

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 208

By: Standridge

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7 AS INTRODUCED

8 An Act relating to taxpayer donations; amending 68
9 O.S. 2011, Section 205, as last amended by Section
10 37, Chapter 210, O.S.L. 2016 (68 O.S. Supp. 2018,
11 Section 205), which relates to confidentiality of
12 Oklahoma Tax Commission records; allowing the posting
13 of certain specific information on the Oklahoma Tax
14 Commission's website; amending 68 O.S. 2011, Section
15 2357.206, as last amended by Section 1, Chapter 288,
16 O.S.L. 2017 (68 O.S. Supp. 2018, Section 2357.206),
17 which relates to the Oklahoma Equal Opportunity
18 Education Scholarship Act; requiring certain
19 information submitted to the Oklahoma Tax Commission
20 to include whether a contributor has agreed to make
21 certain information public upon certain
22 identification; directing the Oklahoma Tax Commission
23 to publish on its website the names of contributors
24 with the largest two contributions; providing for
25 designation of the contributors; providing for
26 identification of a contributor with the next largest
27 contribution if certain contributor does not agree to
28 certain disclosure; updating statutory references;
29 and providing an effective date.

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32 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
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1 SECTION 1. AMENDATORY 68 O.S. 2011, Section 205, as last
2 amended by Section 37, Chapter 210, O.S.L. 2016 (68 O.S. Supp. 2018,
3 Section 205), is amended to read as follows:

4 Section 205. A. The records and files of the Oklahoma Tax
5 Commission concerning the administration of the Uniform Tax
6 Procedure Code or of any state tax law shall be considered
7 confidential and privileged, except as otherwise provided for by
8 law, and neither the Tax Commission nor any employee engaged in the
9 administration of the Tax Commission or charged with the custody of
10 any such records or files nor any person who may have secured
11 information from the Tax Commission shall disclose any information
12 obtained from the records or files or from any examination or
13 inspection of the premises or property of any person.

14 B. Except as provided in paragraph 26 of subsection C of this
15 section, neither the Tax Commission nor any employee engaged in the
16 administration of the Tax Commission or charged with the custody of
17 any such records or files shall be required by any court of this
18 state to produce any of the records or files for the inspection of
19 any person or for use in any action or proceeding, except when the
20 records or files or the facts shown thereby are directly involved in
21 an action or proceeding pursuant to the provisions of the Uniform
22 Tax Procedure Code or of the state tax law, or when the
23 determination of the action or proceeding will affect the validity
24 or the amount of the claim of the state pursuant to any state tax

1 law, or when the information contained in the records or files
2 constitutes evidence of violation of the provisions of the Uniform
3 Tax Procedure Code or of any state tax law.

4 C. The provisions of this section shall not prevent the Tax
5 Commission from disclosing the following information and no
6 liability whatsoever, civil or criminal, shall attach to any member
7 of the Tax Commission or any employee thereof for any error or
8 omission in the disclosure of such information:

9 1. The delivery to a taxpayer or a duly authorized
10 representative of the taxpayer of a copy of any report or any other
11 paper filed by the taxpayer pursuant to the provisions of the
12 Uniform Tax Procedure Code or of any state tax law;

13 2. The exchange of information that is not protected by the
14 federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq.,
15 pursuant to reciprocal agreements entered into by the Tax Commission
16 and other state agencies or agencies of the federal government;

17 3. The publication of statistics so classified as to prevent
18 the identification of a particular report and the items thereof;

19 4. The examination of records and files by the State Auditor
20 and Inspector or the duly authorized agents of the State Auditor and
21 Inspector;

22 5. The disclosing of information or evidence to the Oklahoma
23 State Bureau of Investigation, Attorney General, Oklahoma State
24 Bureau of Narcotics and Dangerous Drugs Control, any district

