

1 ENGROSSED HOUSE  
2 BILL NO. 1898

By: Strohm, Faught and Dunlap  
of the House

3 and

4 Newhouse of the Senate  
5

6  
7 An Act relating to income tax; amending 68 O.S. 2011,  
8 Section 2357.206, as last amended by Section 1,  
9 Chapter 361, O.S.L. 2015 (68 O.S. Supp. 2016, Section  
10 2357.206), which relates to the Oklahoma Equal  
11 Opportunity Education Scholarship Act; modifying  
12 manner in which cap on annual credits is allocated  
and calculated; conforming references, language and  
procedures; and providing an effective date.

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

14 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.206, as  
15 last amended by Section 1, Chapter 361, O.S.L. 2015 (68 O.S. Supp.  
16 2016, Section 2357.206), is amended to read as follows:

17 Section 2357.206 A. This act shall be known and may be cited  
18 as the "Oklahoma Equal Opportunity Education Scholarship Act".

19 B. 1. Except as provided in subsection F of this section,  
20 after August 26, 2011, there shall be allowed a credit for any  
21 taxpayer who makes a contribution to an eligible scholarship-  
22 granting organization. The credit shall be equal to fifty percent  
23 (50%) of the total amount of contributions made during a taxable  
24 year, not to exceed One Thousand Dollars (\$1,000.00) for single

1 individuals, Two Thousand Dollars (\$2,000.00) for married  
2 individuals filing jointly, or One Hundred Thousand Dollars  
3 (\$100,000.00) for any taxpayer which is a legal business entity  
4 including limited and general partnerships, corporations, subchapter  
5 S corporations and limited liability companies; provided, if total  
6 credits claimed pursuant to this paragraph exceed the caps  
7 established pursuant to paragraph 1 of subsection D of this section,  
8 the credit shall be equal to the taxpayer's proportionate share of  
9 the cap for the taxable year, as determined pursuant to subsection H  
10 of this section.

11       2. For any taxpayer who makes a contribution to an eligible  
12 scholarship-granting organization and makes a written commitment to  
13 contribute the same amount for an additional year, the credit for  
14 the first year and the additional year shall be equal to seventy-  
15 five percent (75%) of the total amount of the contribution made  
16 during a taxable year, not to exceed the amounts established in  
17 paragraph 1 of this subsection for the taxable year in which the  
18 credit provided in this subsection is claimed. The taxpayer shall  
19 provide evidence of the written commitment to the Oklahoma Tax  
20 Commission at the time of filing the refund claim.

21       3. The credits authorized pursuant to the provisions of this  
22 subsection shall be allocable to the partners, shareholders, members  
23 or other equity owners of a taxpayer that is authorized to be  
24 treated as a partnership for purposes of federal income tax

1 reporting for the taxable year for which the tax credits authorized  
2 by this subsection are claimed on the applicable return, together  
3 with required schedules, forms or reports of the partners,  
4 shareholders, members or other equity owners of the taxpayer. Tax  
5 credits which are allocated to such equity owners shall only be  
6 limited in amount for the income tax return of a natural person or  
7 persons based upon the limitation of the total credit amount to the  
8 entity from which the tax credits have been allocated and shall not  
9 be limited to One Thousand Dollars (\$1,000.00) for single  
10 individuals or limited to Two Thousand Dollars (\$2,000.00) for  
11 married persons filing a joint return.

12 4. On or before December 31, 2017, and once every four (4)  
13 years thereafter, such scholarship-granting organization and  
14 educational improvement granting organization shall submit to the  
15 Governor, President Pro Tempore of the Senate and the Speaker of the  
16 House of Representatives, an audited financial statement for the  
17 organization along with information detailing the benefits,  
18 successes or failures of the program.

