

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2701

By: Hasenbeck

7
8
9 COMMITTEE SUBSTITUTE

10 [revenue and taxation - Education Investment for
11 Oklahoma Act - income tax credits - education
12 improvement grant organizations - scholarship-
13 granting organizations - effective date]

14
15
16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. NEW LAW A new section of law not to be
18 codified in the Oklahoma Statutes reads as follows:

19 This act shall be known and may be cited as the "Education
20 Investment for Oklahoma Act".

21 SECTION 2. AMENDATORY 68 O.S. 2011, Section 2357.206, as
22 last amended by Section 1, Chapter 288, O.S.L. 2017 (68 O.S. Supp.
23 2020, Section 2357.206), is amended to read as follows:

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

3 B. 1. Except as provided in subsection ~~F~~ H of this section,
4 after August 26, 2011, there shall be allowed a credit for any
5 taxpayer who makes a contribution to an eligible scholarship-
6 granting organization.

7 The credit shall be equal to fifty percent (50%) of the total
8 amount of contributions made during a taxable year, not to exceed
9 ~~One Thousand Dollars (\$1,000.00)~~ Two Thousand Eight Hundred Dollars
10 (\$2,800.00) for single individuals, ~~Two Thousand Dollars (\$2,000.00)~~
11 Five Thousand Six Hundred Dollars (\$5,600.00) for married
12 individuals filing jointly, or One Hundred Thousand Dollars
13 (\$100,000.00) for any taxpayer which is a legal business entity
14 including limited and general partnerships, corporations, subchapter
15 S corporations and limited liability companies, plus any suspended
16 credits pursuant to subparagraph d of paragraph 2 of subsection J of
17 this section; provided, if total credits claimed pursuant to this
18 paragraph exceed the ~~caps~~ cap amount established pursuant to
19 paragraph 1 of subsection ~~D~~ F of this section, the credit shall be
20 equal to the taxpayer's proportionate share of the cap for the
21 taxable year, as determined pursuant to subsection ~~H~~ J of this
22 section.

23 2. For any taxpayer who makes a contribution to an eligible
24 scholarship-granting organization and makes a written commitment to

1 contribute the same amount for an additional year, the credit for
2 the first year and the additional year shall be equal to seventy-
3 five percent (75%) of the total amount of the contribution made
4 during a taxable year, not to exceed the amounts established in
5 paragraph 1 of this subsection for the taxable year in which the
6 credit provided in this subsection is claimed. The taxpayer shall
7 provide evidence of the written commitment to the Oklahoma Tax
8 Commission at the time of filing the refund claim.

9 3. The credits authorized pursuant to the provisions of this
10 subsection shall be allocable to the partners, shareholders, members
11 or other equity owners of a taxpayer that is authorized to be
12 treated as a partnership for purposes of federal income tax
13 reporting for the taxable year for which the tax credits authorized
14 by this subsection are claimed on the applicable return, together
15 with required schedules, forms or reports of the partners,
16 shareholders, members or other equity owners of the taxpayer. Tax
17 credits which are allocated to such equity owners shall only be
18 limited in amount for the income tax return of a natural person or
19 persons based upon the limitation of the total credit amount to the
20 entity from which the tax credits have been allocated and shall not
21 be limited to ~~One Thousand Dollars (\$1,000.00)~~ Two Thousand Eight
22 Hundred Dollars (\$2,800.00) for single individuals or limited to ~~Two~~
23 ~~Thousand Dollars (\$2,000.00)~~ Five Thousand Six Hundred Dollars
24 (\$5,600.00) for married persons filing a joint return.

1 4. On or before December 31, 2017, and once every four (4)
2 years thereafter, such scholarship-granting organization and
3 educational improvement ~~granting~~ grant organization shall submit to
4 the Oklahoma Tax Commission, Governor, President Pro Tempore of the
5 Senate and the Speaker of the House of Representatives, an audited
6 financial statement for the organization along with information
7 detailing the benefits, successes or failures of the program, and
8 make publicly available on its website the financial statement and
9 information submitted pursuant to this paragraph.