1 attorney, or agent of any federal law enforcement agency when the
2 information or evidence is to be used by such officials to
3 investigate or prosecute violations of the criminal provisions of
4 the Uniform Tax Procedure Code or of any state tax law or of any
5 federal crime committed against this state. Any information
6 disclosed to the Oklahoma State Bureau of Investigation, Attorney
7 General, Oklahoma State Bureau of Narcotics and Dangerous Drugs
8 Control, any district attorney, or agent of any federal law
9 enforcement agency shall be kept confidential by such person and not
10 be disclosed except when presented to a court in a prosecution for
11 violation of the tax laws of this state or except as specifically
12 authorized by law, and a violation by the Oklahoma State Bureau of
13 Investigation, Attorney General, Oklahoma State Bureau of Narcotics
14 and Dangerous Drugs Control, district attorney, or agent of any
15 federal law enforcement agency by otherwise releasing the
16 information shall be a felony;

17 6. The use by any division of the Tax Commission of any
18 information or evidence in the possession of or contained in any
19 report or return filed with any other division of the Tax
20 Commission;

21 7. The furnishing, at the discretion of the Tax Commission, of
22 any information disclosed by its records or files to any official
23 person or body of this state, any other state, the United States, or
24 foreign country who is concerned with the administration or
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1 assessment of any similar tax in this state, any other state or the
2 United States. The provisions of this paragraph shall include the
3 furnishing of information by the Tax Commission to a county assessor
4 to determine the amount of gross household income pursuant to the
5 provisions of Section 8C of Article X of the Oklahoma Constitution
6 or Section 2890 of this title. The Tax Commission shall promulgate
7 rules to give guidance to the county assessors regarding the type of
8 information which may be used by the county assessors in determining
9 the amount of gross household income pursuant to Section 8C of
10 Article X of the Oklahoma Constitution or Section 2890 of this
11 title. The provisions of this paragraph shall also include the
12 furnishing of information to the State Treasurer for the purpose of
13 administration of the Uniform Unclaimed Property Act;

14 8. The furnishing of information to other state agencies for
15 the limited purpose of aiding in the collection of debts owed by
16 individuals to such requesting agencies;

17 9. The furnishing of information requested by any member of the
18 general public and stated in the sworn lists or schedules of taxable
19 property of public service corporations organized, existing, or
20 doing business in this state which are submitted to and certified by
21 the State Board of Equalization pursuant to the provisions of
22 Section 2858 of this title and Section 21 of Article X of the
23 Oklahoma Constitution, provided such information would be a public
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1 record if filed pursuant to Sections 2838 and 2839 of this title on
2 behalf of a corporation other than a public service corporation;

3 10. The furnishing of information requested by any member of
4 the general public and stated in the findings of the Tax Commission
5 as to the adjustment and equalization of the valuation of real and
6 personal property of the counties of the state, which are submitted
7 to and certified by the State Board of Equalization pursuant to the
8 provisions of Section 2865 of this title and Section 21 of Article X
9 of the Oklahoma Constitution;

10 11. The furnishing of information to an Oklahoma wholesaler of
11 low-point beer, licensed under the provisions of Section 163.1 et
12 seq. of Title 37 of the Oklahoma Statutes, or an association or
13 organization whose membership is comprised of such wholesalers, of
14 the licensed retailers authorized by law to purchase low-point beer
15 in this state or the furnishing of information to a licensed
16 Oklahoma wholesaler of low-point beer of shipments by licensed
17 manufacturers into this state;

18 12. The furnishing of information as to the issuance or
19 revocation of any tax permit, license or exemption by the Tax
20 Commission as provided for by law. Such information shall be
21 limited to the name of the person issued the permit, license or
22 exemption, the name of the business entity authorized to engage in
23 business pursuant to the permit, license or exemption, the address
24 of the business entity, and the grounds for revocation;

1 13. The posting of notice of revocation of any tax permit or
2 license upon the premises of the place of business of any business
3 entity which has had any tax permit or license revoked by the Tax
4 Commission as provided for by law. Such notice shall be limited to
5 the name of the person issued the permit or license, the name of the
6 business entity authorized to engage in business pursuant to the
7 permit or license, the address of the business entity, and the
8 grounds for revocation;

9 14. The furnishing of information upon written request by any
10 member of the general public as to the outstanding and unpaid amount
11 due and owing by any taxpayer of this state for any delinquent tax,
12 together with penalty and interest, for which a tax warrant or a
13 certificate of indebtedness has been filed pursuant to law;