19 C. 1. Except as provided in subsection F of this section,  
20 after August 26, 2011, there shall be allowed a credit for any  
21 taxpayer who makes a contribution to an eligible educational  
22 improvement grant organization. The credit shall be equal to fifty  
23 percent (50%) of the total amount of contributions made during a  
24 taxable year, not to exceed One Thousand Dollars (\$1,000.00) for

1 single individuals, Two Thousand Dollars (\$2,000.00) for married  
2 individuals filing jointly, or One Hundred Thousand Dollars  
3 (\$100,000.00) for any taxpayer which is a legal business entity  
4 including limited and general partnerships, corporations, subchapter  
5 S corporations and limited liability companies; provided, if total  
6 credits claimed pursuant to this paragraph exceed the cap  
7 established pursuant to paragraph ~~2~~ 1 of subsection D of this  
8 section, the credit shall be equal to the taxpayer's proportionate  
9 share of the cap for the taxable year, as determined pursuant to  
10 subsection H of this section.

11 2. For any taxpayer who makes a contribution to an eligible  
12 educational improvement grant organization and makes a written  
13 commitment to contribute the same amount for an additional year, the  
14 credit for the first year and the additional year shall be equal to  
15 seventy-five percent (75%) of the total amount of the contribution  
16 made during a taxable year, not to exceed the amounts established in  
17 paragraph 1 of this subsection for the taxable year in which the  
18 credit provided in this subsection is claimed; provided, if total  
19 credits claimed pursuant to this paragraph exceed the cap  
20 established pursuant to paragraph 3 of this subsection, the credit  
21 shall be equal to the taxpayer's proportionate share of the cap for  
22 the taxable year, as determined pursuant to subsection H of this  
23 section. The taxpayer shall provide evidence of the written  
24

1 commitment to the Oklahoma Tax Commission at the time of filing the  
2 refund claim.

3 3. The credits authorized pursuant to the provisions of this  
4 subsection shall be allocable to the partners, shareholders, members  
5 or other equity owners of a taxpayer that is authorized to be  
6 treated as a partnership for purposes of federal income tax  
7 reporting for the taxable year for which the tax credits authorized  
8 by this subsection are claimed on the applicable return, together  
9 with required schedules, forms or reports of the partners,  
10 shareholders, members or other equity owners of the taxpayer. Tax  
11 credits which are allocated to such equity owners shall only be  
12 limited in amount for the income tax return of a natural person or  
13 persons based upon the limitation of the total credit amount to the  
14 entity from which the tax credits have been allocated and shall not  
15 be limited to One Thousand Dollars (\$1,000.00) for single  
16 individuals or limited to Two Thousand Dollars (\$2,000.00) for  
17 married persons filing a joint return.

18 D. Except as otherwise provided pursuant to subsection H of  
19 this section, for tax years 2017 and thereafter:

20 1. The total credits authorized pursuant to subsection B of  
21 this section for all taxpayers shall not exceed Three Million Five  
22 Hundred Thousand Dollars (\$3,500,000.00) annually-;

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1        2. The total credits authorized pursuant to subsection C of  
2 this section for all taxpayers shall not exceed One Million Five  
3 Hundred Thousand Dollars (\$1,500,000.00) annually-; and

4        3. The cap on total credits provided for in this subsection  
5 shall be allocated by the Tax Commission as provided in subsection H  
6 of this section.

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

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

1 file an amended tax return for any taxable year prior to the taxable  
2 year beginning January 1, 2013.

3 G. As used in this section:

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

19 2. "Eligible special needs student" means a child who has been  
20 provided services under an Individual Family Service Plan through  
21 the SoonerStart program and during transition was evaluated and  
22 determined to be eligible for school district services, a child of  
23 school age who has attended public school in our state with an  
24 individualized education program pursuant to the Individuals With

1 Disabilities Education Act, 20 U.S.C.A., Section 1400 et seq. or a  
2 child who has been diagnosed by a clinical professional as having a  
3 significant disability that will affect learning and who has been  
4 approved by the board of a scholarship-granting organization;

5 3. "Educational scholarships" means:

- 6 a. scholarships to an eligible student of up to Five  
7 Thousand Dollars (\$5,000.00) or eighty percent (80%)  
8 of the statewide annual average per-pupil expenditure  
9 as determined by the National Center for Education  
10 Statistics, U.S. Department of Education, whichever is  
11 greater, to cover all or part of the tuition, fees and  
12 transportation costs of a qualified school which is  
13 accredited by the State Board of Education or an  
14 accrediting association approved by the Board pursuant  
15 to Section 3-104 of Title 70 of the Oklahoma Statutes,
- 16 b. scholarships to an eligible student of up to Five  
17 Thousand Dollars (\$5,000.00) or eighty percent (80%)  
18 of the statewide annual average per-pupil expenditure  
19 as determined by the National Center for Education  
20 Statistics, U.S. Department of Education, whichever is  
21 greater, to cover the educational costs of a qualified  
22 school which does not charge tuition, which enrolls  
23 special populations of students and which is  
24 accredited by the State Board of Education or an



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

4 c. scholarships to an eligible special needs student of  
5 up to Twenty-five Thousand Dollars (\$25,000.00) to  
6 cover all or part of the tuition, fees and  
7 transportation costs of a qualified school for  
8 eligible special needs students which is accredited by  
9 the State Board of Education or an accrediting  
10 association approved by the Board pursuant to Section  
11 3-104 of Title 70 of the Oklahoma Statutes;

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

15 5. "Qualified school" means an early childhood, elementary or  
16 secondary private school in this state, including schools which  
17 provide special educational programs for three-year-olds or  
18 prekindergarten educational programs for four-year-olds, which:

- 19 a. is accredited by the State Board of Education or an  
20 accrediting association approved by the Board pursuant  
21 to Section 3-104 of Title 70 of the Oklahoma Statutes,  
22 b. is in compliance with all applicable health and safety  
23 laws and codes,

24

- 1           c.    has a stated policy against discrimination in  
2                    admissions on the basis of race, color, national  
3                    origin or disability, and  
4           d.    ensures academic accountability to parents and  
5                    guardians of students through regular progress  
6                    reports;

7           6.    "Qualified school for eligible special needs students" means  
8    an early childhood, elementary or secondary private school in a  
9    county in this state, including schools which provide special  
10   educational programs for three-year-olds or prekindergarten  
11   educational programs for four-year-olds;

12          7.    "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 an eligible student's or eligible special  
19                    needs student's parent or guardian and mailed to the  
20                    qualified 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 3 of this  
24                    subsection,

- 1 d. spends each year a portion of its expenditures on  
2 educational scholarships for low-income eligible  
3 students, as defined in paragraph 4 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 that accepts the eligible student or at any qualified  
10 school for special needs students that accepts the  
11 eligible special needs student,
- 12 f. registers with the Oklahoma Tax Commission as a  
13 scholarship-granting organization, and
- 14 g. has policies in place to:
- 15 (1) carry out criminal background checks on all  
16 employees and board members to ensure that no  
17 individual is involved with the organization who  
18 might reasonably pose a risk to the appropriate  
19 use of contributed funds, and
- 20 (2) maintain full and accurate records with respect  
21 to the receipt of contributions and expenditures  
22 of those contributions and supply such records  
23 and any other documentation required by the Tax  
24

1 Commission to demonstrate financial  
2 accountability;

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

7 9. "Public school" means public schools as defined in Section  
8 1-106 of Title 70 of the Oklahoma Statutes;

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

16 11. "Early childhood education program" means a special  
17 educational program for eligible special needs students who are  
18 three (3) years of age or a prekindergarten educational program  
19 provided to children who are at least four (4) years of age but not  
20 more than five (5) years of age on or before September 1;

21 12. "Innovative educational program" means an advanced academic  
22 or academic improvement program that is not part of the regular  
23 coursework of a public school but that enhances the curriculum or  
24

1 academic program of the school or provides early childhood education  
2 programs to students;

3 13. "Educational improvement grant" means a grant to an  
4 eligible public school to implement an innovative educational  
5 program for students, including the ability for multiple public  
6 schools to make an application and be awarded a grant to jointly  
7 provide an innovative educational program; and

8 14. "Educational improvement grant organization" means an  
9 organization which:

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

13 b. contributes at least ninety percent (90%) of its  
14 annual receipts as grants to eligible schools for  
15 innovative educational programs. For purposes of this  
16 subparagraph, an educational improvement grant  
17 organization contributes its annual cash receipts when  
18 it expends or otherwise irrevocably encumbers those  
19 funds for expenditure during the then current fiscal  
20 year of the organization or during the next succeeding  
21 fiscal year of the organization.