10 C. 1. Except as provided in subsection ~~F~~ H of this section,
11 after August 26, 2011, there shall be allowed a credit for any
12 taxpayer who makes a contribution to an eligible educational
13 improvement grant organization. ~~The~~

14 a. Except as otherwise provided by subparagraph b of this
15 paragraph or paragraph 2 of this subsection, the
16 credit shall be equal to fifty percent (50%) of the
17 total amount of contributions made during a taxable
18 year, not to exceed ~~One Thousand Dollars (\$1,000.00)~~
19 Two Thousand Eight Hundred Dollars (\$2,800.00) for
20 single individuals, ~~Two Thousand Dollars (\$2,000.00)~~
21 Five Thousand Six Hundred Dollars (\$5,600.00) for
22 married individuals filing jointly, or One Hundred
23 Thousand Dollars (\$100,000.00) for any taxpayer which
24 is a legal business entity including limited and

1 general partnerships, corporations, subchapter S
2 corporations and limited liability companies, plus any
3 suspended credits pursuant to subparagraph d of
4 paragraph 2 of subsection J of this section; provided,
5 if total credits claimed pursuant to this ~~paragraph~~
6 subparagraph exceed the cap amount established
7 pursuant to subparagraph a of paragraph 2 of
8 subsection F of this section, the credit shall be
9 equal to the taxpayer's proportionate share of the cap
10 for the taxable year, as determined pursuant to
11 subsection H J of this section.

12 b. If a contribution is made to an eligible educational
13 improvement grant organization to benefit a school
14 district which has less than two thousand (2,000)
15 students enrolled on October 1 as determined by the
16 State Department of Education, the amount of the
17 credit shall be one hundred percent (100%) of the
18 amount contributed to an eligible educational
19 improvement grant organization, but shall be subject
20 to the maximum credit amounts based on filing status
21 as prescribed by subparagraph a of this paragraph. A
22 person or entity claiming a tax credit pursuant to the
23 provisions of this subparagraph may rely on the
24 student enrollment information contained in the State

1 Department reports as of the date the contribution is
2 made. If the taxpayer preserves either an electronic
3 file or record created by the State Department of
4 Education or produces a document by printing
5 information contained in an electronic data file
6 originally created by the State Department of
7 Education, such information shall be conclusive with
8 respect to the student enrollment number for purposes
9 of claiming the tax credit authorized by this
10 subparagraph or any audit of the taxpayer's income tax
11 return; provided, if total credits claimed pursuant to
12 this subparagraph exceed the cap amount established
13 pursuant to subparagraph a of paragraph 2 of
14 subsection F of this section, the credit shall be
15 equal to the taxpayer's proportionate share of the cap
16 for the taxable year, as determined pursuant to
17 subsection J of this section.

18 2. For any taxpayer who makes a contribution to an eligible
19 educational improvement grant organization and makes a written
20 commitment to contribute the same amount for an additional year, the
21 credit for the first year and the additional year shall be equal to
22 seventy-five percent (75%) of the total amount of the contribution
23 made during a taxable year, not to exceed the ~~amounts~~ cap amount
24 established in subparagraph a of paragraph 2 of subsection F of

1 this ~~subsection~~ section for the taxable year in which the credit
2 provided in this ~~subsection~~ paragraph is claimed; provided, if total
3 credits claimed pursuant to this paragraph exceed the cap
4 established pursuant to subparagraph a of paragraph 3 2 of ~~this~~
5 subsection F of this section, the credit shall be equal to the
6 taxpayer's proportionate share of the cap for the taxable year, as
7 determined pursuant to subsection ~~H~~ J of this section. The taxpayer
8 shall provide evidence of the written commitment to the Oklahoma Tax
9 Commission at the time of filing the refund claim.

