

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2701 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Toni Hasenbeck _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2701

By: Hasenbeck

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to revenue and taxation; enacting the
9 Education Investment for Oklahoma Act; amending 68
10 O.S. 2011, Section 2357.206, as last amended by
11 Section 1, Chapter 288, O.S.L. 2017 (68 O.S. Supp.
12 2020, Section 2357.206), which relates to income tax
13 credits for contributions made to certain education
14 improvement grant or scholarship-granting
15 organizations; prescribing treatment of certain
16 suspended tax credits; imposing certain duties on
17 Oklahoma Tax Commission; providing for income tax
18 credit based upon contributions to eligible
19 educational improvement grant organizations to
20 benefit certain school districts; prescribing limit
21 on credits based on filing status; providing for
22 determination of student enrollment for purposes of
23 tax credits; providing for proportionate reduction of
24 tax credits based upon certain limitation amount;
providing for tax credits based upon contribution to
eligible public school districts; specifying amount
of tax credit; prescribing limit on credits based on
filing status; imposing limitation on tax credit
amounts; providing for determination of student
enrollment for purposes of tax credits; providing for
proportionate reduction of tax credits based upon
certain limitation amount; providing for credit
percentage based upon certain written commitment;
providing for determination of proportionate share of
tax credit; prescribing procedures related to
commitment; providing for allocability of tax credits
to certain equity owners; requiring accounting
through the Oklahoma Cost Accounting System;
providing for income tax credit based upon
contributions to eligible public school foundations

1 to benefit certain school districts; prescribing
2 limit on credits based on filing status; providing
3 for determination of student enrollment for purposes
4 of tax credits; providing for proportionate reduction
5 of tax credits based upon certain limitation amount;
6 providing for credit percentage based upon certain
7 written commitment; providing for determination of
8 proportionate share of tax credit; prescribing
9 procedures related to commitment; providing for
10 allocability of tax credits to certain equity owners;
11 requiring reports to Oklahoma Tax Commission,
12 Governor, Speaker of the Oklahoma House of
13 Representatives and President Pro Tempore of the
14 Oklahoma State Senate; modifying maximum amount of
15 tax credits; providing for cap amounts based upon
16 contributions to designated entities; providing for
17 adjustment of cap amount and prescribing procedures
18 related thereto; imposing limitation related to
19 school districts; modifying definitions; modifying
20 provisions related to reports by certain entities;
21 requiring designated organizations to make certain
22 annual reports; prescribing content of reports;
23 requiring Tax Commission to publish certain
24 information; requiring Oklahoma Tax Commission to
provide for certain allocation of tax credits;
requiring certain entities to provide notice to
contributors; providing for applications to Oklahoma
Tax Commission; requiring annual reports; requiring
information to be available on websites; imposing
duties on scholarship-granting organizations;
requiring reports to Oklahoma Tax Commission;
prescribing content of reports; requiring
availability of information on Tax Commission
website; requiring annual verification; providing for
noncodification; and providing an effective date.

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

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

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

1 SECTION 2. AMENDATORY 68 O.S. 2011, Section 2357.206, as
2 last amended by Section 1, Chapter 288, O.S.L. 2017 (68 O.S. Supp.
3 2020, Section 2357.206), is amended to read as follows:

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

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

10 The credit shall be equal to fifty percent (50%) of the total
11 amount of contributions made during a taxable year, not to exceed
12 ~~One Thousand Dollars (\$1,000.00)~~ Two Thousand Eight Hundred Dollars
13 (\$2,800.00) for single individuals, ~~Two Thousand Dollars (\$2,000.00)~~
14 Five Thousand Six Hundred Dollars (\$5,600.00) for married
15 individuals filing jointly, or One Hundred Thousand Dollars
16 (\$100,000.00) for any taxpayer which is a legal business entity
17 including limited and general partnerships, corporations, subchapter
18 S corporations and limited liability companies, plus any suspended
19 credits pursuant to subparagraph d of paragraph 2 of subsection J of
20 this section; provided, if total credits claimed pursuant to this
21 paragraph exceed the ~~caps~~ cap amount established pursuant to
22 paragraph 1 of subsection ~~D~~ F of this section, the credit shall be
23 equal to the taxpayer's proportionate share of the cap for the
24

1 taxable year, as determined pursuant to subsection # J of this
2 section.