14 15. After the filing of a tax warrant pursuant to law, the
15 furnishing of information upon written request by any member of the
16 general public as to any agreement entered into by the Tax
17 Commission concerning a compromise of tax liability for an amount
18 less than the amount of tax liability stated on such warrant;

19 16. The disclosure of information necessary to complete the
20 performance of any contract authorized by this title to any person
21 with whom the Tax Commission has contracted;

22 17. The disclosure of information to any person for a purpose
23 as authorized by the taxpayer pursuant to a waiver of
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1 confidentiality. The waiver shall be in writing and shall be made
2 upon such form as the Tax Commission may prescribe;

3 18. The disclosure of information required in order to comply
4 with the provisions of Section 2369 of this title;

5 19. The disclosure to an employer, as defined in Sections
6 2385.1 and 2385.3 of this title, of information required in order to
7 collect the tax imposed by Section 2385.2 of this title;

8 20. The disclosure to a plaintiff of a corporation's last-known
9 address shown on the records of the Franchise Tax Division of the
10 Tax Commission in order for such plaintiff to comply with the
11 requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

12 21. The disclosure of information directly involved in the
13 resolution of the protest by a taxpayer to an assessment of tax or
14 additional tax or the resolution of a claim for refund filed by a
15 taxpayer, including the disclosure of the pendency of an
16 administrative proceeding involving such protest or claim, to a
17 person called by the Tax Commission as an expert witness or as a
18 witness whose area of knowledge or expertise specifically addresses
19 the issue addressed in the protest or claim for refund. Such
20 disclosure to a witness shall be limited to information pertaining
21 to the specific knowledge of that witness as to the transaction or
22 relationship between taxpayer and witness;

23 22. The disclosure of information necessary to implement an
24 agreement authorized by Section 2702 of this title when such

1 information is directly involved in the resolution of issues arising
2 out of the enforcement of a municipal sales tax ordinance. Such
3 disclosure shall be to the governing body or to the municipal
4 attorney, if so designated by the governing body;

5 23. The furnishing of information regarding incentive payments
6 made pursuant to the provisions of Sections 3601 through 3609 of
7 this title or incentive payments made pursuant to the provisions of
8 Sections 3501 through 3508 of this title;

9 24. The furnishing to a prospective purchaser of any business,
10 or his or her authorized representative, of information relating to
11 any liabilities, delinquencies, assessments or warrants of the
12 prospective seller of the business which have not been filed of
13 record, established, or become final and which relate solely to the
14 seller's business. Any disclosure under this paragraph shall only
15 be allowed upon the presentment by the prospective buyer, or the
16 buyer's authorized representative, of the purchase contract and a
17 written authorization between the parties;

18 25. The furnishing of information as to the amount of state
19 revenue affected by the issuance or granting of any tax permit,
20 license, exemption, deduction, credit or other tax preference by the
21 Tax Commission as provided for by law. Such information shall be
22 limited to the type of permit, license, exemption, deduction, credit
23 or other tax preference issued or granted, the date and duration of
24 such permit, license, exemption, deduction, credit or other tax

1 preference and the amount of such revenue. The provisions of this
2 paragraph shall not authorize the disclosure of the name of the
3 person issued such permit, license, exemption, deduction, credit or
4 other tax preference, or the name of the business entity authorized
5 to engage in business pursuant to the permit, license, exemption,
6 deduction, credit or other tax preference;

7 26. The examination of records and files of a person or entity
8 by the Oklahoma State Bureau of Narcotics and Dangerous Drugs
9 Control pursuant to a court order by a magistrate in whose
10 territorial jurisdiction the person or entity resides, or where the
11 Tax Commission records and files are physically located. Such an
12 order may only be issued upon a sworn application by an agent of the
13 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
14 certifying that the person or entity whose records and files are to
15 be examined is the target of an ongoing investigation of a felony
16 violation of the Uniform Controlled Dangerous Substances Act and
17 that information resulting from such an examination would likely be
18 relevant to that investigation. Any records or information obtained
19 pursuant to such an order may only be used by the Oklahoma State
20 Bureau of Narcotics and Dangerous Drugs Control in the investigation
21 and prosecution of a felony violation of the Uniform Controlled
22 Dangerous Substances Act. Any such order issued pursuant to this
23 paragraph, along with the underlying application, shall be sealed
24 and not disclosed to the person or entity whose records were