10 3. The credits authorized pursuant to the provisions of this
11 subsection shall be allocable to the partners, shareholders, members
12 or other equity owners of a taxpayer that is authorized to be
13 treated as a partnership for purposes of federal income tax
14 reporting for the taxable year for which the tax credits authorized
15 by this subsection are claimed on the applicable return, together
16 with required schedules, forms or reports of the partners,
17 shareholders, members or other equity owners of the taxpayer. Tax
18 credits which are allocated to such equity owners shall only be
19 limited in amount for the income tax return of a natural person or
20 persons based upon the limitation of the total credit amount to the
21 entity from which the tax credits have been allocated and shall not
22 be limited to ~~One Thousand Dollars (\$1,000.00)~~ Two Thousand Eight
23 Hundred Dollars (\$2,800.00) for single individuals or limited to ~~Two~~
24

1 ~~Thousand Dollars (\$2,000.00)~~ Five Thousand Six Hundred Dollars
2 (\$5,600.00) for married persons filing a joint return.

3 D. 1. On or after the effective date of this act, there shall
4 be allowed a credit for any taxpayer who makes a contribution to an
5 eligible public school district.

6 a. Except as otherwise provided by subparagraph b of this
7 paragraph or paragraph 2 of this subsection, the
8 credit shall be equal to fifty percent (50%) of the
9 total amount of contributions made during a taxable
10 year, not to exceed Two Thousand Eight Hundred Dollars
11 (\$2,800.00) for single individuals, Five Thousand Six
12 Hundred Dollars (\$5,600.00) for married individuals
13 filing jointly or One Hundred Thousand Dollars
14 (\$100,000.00) for any taxpayer which is a legal
15 business entity including limited and general
16 partnerships, corporations, subchapter S corporations
17 and limited liability companies; provided, if total
18 credits claimed pursuant to this subparagraph exceed
19 the cap amount established pursuant to subparagraph a
20 of paragraph 2 of subsection F of this section, the
21 credit shall be equal to the taxpayer's proportionate
22 share of the cap for the taxable year, as determined
23 pursuant to subsection J of this section.

1 b. If a contribution is made to a school district which
2 has less than two thousand (2,000) students enrolled
3 on October 1 as determined by the State Department of
4 Education, the amount of the credit shall be one
5 hundred percent (100%) of the amount contributed to an
6 eligible school district, but shall be subject to the
7 maximum credit amounts based on filing status as
8 prescribed by subparagraph a of this paragraph. A
9 person or entity claiming a tax credit pursuant to the
10 provisions of this subparagraph may rely on the
11 student enrollment information contained in the State
12 Department reports as of the date the contribution is
13 made. If the taxpayer preserves either an electronic
14 file or record created by the State Department of
15 Education or produces a document by printing
16 information contained in an electronic data file
17 originally created by the State Department of
18 Education, such information shall be conclusive with
19 respect to the student enrollment number for purposes
20 of claiming the tax credit authorized by this
21 subparagraph or any audit of the taxpayer's income tax
22 return; provided, if total credits claimed pursuant to
23 this subparagraph exceed the cap amount established
24 pursuant to subparagraph a of paragraph 2 of

1 subsection F of this section, the credit shall be
2 equal to the taxpayer's proportionate share of the cap
3 for the taxable year, as determined pursuant to
4 subsection J of this section;

5 2. Except as otherwise provided by subparagraph a or b of
6 paragraph 1 of this subsection, for any taxpayer who makes a
7 contribution to an eligible public school district and makes a
8 written commitment to contribute the same amount for an additional
9 year, the credit for the first year and the additional year shall be
10 equal to seventy-five percent (75%) of the total amount of the
11 contribution made during a taxable year, not to exceed the cap
12 amount established in subparagraph a of paragraph 2 of subsection F
13 of this section for the taxable year in which the credit provided in
14 this paragraph is claimed. The taxpayer shall provide evidence of
15 the written commitment to the Oklahoma Tax Commission at the time of
16 filing the refund claim; provided, if total credits claimed pursuant
17 to this paragraph exceed the cap amount established pursuant to
18 subparagraph a of paragraph 2 of subsection F of this section, the
19 credit shall be equal to the taxpayer's proportionate share of the
20 cap for the taxable year, as determined pursuant to subsection J of
21 this section.