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

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

1 be limited to ~~One Thousand Dollars (\$1,000.00)~~ Two Thousand Eight
2 Hundred Dollars (\$2,800.00) for single individuals or limited to ~~Two~~
3 ~~Thousand Dollars (\$2,000.00)~~ Five Thousand Six Hundred Dollars
4 (\$5,600.00) for married persons filing a joint return.

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

14 C. 1. Except as provided in subsection ~~F~~ H 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~~

18 a. Except as otherwise provided by subparagraph b of this
19 paragraph or paragraph 2 of this subsection, the
20 credit shall be equal to fifty percent (50%) of the
21 total amount of contributions made during a taxable
22 year, not to exceed ~~One Thousand Dollars (\$1,000.00)~~
23 Two Thousand Eight Hundred Dollars (\$2,800.00) for
24 single individuals, ~~Two Thousand Dollars (\$2,000.00)~~

1 Five Thousand Six Hundred Dollars (\$5,600.00) for
2 married individuals filing jointly, or One Hundred
3 Thousand Dollars (\$100,000.00) for any taxpayer which
4 is a legal business entity including limited and
5 general partnerships, corporations, subchapter S
6 corporations and limited liability companies, plus any
7 suspended credits pursuant to subparagraph d of
8 paragraph 2 of subsection J of this section; provided,
9 if total credits claimed pursuant to this ~~paragraph~~
10 subparagraph exceed the cap amount established
11 pursuant to subparagraph a of paragraph 2 of
12 subsection ~~D~~ F of this section, the credit shall be
13 equal to the taxpayer's proportionate share of the cap
14 for the taxable year, as determined pursuant to
15 subsection ~~H~~ J of this section.

16 b. If a contribution is made to an eligible educational
17 improvement grant organization to benefit a school
18 district which has less than two thousand (2,000)
19 students enrolled on October 1 as determined by the
20 State Department of Education, the amount of the
21 credit shall be one hundred percent (100%) of the
22 amount contributed to an eligible educational
23 improvement grant organization, but shall be subject
24 to the maximum credit amounts based on filing status

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

22 2. For any taxpayer who makes a contribution to an eligible
23 educational improvement grant organization and makes a written
24 commitment to contribute the same amount for an additional year, the

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

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

1 entity from which the tax credits have been allocated and shall not
2 be limited to ~~One Thousand Dollars (\$1,000.00)~~ Two Thousand Eight
3 Hundred Dollars (\$2,800.00) for single individuals or limited to ~~Two~~
4 ~~Thousand Dollars (\$2,000.00)~~ Five Thousand Six Hundred Dollars
5 (\$5,600.00) for married persons filing a joint return.

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

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

1 share of the cap for the taxable year, as determined
2 pursuant to subsection J of this section.

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

1 this subparagraph exceed the cap amount established
2 pursuant to subparagraph a of paragraph 2 of
3 subsection F of this section, the credit shall be
4 equal to the taxpayer's proportionate share of the cap
5 for the taxable year, as determined pursuant to
6 subsection J of this section;

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

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

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

24

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

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

22 b. If a contribution is made to an eligible public school
23 foundation to benefit a school district which has less
24 than two thousand (2,000) students enrolled on October

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

1 share of the cap for the taxable year, as determined
2 pursuant to subsection J of this section.

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

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

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

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

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

20 1. ~~The~~ Unless the cap amount otherwise prescribed by this
21 paragraph is adjusted pursuant to paragraph 3 of this subsection,
22 the total credits authorized pursuant to subsection B of this
23 section for all taxpayers for any tax year beginning on or after
24 January 1, 2022, shall not exceed ~~Three Million Five Hundred~~

1 ~~Thousand Dollars (\$3,500,000.00)~~ Ten Million Dollars

2 (\$10,000,000.00) annually;

3 2. ~~The~~ Unless the cap amount otherwise prescribed by
4 subparagraph a of this paragraph is adjusted pursuant to paragraph 3
5 of this subsection, the total credits authorized pursuant to
6 subsection subsections C, D and E of this section for all taxpayers
7 for any tax year beginning on or after January 1, 2022, shall not
8 exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00):

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

10 b. in addition to the cap amount prescribed by
11 subparagraph a of this paragraph, the credit amount
12 shall also be limited to Two Hundred Thousand Dollars
13 (\$200,000.00) of credits per public school district
14 annually; and