1 examined, for a period of ninety (90) days. The issuing magistrate
2 may grant extensions of such period upon a showing of good cause in
3 furtherance of the investigation. Upon the expiration of ninety
4 (90) days and any extensions granted by the magistrate, a copy of
5 the application and order shall be served upon the person or entity
6 whose records were examined, along with a copy of the records or
7 information actually provided by the Tax Commission;

8 27. The disclosure of information, as prescribed by this
9 paragraph, which is related to the proposed or actual usage of tax
10 credits pursuant to Section 2357.7 of this title, the Small Business
11 Capital Formation Incentive Act or the Rural Venture Capital
12 Formation Incentive Act. Unless the context clearly requires
13 otherwise, the terms used in this paragraph shall have the same
14 meaning as defined by Section 2357.7, 2357.61 or 2357.72 of this
15 title. The disclosure of information authorized by this paragraph
16 shall include:

- 17 a. the legal name of any qualified venture capital
18 company, qualified small business capital company, or
19 qualified rural small business capital company,
20 b. the identity or legal name of any person or entity
21 that is a shareholder or partner of a qualified
22 venture capital company, qualified small business
23 capital company, or qualified rural small business
24 capital company,

- 1 c. the identity or legal name of any Oklahoma business
2 venture, Oklahoma small business venture, or Oklahoma
3 rural small business venture in which a qualified
4 investment has been made by a capital company, or
5 d. the amount of funds invested in a qualified venture
6 capital company, the amount of qualified investments
7 in a qualified small business capital company or
8 qualified rural small business capital company and the
9 amount of investments made by a qualified venture
10 capital company, qualified small business capital
11 company, or qualified rural small business capital
12 company;

13 28. The disclosure of specific information as required by
14 Section 46 of Title 62 of the Oklahoma Statutes;

15 29. The disclosure of specific information as required by
16 Section 205.5 of this title;

17 30. The disclosure of specific information as required by
18 Section 205.6 of this title;

19 31. The disclosure of information to the State Treasurer
20 necessary to implement Section 2368.27 of this title; ~~or~~

21 32. The disclosure of specific information to the Oklahoma
22 Health Care Authority for purposes of determining eligibility for
23 current or potential recipients of assistance from the Oklahoma
24 Medicaid Program; or

1 33. The posting on the Oklahoma Tax Commission's website of
2 specific information as required by subsection H of Section 2357.206
3 of this title.

4 D. The Tax Commission shall cause to be prepared and made
5 available for public inspection in the office of the Tax Commission
6 in such manner as it may determine an annual list containing the
7 name and post office address of each person, whether individual,
8 corporate, or otherwise, making and filing an income tax return with
9 the Tax Commission.

10 It is specifically provided that no liability whatsoever, civil
11 or criminal, shall attach to any member of the Tax Commission or any
12 employee thereof for any error or omission of any name or address in
13 the preparation and publication of the list.

14 E. The Tax Commission shall prepare or cause to be prepared a
15 report on all provisions of state tax law that reduce state revenue
16 through exclusions, deductions, credits, exemptions, deferrals or
17 other preferential tax treatments. The report shall be prepared not
18 later than October 1 of each even-numbered year and shall be
19 submitted to the Governor, the President Pro Tempore of the Senate
20 and the Speaker of the House of Representatives. The Tax Commission
21 may prepare and submit supplements to the report at other times of
22 the year if additional or updated information relevant to the report
23 becomes available. The report shall include, for the previous
24 fiscal year, the Tax Commission's best estimate of the amount of

1 state revenue that would have been collected but for the existence
2 of each such exclusion, deduction, credit, exemption, deferral or
3 other preferential tax treatment allowed by law. The Tax Commission
4 may request the assistance of other state agencies as may be needed
5 to prepare the report. The Tax Commission is authorized to require
6 any recipient of a tax incentive or tax expenditure to report to the
7 Tax Commission such information as requested so that the Tax
8 Commission may fulfill its obligations as required by this
9 subsection. The Tax Commission may require this information to be
10 submitted in an electronic format. The Tax Commission may disallow
11 any claim of a person for a tax incentive due to its failure to file
12 a report as required under the authority of this subsection.