22 3. The credits authorized pursuant to the provisions of this
23 subsection shall be allocable to the partners, shareholders, members
24 or other equity owners of a taxpayer that is authorized to be

1 treated as a partnership for purposes of federal income tax
2 reporting for the taxable year for which the tax credits authorized
3 by this subsection are claimed on the applicable return, together
4 with required schedules, forms or reports of the partners,
5 shareholders, members or other equity owners of the taxpayer. Tax
6 credits which are allocated to such equity owners shall only be
7 limited in amount for the income tax return of a natural person or
8 persons based upon the limitation of the total credit amount to the
9 entity from which the tax credits have been allocated and shall not
10 be limited to Two Thousand Eight Hundred Dollars (\$2,800.00) for
11 single individuals or limited to Five Thousand Six Hundred Dollars
12 (\$5,600.00) for married persons filing a joint return.

13 4. Each eligible public school district to which contributions
14 have been made for purposes of the tax credit authorized by this
15 subsection shall annually account for all revenue and expenditures
16 through the Oklahoma Cost Accounting System (OCAS) and shall
17 annually publish on its website the total dollar amount raised
18 pursuant to paragraphs 1 and 2 of this subsection along with
19 information detailing the benefits, successes or failures of the
20 program.

21 E. 1. On or after the effective date of this act, there shall
22 be allowed a credit for any taxpayer who makes a contribution to an
23 eligible public school foundation.

24

1 a. Except as otherwise provided by subparagraph b of this
2 paragraph or paragraph 2 of this subsection, the
3 credit shall be equal to fifty percent (50%) of the
4 total amount of contributions made during a taxable
5 year, not to exceed Two Thousand Eight Hundred Dollars
6 (\$2,800.00) for single individuals, Five Thousand Six
7 Hundred Dollars (\$5,600.00) for married individuals
8 filing jointly or One Hundred Thousand Dollars
9 (\$100,000.00) for any taxpayer which is a legal
10 business entity including limited and general
11 partnerships, corporations, subchapter S corporations
12 and limited liability companies; provided, if total
13 credits claimed pursuant to this subparagraph exceed
14 the cap amount established pursuant to subparagraph a
15 of paragraph 2 of subsection F of this section, the
16 credit shall be equal to the taxpayer's proportionate
17 share of the cap for the taxable year, as determined
18 pursuant to subsection J of this section.

19 b. If a contribution is made to an eligible public school
20 foundation to benefit a school district which has less
21 than two thousand (2,000) students enrolled on October
22 1 as determined by the State Department of Education,
23 the amount of the credit shall be one hundred percent
24 (100%) of the amount contributed to an eligible public

1 school foundation, but shall be subject to the maximum
2 credit amounts based on filing status as prescribed by
3 subparagraph a of this paragraph. A person or entity
4 claiming a tax credit pursuant to the provisions of
5 this subparagraph may rely on the student enrollment
6 information contained in the State Department reports
7 as of the date the contribution is made. If the
8 taxpayer preserves either an electronic file or record
9 created by the State Department of Education or
10 produces a document by printing information contained
11 in an electronic data file originally created by the
12 State Department of Education, such information shall
13 be conclusive with respect to the student enrollment
14 number for purposes of claiming the tax credit
15 authorized by this subparagraph or any audit of the
16 taxpayer's income tax return; provided, if total
17 credits claimed pursuant to this subparagraph exceed
18 the cap amount established pursuant to subparagraph a
19 of paragraph 2 of subsection F of this section, the
20 credit shall be equal to the taxpayer's proportionate
21 share of the cap for the taxable year, as determined
22 pursuant to subsection J of this section.