22 H. Total credits authorized by this section shall be allocated  
23 as follows:

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1           1. By January 10 of the year immediately following each  
2 calendar year, a scholarship-granting organization or an educational  
3 improvement grant organization which accepts contributions pursuant  
4 to this section shall provide electronically to the Tax Commission  
5 information on each contribution accepted during such taxable year.  
6 At least once each taxable year, the scholarship-granting  
7 organization or the educational improvement grant organization shall  
8 notify each contributor that Oklahoma law provides for a total,  
9 statewide cap on the amount of income tax credits allowed annually;

10           2. a. If the Tax Commission determines the total combined  
11 credits claimed for contributions made to scholarship-  
12 granting organizations during the most recently  
13 completed calendar year by all taxpayers are in excess  
14 of the statewide caps provided in paragraph 1 of  
15 subsection D of this section, the Tax Commission shall  
16 first allocate any amount of credits not claimed for  
17 contributions made to educational improvement granting  
18 organizations, then shall determine the percentage of  
19 the contribution which establishes the proportionate  
20 share of the credit which may be claimed by any  
21 taxpayer so that the total maximum credits authorized  
22 by this section are not exceeded.

23           b. If the Tax Commission determines the total combined  
24 credits claimed for contributions made to educational

1 improvement grant organizations during the most  
2 recently completed calendar year by all taxpayers are  
3 in excess of the statewide caps provided in paragraph  
4 2 of subsection D of this section, the Tax Commission  
5 shall first allocate any amount of credits not claimed  
6 for contributions made to scholarship-granting  
7 organizations, then shall determine the percentage of  
8 the contribution which establishes the proportionate  
9 share of the credit which may be claimed by any  
10 taxpayer so that the maximum credits authorized by  
11 this section are not exceeded.

12 c. Beginning for tax year 2016, credits earned but not  
13 allowed due to the application of statewide caps  
14 provided in subsection D of this section will be  
15 considered suspended and authorized to be used in the  
16 next immediate tax year and applied to the next year's  
17 statewide cap; and

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

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

3 J. Any credits allowed but not used in any tax year may be  
4 carried over, in order, to each of the ~~three (3)~~ five (5) years  
5 following the year of qualification.

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

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

14 b. describes the proposed innovative educational program  
15 or programs supported by the organization.

16 2. The Tax Commission shall review and approve or disapprove  
17 the application, in consultation with the State Department of  
18 Education.

19 3. In order to maintain eligibility under this section, an  
20 educational improvement grant organization shall annually report the  
21 following information to the Tax Commission by September 1 of each  
22 year:

23 a. the name of the innovative educational program or  
24 programs and the total amount of the grant or grants



1           made to those programs during the immediately  
2           preceding school year,

3           b.    a description of how each grant was utilized during  
4           the immediately preceding school year and a  
5           description of any demonstrated or expected innovative  
6           educational improvements,

7           c.    the names of the public school and school districts  
8           where innovative educational programs that received  
9           grants during the immediately preceding school year  
10          were implemented,

11          d.    where the organization collects information on a  
12          county-by-county basis, and

13          e.    the total number and total amount of grants made  
14          during the immediately preceding school year for  
15          innovative educational programs at public school by  
16          each county in which the organization made grants.

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

1       5. The Tax Commission shall not require any other information  
2 be provided by an organization, except as expressly authorized in  
3 this section.

4       L. In consultation with the State Department of Education, the  
5 Tax Commission shall promulgate rules necessary to implement this  
6 act. The rules shall include procedures for the registration of a  
7 scholarship-granting organization or an educational improvement  
8 grant organization for purposes of determining if the organization  
9 meets the requirements of this act or for the revocation of the  
10 registration of an organization, if applicable, and for notice as  
11 required in subsection H of this section.

12       SECTION 2. This act shall become effective November 1, 2017.

13       Passed the House of Representatives the 22nd day of March, 2017.

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\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

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Passed the Senate the \_\_\_ day of \_\_\_\_\_, 2017.

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Presiding Officer of the Senate

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