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (A) Whose family has a taxable income for the preceding tax year that does not exceed
2 an amount equal to twice the income standard for the free or reduced price lunch program
3 established under 42 U.S.C. 1751 et seq.; and

4 (B) Who has been evaluated as having one of the following conditions as defined under
5 rules established by the State Board of Education:

- 6 (i) Mental retardation.
- 7 (ii) Hearing impairment.
- 8 (iii) Speech or language impairment.
- 9 (iv) Visual impairment.
- 10 (v) Emotional disturbance.
- 11 (vi) Orthopedic or other health impairment.
- 12 (vii) Autism.
- 13 (viii) Traumatic brain injury.
- 14 (ix) Learning disabilities.

15 (e) "Low-income eligible student" means an eligible student whose family has a taxable
16 income for the preceding tax year that does not exceed the income standard for the free or
17 reduced price lunch program established under 42 U.S.C. 1751 et seq.

18 (f) "Parent" includes a guardian, custodian or other person with authority to act on be-
19 half of the student.

20 (g) "Scholarship granting organization" means an organization that:

21 (A) Receives donations from taxpayers;

22 (B) Gives educational scholarships to low-income eligible students or eligible students
23 with special needs;

24 (C) Spends at least 90 percent of its donations on educational scholarships;

25 (D) Spends all interest and proceeds from investments on educational scholarships; and

26 (E) Is recognized as tax exempt under section 501(c)(3) of the Internal Revenue Code.

27 (2) A credit against the taxes otherwise due under ORS chapter 316 shall be allowed for
28 educational expenses actually paid or incurred during the tax year on behalf of an eligible
29 student of whom the taxpayer is a parent. The amount of the credit allowed under this sub-
30 section shall equal \$1,000 multiplied by the number of students for which the taxpayer is
31 claiming the credit.

32 (3) A credit against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer
33 is a corporation, under ORS chapter 317 or 318) shall be allowed for contributions to a qual-
34 ified scholarship granting organization made during the tax year. The credit allowed under
35 this subsection shall equal:

36 (a) In the case of a credit allowed against tax under ORS chapter 316, up to \$1,000 of the
37 taxpayer's contributions.

38 (b) In the case of a credit allowed against tax under ORS chapter 317 or 318, up to \$2,000
39 of the taxpayer's contributions plus 75 percent of the next \$8,000 of the taxpayer's contri-
40 butions.

41 (4) A credit allowed under this section in one tax year may not exceed the tax liability
42 of the taxpayer.

43 (5) Any tax credit otherwise allowable under this section that is not used by the taxpayer
44 in a particular year may be carried forward and offset against the taxpayer's tax liability for
45 the next succeeding tax year. Any credit remaining unused in the next succeeding tax year

1 may be carried forward and used in the second succeeding tax year, and likewise, any credit
2 not used in that second succeeding tax year may be carried forward and used in the third
3 succeeding tax year, but may not be carried forward for any tax year thereafter.

4 (6) In the case of a credit allowed under this section for purposes of ORS chapter 316:

5 (a) A nonresident shall be allowed the credit under this section in the proportion provided
6 in ORS 316.117.

7 (b) If a change in the status of a taxpayer from resident to nonresident or from nonres-
8 ident to resident occurs, the credit allowed by this section shall be determined in a manner
9 consistent with ORS 316.117.

10 (c) A husband and wife who file separate returns for a taxable year may each claim a
11 share of the tax credit that would have been allowed on a joint return in proportion to the
12 contribution of each.

13 (d) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or
14 if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the
15 credit allowed under this section shall be prorated or computed in a manner consistent with
16 ORS 314.085.

17 (7) The Department of Revenue shall establish by rule policies and procedures for certi-
18 fying taxpayers as eligible for the credits allowed under subsections (2) and (3) of this sec-
19 tion.

20 **SECTION 4.** Section 3 of this 2009 Act applies to tax years beginning on or after January
21 1, 2010.