23 2. Except as otherwise provided by subparagraph a or b of
24 paragraph 1 of this subsection, for any taxpayer who makes a

1 contribution to an eligible public school foundation and makes a
2 written commitment to contribute the same amount for an additional
3 year, the credit for the first year and the additional year shall be
4 equal to seventy-five percent (75%) of the total amount of the
5 contribution made during a taxable year, not to exceed the cap
6 amount established in subparagraph a of paragraph 2 of subsection F
7 of this section for the taxable year in which the credit provided in
8 this paragraph is claimed. The taxpayer shall provide evidence of
9 the written commitment to the Oklahoma Tax Commission at the time of
10 filing the refund claim; provided, if total credits claimed pursuant
11 to this paragraph exceed the cap amount established pursuant to
12 subparagraph a of paragraph 2 of subsection F of this section, the
13 credit shall be equal to the taxpayer's proportionate share of the
14 cap for the taxable year, as determined pursuant to subsection J of
15 this section.

16 3. The credits authorized pursuant to the provisions of this
17 subsection shall be allocable to the partners, shareholders, members
18 or other equity owners of a taxpayer that is authorized to be
19 treated as a partnership for purposes of federal income tax
20 reporting for the taxable year for which the tax credits authorized
21 by this subsection are claimed on the applicable return, together
22 with required schedules, forms or reports of the partners,
23 shareholders, members or other equity owners of the taxpayer. Tax
24 credits which are allocated to such equity owners shall only be

1 limited in amount for the income tax return of a natural person or
2 persons based upon the limitation of the total credit amount to the
3 entity from which the tax credits have been allocated and shall not
4 be limited to Two Thousand Eight Hundred Dollars (\$2,800.00) for
5 single individuals or limited to Five Thousand Six Hundred Dollars
6 (\$5,600.00) for married persons filing a joint return.

7 4. On or before December 31, 2022, and once every four (4)
8 years thereafter, such eligible public school foundation shall
9 submit to the Oklahoma Tax Commission, Governor, President Pro
10 Tempore of the Senate and the Speaker of the House of
11 Representatives an audited financial statement for the organization
12 along with information detailing the benefits, successes or failures
13 of the programs.

14 F. Except as otherwise provided pursuant to subsection H J of
15 this section, for tax years ~~2017~~ 2022 and thereafter:

16 1. ~~The~~ Unless the cap amount otherwise prescribed by this
17 paragraph is adjusted pursuant to paragraph 3 of this subsection,
18 the total credits authorized pursuant to subsection B of this
19 section for all taxpayers for any tax year beginning on or after
20 January 1, 2022, shall not exceed ~~Three Million Five Hundred~~
21 ~~Thousand Dollars (\$3,500,000.00)~~ Ten Million Dollars
22 (\$10,000,000.00) annually;

23 2. ~~The~~ Unless the cap amount otherwise prescribed by
24 subparagraph a of this paragraph is adjusted pursuant to paragraph 3

1 of this subsection, the total credits authorized pursuant to
2 subsection subsections C, D and E of this section for all taxpayers
3 for any tax year beginning on or after January 1, 2022, shall not
4 exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00):

5 a. Twenty Million Dollars (\$20,000,000.00) annually,

6 b. in addition to the cap amount prescribed by
7 subparagraph a of this paragraph, the credit amount
8 shall also be limited to Two Hundred Thousand Dollars
9 (\$200,000.00) of credits per public school district
10 annually; and

11 3. In any tax year when the annual tax credit amount as
12 prescribed by either paragraph 1 of this subsection or by
13 subparagraph a of paragraph 2 of this subsection for the prior tax
14 year is equal to or greater than ninety percent (90%) of the tax
15 credit cap amount applicable to that tax year, such tax credit cap
16 amount shall increase by twenty-five percent (25%). The adjustment
17 shall not be applicable to the amount prescribed by subparagraph b
18 of paragraph 2 of this subsection. The Tax Commission shall publish
19 on its website information identifying the tax credit cap amount
20 when it is increased pursuant to this paragraph; and

21 4. The cap on total credits provided for in this subsection
22 shall be allocated by the Tax Commission as provided in subsection H
23 J of this section.