13 F. It is further provided that the provisions of this section
14 shall be strictly interpreted and shall not be construed as
15 permitting the disclosure of any other information contained in the
16 records and files of the Tax Commission relating to income tax or to
17 any other taxes.

18 G. Unless otherwise provided for in this section, any violation
19 of the provisions of this section shall constitute a misdemeanor and
20 shall be punishable by the imposition of a fine not exceeding One
21 Thousand Dollars (\$1,000.00) or by imprisonment in the county jail
22 for a term not exceeding one (1) year, or by both such fine and
23 imprisonment, and the offender shall be removed or dismissed from
24 office.

1 H. Offenses described in Section 2376 of this title shall be
2 reported to the appropriate district attorney of this state by the
3 Tax Commission as soon as the offenses are discovered by the Tax
4 Commission or its agents or employees. The Tax Commission shall
5 make available to the appropriate district attorney or to the
6 authorized agent of the district attorney its records and files
7 pertinent to prosecutions, and such records and files shall be fully
8 admissible as evidence for the purpose of such prosecutions.

9 SECTION 2. AMENDATORY 68 O.S. 2011, Section 2357.206, as
10 last amended by Section 1, Chapter 288, O.S.L. 2017 (68 O.S. Supp.
11 2018, Section 2357.206), is amended to read as follows:

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

14 B. 1. Except as provided in subsection F of this section,
15 after August 26, 2011, there shall be allowed a credit for any
16 taxpayer who makes a contribution to an eligible scholarship-
17 granting organization. The credit shall be equal to fifty percent
18 (50%) of the total amount of contributions made during a taxable
19 year, not to exceed One Thousand Dollars (\$1,000.00) for single
20 individuals, Two Thousand Dollars (\$2,000.00) for married
21 individuals filing jointly, or One Hundred Thousand Dollars
22 (\$100,000.00) for any taxpayer which is a legal business entity
23 including limited and general partnerships, corporations, subchapter
24 S corporations and limited liability companies; provided, if total

1 credits claimed pursuant to this paragraph exceed the caps
2 established pursuant to paragraph 1 of subsection D of this section,
3 the credit shall be equal to the taxpayer's proportionate share of
4 the cap for the taxable year, as determined pursuant to subsection H
5 of this section.

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

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 One Thousand Dollars (\$1,000.00) for single
5 individuals or limited to Two Thousand Dollars (\$2,000.00) for
6 married persons filing a joint return.

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

14 C. 1. Except as provided in subsection F of this section,
15 after August 26, 2011, there shall be allowed a credit for any
16 taxpayer who makes a contribution to an eligible educational
17 improvement grant organization. The credit shall be equal to fifty
18 percent (50%) of the total amount of contributions made during a
19 taxable year, not to exceed One Thousand Dollars (\$1,000.00) for
20 single individuals, Two Thousand Dollars (\$2,000.00) for married
21 individuals filing jointly, or One Hundred Thousand Dollars
22 (\$100,000.00) for any taxpayer which is a legal business entity
23 including limited and general partnerships, corporations, subchapter
24 S corporations and limited liability companies; provided, if total

1 credits claimed pursuant to this paragraph exceed the cap
2 established pursuant to paragraph 1 of subsection D of this section,
3 the credit shall be equal to the taxpayer's proportionate share of
4 the cap for the taxable year, as determined pursuant to subsection H
5 of this section.