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

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

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

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

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

1 1. "Eligible student" means a child of school age who is
2 lawfully present in the United States and who is a member of a
3 household in which the total annual income during the preceding tax
4 year does not exceed an amount equal to ~~three hundred percent (300%)~~
5 two hundred thirty-five percent (235%) of the income standard used
6 to qualify for a free or ~~reduced~~ reduced-price school lunch and
7 whose custodial parents or legal guardians are not taxpayers who
8 make contributions to an eligible scholarship-granting organization
9 or who, during the immediately preceding school year, attended or,
10 by virtue of the location of such student's place of residence, was
11 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 d. scholarships to a low-income eligible student of up to
13 Five Thousand Dollars (\$5,000.00) or ninety percent
14 (90%) of the statewide annual average per-pupil
15 expenditure as determined by the National Center for
16 Education Statistics, U.S. Department of Education,
17 whichever is greater, to cover all or part of the
18 tuition, fees and transportation costs of a qualified
19 school which is accredited by the State Board of
20 Education or an accrediting association approved by
21 the Board pursuant to Section 3-104 of Title 70 of the
22 Oklahoma Statutes, or

23 e. scholarships to an eligible military student of up to
24 Five Thousand Dollars (\$5,000.00) or eighty percent

1 (80%) of the statewide annual average per pupil
2 expenditure as determined by the National Center for
3 Education Statistics, U.S. Department of Education,
4 whichever is greater, to cover all or part of the
5 tuition, fees and transportation costs of a qualified
6 school for eligible military students which is
7 accredited by the State Board of Education or an
8 accrediting association approved by the Board pursuant
9 to Section 3-104 of Title 70 of the Oklahoma Statutes.
10 As used in this subparagraph, "eligible military
11 student" means a child who has a parent or legal
12 guardian who is serving or has served in the United
13 States Armed Forces on active duty or is actively
14 serving in the United States Reserves or the National
15 Guard;

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

19 5. "Qualified school" means an early childhood, elementary or
20 secondary private school in this state, including schools which
21 provide special educational programs for three-year-olds or
22 prekindergarten educational programs for four-year-olds, which:
23
24

- a. is accredited by the State Board of Education or an accrediting association approved by the Board pursuant 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

- 1 needs student's parent or guardian and mailed to the
2 qualified school where the student is enrolled,
- 3 c. spends no more than ten percent (10%) of its annual
4 revenue on expenditures other than educational
5 scholarships as defined in paragraph 3 of this
6 subsection,
- 7 d. spends each year a portion of its expenditures on
8 educational scholarships for low-income eligible
9 students, as defined in paragraph 4 of this
10 subsection, in an amount equal to or greater than the
11 percentage of low-income eligible students in the
12 state,
- 13 e. ensures that scholarships are portable during the
14 school year and can be used at any qualified school
15 that accepts the eligible student or at any qualified
16 school for special needs students that accepts the
17 eligible special needs student,
- 18 f. registers with the Oklahoma Tax Commission as a
19 scholarship-granting organization, and
- 20 g. has policies in place to:
- 21 (1) carry out criminal background checks on all
22 employees and board members to ensure that no
23 individual is involved with the organization who
24

1 might reasonably pose a risk to the appropriate
2 use of contributed funds, and

3 (2) maintain full and accurate records with respect
4 to the receipt of contributions and expenditures
5 of those contributions and supply such records
6 and any other documentation required by the Tax
7 Commission to demonstrate financial
8 accountability;

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

13 9. "Public school" means public schools as defined in Section
14 1-106 of Title 70 of the Oklahoma Statutes;

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

22 11. "Early childhood education program" means a special
23 educational program for eligible special needs students who are
24 three (3) years of age or a prekindergarten educational program

1 provided to children who are at least four (4) years of age but not
2 more than five (5) years of age on or before September 1;

3 12. "Innovative educational program" means an advanced academic
4 or academic improvement program that is not part of the regular
5 coursework of a public school but that enhances the curriculum or
6 academic program of the school or provides early childhood education
7 programs to students;

8 13. "Educational improvement grant" means a grant to an
9 eligible public school to implement an innovative educational
10 program for students, including the ability for multiple public
11 schools to make an application and be awarded a grant to jointly
12 provide an innovative educational program; ~~and~~

13 14. "Educational improvement grant organization" means an
14 organization which:

- 15 a. is a nonprofit entity exempt from taxation pursuant to
16 the provisions of the Internal Revenue Code, 26
17 U.S.C., Section 501(c)(3), and
- 18 b. contributes at least ninety percent (90%) of its
19 annual receipts as grants to eligible schools for
20 innovative educational programs. For purposes of this
21 subparagraph, an educational improvement grant
22 organization contributes its annual cash receipts when
23 it expends or otherwise irrevocably encumbers those
24 funds for expenditure during the then current fiscal

1 year of the organization or during the next succeeding
2 fiscal year of the organization; and

3 15. "Eligible public school foundation" means a nonprofit
4 entity formed pursuant to Oklahoma law but which is exempt from
5 federal income taxation pursuant to either Section 501(c)(3) or
6 Section 509(a) of the Internal Revenue Code of 1986, as amended.