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

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

21 ~~G.~~ I. As used in this section:

22 1. "Eligible student" means a child of school age who is
23 lawfully present in the United States and who is a member of a
24 household in which the total annual income during the preceding tax

1 year does not exceed an amount equal to ~~three hundred percent (300%)~~
2 two hundred thirty-five percent (235%) of the income standard used
3 to qualify for a free or ~~reduced~~ reduced-price school lunch and
4 whose custodial parents or legal guardians are not taxpayers who
5 make contributions to an eligible scholarship-granting organization
6 or who, during the immediately preceding school year, attended or,
7 by virtue of the location of such student's place of residence, was
8 eligible to attend a public school in this state which has been
9 identified for school improvement as determined by the State Board
10 of Education pursuant to the requirements of the No Child Left
11 Behind Act of 2001, P.L. No. 107-110. Once a student has received
12 an educational scholarship, as defined in paragraph 3 of this
13 subsection, the student and any siblings who are members of the same
14 household shall remain eligible until they graduate from high school
15 or reach twenty-one (21) years of age, whichever occurs first;

16 2. "Eligible special needs student" means a child who has been
17 provided services under an Individual Family Service Plan through
18 the SoonerStart program and during transition was evaluated and
19 determined to be eligible for school district services, a child of
20 school age who has attended public school in our state with an
21 individualized education program pursuant to the Individuals With
22 Disabilities Education Act, 20 U.S.C.A., Section 1400 et seq. or a
23 child who has been diagnosed by a clinical professional as having a
24

1 significant disability that will affect learning and who has been
2 approved by the board of a scholarship-granting organization;

3 3. "Educational scholarships" means:

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

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

3 c. 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 d. scholarships to a low-income eligible student of up to
12 Five Thousand Dollars (\$5,000.00) or ninety percent
13 (90%) of the statewide annual average per-pupil
14 expenditure as determined by the National Center for
15 Education Statistics, U.S. Department of Education,
16 whichever is greater, to cover all or part of the
17 tuition, fees and transportation costs of a qualified
18 school which is accredited by the State Board of
19 Education or an accrediting association approved by
20 the Board pursuant to Section 3-104 of Title 70 of the
21 Oklahoma Statutes, or

22 e. scholarships to an eligible military student of up to
23 Five Thousand Dollars (\$5,000.00) or eighty percent
24 (80%) of the statewide annual average per pupil

1 expenditure as determined by the National Center for
2 Education Statistics, U.S. Department of Education,
3 whichever is greater, to cover all or part of the
4 tuition, fees and transportation costs of a qualified
5 school for eligible military students which is
6 accredited by the State Board of Education or an
7 accrediting association approved by the Board pursuant
8 to Section 3-104 of Title 70 of the Oklahoma Statutes.
9 As used in this subparagraph, "eligible military
10 student" means a child who has a parent or legal
11 guardian who is serving or has served in the United
12 States Armed Forces on active duty or is actively
13 serving in the United States Reserves or the National
14 Guard;

15 4. "Low-income eligible student" means an eligible student or
16 eligible special needs student who qualifies for a free or reduced-
17 price lunch;

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

22 a. is accredited by the State Board of Education or an
23 accrediting association approved by the Board pursuant
24 to Section 3-104 of Title 70 of the Oklahoma Statutes,

- b. is in compliance with all applicable health and safety laws and codes,
- c. has a stated policy against discrimination in admissions on the basis of race, color, national 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 early childhood, elementary or secondary private school in a county in this state, including schools which provide special educational programs for three-year-olds or prekindergarten educational programs for four-year-olds;

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

1 scholarships as defined in paragraph 3 of this
2 subsection,

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

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

14 f. registers with the Oklahoma Tax Commission as a
15 scholarship-granting organization, and

16 g. has policies in place to:

17 (1) carry out criminal background checks on all
18 employees and board members to ensure that no
19 individual is involved with the organization who
20 might reasonably pose a risk to the appropriate
21 use of contributed funds, and

22 (2) maintain full and accurate records with respect
23 to the receipt of contributions and expenditures
24 of those contributions and supply such records

1 and any other documentation required by the Tax
2 Commission to demonstrate financial
3 accountability;

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

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

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

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

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

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; and

22 15. "Eligible public school foundation" means a nonprofit
23 entity formed pursuant to Oklahoma law but which is exempt from
24 federal income taxation pursuant to either Section 501(c)(3) or

1 Section 509(a) of the Internal Revenue Code of 1986, as amended.

2 Each public school foundation must be approved by the local board of
3 education prior to accepting qualifying donations.

4 ~~H.~~ J. Total credits authorized by this section shall be
5 allocated as follows:

6 1. By January 10 of the year immediately following each
7 calendar year, a scholarship-granting organization ~~or,~~ an
8 educational improvement grant organization, a public school district
9 or an eligible public school foundation which accepts contributions
10 pursuant to this section shall provide electronically to the Tax
11 Commission information on each contribution accepted during such
12 taxable year. At least once each taxable year, the ~~scholarship-~~
13 ~~granting organization or the educational improvement grant~~
14 ~~organization~~ entity making the report shall notify each contributor
15 that Oklahoma law provides for a total, statewide cap on the amount
16 of income tax credits allowed annually;

17 2. a. If the Tax Commission determines the total combined
18 credits claimed for contributions made to scholarship-
19 granting organizations during the most recently
20 completed calendar year by all taxpayers are in excess
21 of the statewide ~~caps~~ cap amount provided in paragraph
22 1 of subsection ~~D~~ F of this section, the Tax
23 Commission shall first allocate any amount of credits
24 not claimed for contributions made to ~~educational~~

1 ~~improvement-granting~~ organizations authorized pursuant
2 to subsections C, D and E of this section, then shall
3 determine the percentage of the contribution which
4 establishes the proportionate share of the credit
5 which may be claimed by any taxpayer so that the total
6 maximum credits authorized by this section are not
7 exceeded.

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

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

1 organizations authorized pursuant to subsections C, D
2 and E of this section during the most recently
3 completed calendar year by all taxpayers are in excess
4 of the per-public-school-district cap amount provided
5 in subparagraph b of paragraph 2 of subsection F of
6 this section, the Tax Commission shall first allocate
7 any amount of credits not claimed for contributions
8 made to other organizations authorized pursuant to
9 subsections C, D and E of this section, then shall
10 determine the percentage of the contribution which
11 establishes the proportionate share of the credit
12 which may be claimed by any taxpayer so that the
13 maximum credits authorized by this section are not
14 exceeded.

15 d. Beginning for tax year ~~2016~~ 2022, credits earned, but
16 not allowed due to the application of statewide caps
17 provided in subsection ~~D~~ F of this section will be
18 considered suspended and authorized to be used in the
19 next immediate tax year and applied to the next year's
20 statewide cap; and

21 3. The Tax Commission shall publish the percentage of the
22 contribution which may be claimed as a credit by contributors for
23 the most recently completed calendar year on the Tax Commission
24 website no later than February 15 of each calendar year for

1 contributions made the previous year. Each ~~scholarship-granting~~
2 ~~organization or educational improvement grant~~ organization
3 authorized pursuant to subsections B, C, D and E of this section
4 shall notify contributors of that amount annually.

5 ~~I. The credit~~ K. No tax credits authorized by this section
6 shall ~~not~~ be used to reduce the tax liability of the taxpayer to
7 less than zero (0).

8 ~~J. L.~~ Any credits authorized by this section allowed but not
9 used in any tax year may be carried over, in order, to each of the
10 three (3) years following the year of qualification.