6 2. For any taxpayer who makes a contribution to an eligible
7 educational improvement grant organization and makes a written
8 commitment to contribute the same amount for an additional year, the
9 credit for the first year and the additional year shall be equal to
10 seventy-five percent (75%) of the total amount of the contribution
11 made during a taxable year, not to exceed the amounts established in
12 paragraph 1 of this subsection for the taxable year in which the
13 credit provided in this subsection is claimed; provided, if total
14 credits claimed pursuant to this paragraph exceed the cap
15 established pursuant to paragraph 3 of this subsection, the credit
16 shall be equal to the taxpayer's proportionate share of the cap for
17 the taxable year, as determined pursuant to subsection H of this
18 section. The taxpayer shall provide evidence of the written
19 commitment to the Oklahoma Tax Commission at the time of filing the
20 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 D. Except as otherwise provided pursuant to subsection H of
13 this section, for tax years 2017 and thereafter:

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

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

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

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

11 F. 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~~ August 26, 2011, through December 31, 2012, may not be
14 claimed for any period prior to the taxable year beginning January
15 1, 2013. No credits which accrue during the time period beginning
16 on ~~the effective date of this act~~ August 26, 2011, through December
17 31, 2012, may be used to file an amended tax return for any taxable
18 year prior to the taxable year beginning January 1, 2013.

19 G. 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
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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 who has been
12 provided services under an Individual Family Service Plan through
13 the SoonerStart program and during transition was evaluated and
14 determined to be eligible for school district services, a child of
15 school age who has attended public school in our state with an
16 individualized education program pursuant to the Individuals With
17 Disabilities Education Act, 20 U.S.C.A., Section 1400 et seq. or a
18 child who has been diagnosed by a clinical professional as having a
19 significant disability that will affect learning and who has been
20 approved by the board of a scholarship-granting organization;

21 3. "Educational scholarships" means:

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

1 as determined by the National Center for Education
2 Statistics, U.S. Department of Education, whichever is
3 greater, to cover all or part of the tuition, fees and
4 transportation costs of a qualified school which is
5 accredited by the State Board of Education or an
6 accrediting association approved by the Board pursuant
7 to Section 3-104 of Title 70 of the Oklahoma Statutes,
8 b. scholarships to an eligible student of up to Five
9 Thousand Dollars (\$5,000.00) or eighty percent (80%)
10 of the statewide annual average per-pupil expenditure
11 as determined by the National Center for Education
12 Statistics, U.S. Department of Education, whichever is
13 greater, to cover the educational costs of a qualified
14 school which does not charge tuition, which enrolls
15 special populations of students and which is
16 accredited by the State Board of Education or an
17 accrediting association approved by the Board pursuant
18 to Section 3-104 of Title 70 of the Oklahoma Statutes,
19 or
20 c. scholarships to an eligible special needs student of
21 up to Twenty-five Thousand Dollars (\$25,000.00) to
22 cover all or part of the tuition, fees and
23 transportation costs of a qualified school for
24 eligible special needs students which is accredited by

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

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

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

- 11 a. is 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. is in compliance with all applicable health and safety
15 laws and codes,
- 16 c. has a stated policy against discrimination in
17 admissions on the basis of race, color, national
18 origin or disability, and
- 19 d. ensures academic accountability to parents and
20 guardians of students through regular progress
21 reports;

22 6. "Qualified school for eligible special needs students" means
23 an early childhood, elementary or secondary private school in a
24 county in this state, including schools which provide special

1 educational programs for three-year-olds or prekindergarten
2 educational programs for four-year-olds;

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

- 5 a. is a nonprofit entity exempt from taxation pursuant to
6 the provisions of the Internal Revenue Code, 26
7 U.S.C., Section 501(c)(3),
- 8 b. distributes periodic scholarship payments as checks
9 made out to an eligible student's or eligible special
10 needs student's parent or guardian and mailed to the
11 qualified school where the student is enrolled,
- 12 c. spends no more than ten percent (10%) of its annual
13 revenue on expenditures other than educational
14 scholarships as defined in paragraph 3 of this
15 subsection,
- 16 d. spends each year a portion of its expenditures on
17 educational scholarships for low-income eligible
18 students, as defined in paragraph 4 of this
19 subsection, in an amount equal to or greater than the
20 percentage of low-income eligible students in the
21 state,
- 22 e. ensures that scholarships are portable during the
23 school year and can be used at any qualified school
24 that accepts the eligible student or at any qualified

1 school for special needs students that accepts the
2 eligible special needs student,

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

5 g. has policies in place to:

6 (1) carry out criminal background checks on all
7 employees and board members to ensure that no
8 individual is involved with the organization who
9 might reasonably pose a risk to the appropriate
10 use of contributed funds, and

11 (2) maintain full and accurate records with respect
12 to the receipt of contributions and expenditures
13 of those contributions and supply such records
14 and any other documentation required by the Tax
15 Commission to demonstrate financial
16 accountability;

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

21 9. "Public school" means public schools as defined in Section
22 1-106 of Title 70 of the Oklahoma Statutes;

23 10. "Eligible school" means any public school that is not
24 located within a ten-mile radius of a qualified school in this

1 state, or any public school that is located within a ten-mile radius
2 of a qualified school in this state but offers grade-level
3 instruction different from the qualified school or any public school
4 located within a public school district with fewer than four
5 thousand five hundred (4,500) students;

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

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

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

21 14. "Educational improvement grant organization" means an
22 organization which:
23
24
25

- 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 H. 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 The information shall include whether the contributor has agreed to
21 make the amount of the contribution and his or her name or the name
22 of the contributing business entity public upon identification by
23 the Tax Commission as making one of the largest contributions for
24 the most recently completed calendar year, as provided for in

1 paragraph 3 of this subsection. At least once each taxable year,
2 the scholarship-granting organization or the educational improvement
3 grant organization shall notify each contributor that Oklahoma law
4 provides for a total, statewide cap on the amount of income tax
5 credits allowed annually;

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

19 b. If the Tax Commission determines the total combined
20 credits claimed for contributions made to educational
21 improvement grant organizations during the most
22 recently completed calendar year by all taxpayers are
23 in excess of the statewide caps provided in paragraph
24 2 of subsection D of this section, the Tax Commission

1 shall first allocate any amount of credits not claimed
2 for contributions made to scholarship-granting
3 organizations, then shall determine the percentage of
4 the contribution which establishes the proportionate
5 share of the credit which may be claimed by any
6 taxpayer so that the maximum credits authorized by
7 this section are not exceeded.

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

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

23 b. The Tax Commission shall publish on its website the
24 names of contributors with the largest two

1 contributions for the most recently completed calendar
2 year. The contributing business entity with the
3 largest contribution for the calendar year shall be
4 designated the "valedictorian," and the contributing
5 individual with the largest contribution for the
6 calendar year shall be designated the "salutatorian."
7 If a contributor has not agreed to the disclosure of
8 his or her name or the name of the contributing
9 business entity as provided for in paragraph 1 of this
10 subsection, the Tax Commission shall identify the
11 contributor with the next largest contribution for the
12 calendar year who has agreed to the disclosure of his
13 or her name or the name of the contributing business
14 entity.

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

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

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

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

5 b. describes the proposed innovative educational program
6 or programs supported by the organization.

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

10 3. In order to maintain eligibility under this section, an
11 educational improvement grant organization shall annually report the
12 following information to the Tax Commission by September 1 of each
13 year:

14 a. the name of the innovative educational program or
15 programs and the total amount of the grant or grants
16 made to those programs during the immediately
17 preceding school year,

18 b. a description of how each grant was utilized during
19 the immediately preceding school year and a
20 description of any demonstrated or expected innovative
21 educational improvements,

22 c. the names of the public school and school districts
23 where innovative educational programs that received
24

1 grants during the immediately preceding school year
2 were implemented,

3 d. where the organization collects information on a
4 county-by-county basis, and

5 e. the total number and total amount of grants made
6 during the immediately preceding school year for
7 innovative educational programs at public school by
8 each county in which the organization made grants.

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

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

18 L. In consultation with the State Department of Education, the
19 Tax Commission shall promulgate rules necessary to implement ~~this~~
20 ~~act~~ the Oklahoma Equal Opportunity Education Scholarship Act. The
21 rules shall include procedures for the registration of a
22 scholarship-granting organization or an educational improvement
23 grant organization for purposes of determining if the organization
24 meets the requirements of ~~this act~~ the Oklahoma Equal Opportunity

1 Education Scholarship Act or for the revocation of the registration
2 of an organization, if applicable, and for notice as required in
3 subsection H of this section.

4 SECTION 3. This act shall become effective November 1, 2019.

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