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

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

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

22 2. a. If the Tax Commission determines the total combined
23 credits claimed for contributions made to scholarship-
24 granting organizations during the most recently

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

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

1 which may be claimed by any taxpayer so that the
2 maximum credits authorized by this section are not
3 exceeded.

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

20 d. Beginning for tax year ~~2016~~ 2022, credits earned, but
21 not allowed due to the application of statewide caps
22 provided in subsection ~~D~~ F of this section will be
23 considered suspended and authorized to be used in the
24

1 next immediate tax year and applied to the next year's
2 statewide cap; and

3 3. The Tax Commission shall publish the percentage of the
4 contribution which may be claimed as a credit by contributors for
5 the most recently completed calendar year on the Tax Commission
6 website no later than February 15 of each calendar year for
7 contributions made the previous year. Each ~~scholarship-granting~~
8 ~~organization or educational improvement grant~~ organization
9 authorized pursuant to subsections B, C, D and E of this section
10 shall notify contributors of that amount annually.

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

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

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

- 22 a. enables the Tax Commission to confirm that the
23 organization is a nonprofit entity exempt from
24 taxation pursuant to the provisions of the Internal

1 Revenue Code, 26 U.S.C., Section 501(c)(3) or Section
2 509(a), and

3 b. describes the proposed innovative educational program
4 or programs supported by the organization.

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

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

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

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

21 c. the names of the public school and school districts
22 where innovative educational programs that received
23 grants during the immediately preceding school year
24 were implemented,

- 1 d. where the organization collects information on a
2 county-by-county basis, and
- 3 e. the total number and total amount of grants made
4 during the immediately preceding school year for
5 innovative educational programs at public school by
6 each county in which the organization made grants.

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

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

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

- 22 a. the name and address of the scholarship-granting
23 organization,

1 b. the names of the qualifying schools that received
2 funding for educational scholarships, the total amount
3 of funds paid to each qualifying school and the total
4 number of scholarship recipients enrolled in each
5 qualifying school,

6 c. the total number and total dollar amount of
7 contributions received during the previous academic
8 year,

9 d. the total number and total dollar amount of
10 educational scholarships awarded and funded during the
11 previous academic year,

12 e. the total number, total dollar amount and percentage
13 of educational scholarships awarded and funded during
14 the previous academic year disaggregated into the
15 following categories:

16 (1) low-income eligible students,

17 (2) students who during the immediately preceding
18 school year attended or who were eligible by
19 virtue of the residence of the student to attend
20 a public school in the state which was identified
21 for school improvement by the State Board of
22 Education,

23 (3) eligible special needs students, and
24

1 (4) students who were first-time recipients of a
2 scholarship, including information about the type
3 of public or private school the student was
4 enrolled in during the entire previous academic
5 year,

6 f. the percentage of annual revenue received by the
7 organization from donations which qualify for tax
8 credits pursuant to this section which was not
9 expended on scholarships, and

10 g. disaggregated data reported under this subsection
11 shall be redacted if reporting would allow for
12 identification of specific children, and shall be
13 reported in accordance with the Student Data
14 Accessibility, Transparency and Accountability Act of
15 2013, Section 3-168(C)(2)(b) of Title 70 of the
16 Oklahoma Statutes, and the Family Educational Rights
17 and Privacy Act of 1974 (FERPA), 20 U.S.C., Section
18 1232g.

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

20 a. the information submitted by the scholarship-granting
21 organization pursuant to paragraph 1 of this
22 subsection,

23 b. a list of participating schools, and
24

1 c. all other application information submitted to the Tax
2 Commission by a scholarship-granting organization,
3 except that information which would violate the
4 privacy of an individual.

5 3. A scholarship-granting organization shall annually submit
6 verification to the Tax Commission that the organization still meets
7 the criteria set forth in paragraph 7 of subsection I of this
8 section.

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

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

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