11 ~~K. M.~~ 1. In order to qualify under this section, ~~an~~
12 ~~educational improvement grant~~ each organization authorized pursuant
13 to subsections C and E of this section shall submit an application
14 with information to the Oklahoma Tax Commission on a form prescribed
15 by the Tax Commission that:

16 a. enables the Tax Commission to confirm that the
17 organization is a nonprofit entity exempt from
18 taxation pursuant to the provisions of the Internal
19 Revenue Code, 26 U.S.C., Section 501(c)(3) or Section
20 509(a), and

21 b. describes the proposed innovative educational program
22 or programs supported by the organization.

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

4 3. In order to maintain eligibility under this section, an
5 ~~educational improvement grant~~ organization authorized pursuant to
6 subsections C and E of this section shall annually report the
7 following information to the Tax Commission and publish on its
8 website by September 1 of each year:

9 a. the name of the innovative educational program or
10 programs and the total amount of the grant or grants
11 made to those programs during the immediately
12 preceding school year,

13 b. a description of how each grant was utilized during
14 the immediately preceding school year and a
15 description of any demonstrated or expected innovative
16 educational improvements,

17 c. the names of the public school and school districts
18 where innovative educational programs that received
19 grants during the immediately preceding school year
20 were implemented,

21 d. where the organization collects information on a
22 county-by-county basis, and

23 e. the total number and total amount of grants made
24 during the immediately preceding school year for

1 innovative educational programs at public school by
2 each county in which the organization made grants.

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

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

12 ~~L.~~ N. 1. Beginning in 2023 for the 2022-2023 academic year, in
13 order to maintain registration, a scholarship-granting organization
14 shall annually report to the Tax Commission by September 1 of each
15 year the following information regarding the educational
16 scholarships funded by the organization in the previous academic
17 year:

18 a. the name and address of the scholarship-granting
19 organization,

20 b. the names of the qualifying schools that received
21 funding for educational scholarships, the total amount
22 of funds paid to each qualifying school and the total
23 number of scholarship recipients enrolled in each
24 qualifying school,

1 c. the total number and total dollar amount of
2 contributions received during the previous academic
3 year,

4 d. the total number and total dollar amount of
5 educational scholarships awarded and funded during the
6 previous academic year,

7 e. the total number, total dollar amount and percentage
8 of educational scholarships awarded and funded during
9 the previous academic year disaggregated into the
10 following categories:

11 (1) low-income eligible students,

12 (2) students who during the immediately preceding
13 school year attended or who were eligible by
14 virtue of the residence of the student to attend
15 a public school in the state which was identified
16 for school improvement by the State Board of
17 Education,

18 (3) eligible special needs students, and

19 (4) students who were first-time recipients of a
20 scholarship, including information about the type
21 of public or private school the student was
22 enrolled in during the entire previous academic
23 year,

24

1 f. the percentage of annual revenue received by the
2 organization from donations which qualify for tax
3 credits pursuant to this section which was not
4 expended on scholarships, and

5 g. disaggregated data reported under this subsection
6 shall be redacted if reporting would allow for
7 identification of specific children, and shall be
8 reported in accordance with the Student Data
9 Accessibility, Transparency and Accountability Act of
10 2013, Section 3-168(C)(2)(b) of Title 70 of the
11 Oklahoma Statutes, and the Family Educational Rights
12 and Privacy Act of 1974 (FERPA), 20 U.S.C., Section
13 1232g.

14 2. The Tax Commission shall make available on its website:

15 a. the information submitted by the scholarship-granting
16 organization pursuant to paragraph 1 of this
17 subsection,

18 b. a list of participating schools, and

19 c. all other application information submitted to the Tax
20 Commission by a scholarship-granting organization,
21 except that information which would violate the
22 privacy of an individual.

23 3. A scholarship-granting organization shall annually submit

24 verification to the Tax Commission that the organization still meets

1 the criteria set forth in paragraph 7 of subsection I of this
2 section.

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

12 SECTION 3. This act shall become effective November 1, 2021.

13
14 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
15 02/25/2021 - DO PASS, As Amended.

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