

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
4 FOR

5 HOUSE BILL NO. 2701

6 By: Hasenbeck

7  
8 COMMITTEE SUBSTITUTE

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

13  
14  
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

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

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

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

21 2. For any taxpayer who makes a contribution to an eligible  
22 scholarship-granting organization and makes a written commitment to  
23 contribute the same amount for an additional year, the credit for  
24 the first year and the additional year shall be equal to seventy-

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

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

23 4. On or before December 31, 2017, and once every four (4)  
24 years thereafter, such scholarship-granting organization and

1 educational improvement ~~granting~~ grant organization shall submit to  
2 the Oklahoma Tax Commission, Governor, President Pro Tempore of the  
3 Senate and the Speaker of the House of Representatives, an audited  
4 financial statement for the organization along with information  
5 detailing the benefits, successes or failures of the program, and  
6 make publicly available on its website the financial statement and  
7 information submitted pursuant to this paragraph.

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

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

1 suspended credits pursuant to subparagraph d of  
2 paragraph 2 of subsection J of this section; provided,  
3 if total credits claimed pursuant to this paragraph  
4 subparagraph exceed the cap amount established  
5 pursuant to subparagraph a of paragraph 2 of  
6 subsection D F of this section, the credit shall be  
7 equal to the taxpayer's proportionate share of the cap  
8 for the taxable year, as determined pursuant to  
9 subsection H J of this section.

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

1 file or record created by the State Department of  
2 Education or produces a document by printing  
3 information contained in an electronic data file  
4 originally created by the State Department of  
5 Education, such information shall be conclusive with  
6 respect to the student enrollment number for purposes  
7 of claiming the tax credit authorized by this  
8 subparagraph or any audit of the taxpayer's income tax  
9 return; provided, if total credits claimed pursuant to  
10 this subparagraph exceed the cap amount established  
11 pursuant to subparagraph a of paragraph 2 of  
12 subsection 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 J of this section.

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

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

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

24

1       D. 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 district.

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 a school district which  
23 has less than two thousand (2,000) students enrolled  
24 on October 1 as determined by the State Department of



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

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

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

22 a. Except as otherwise provided by subparagraph b of this  
23 paragraph or paragraph 2 of this subsection, the  
24 credit shall be equal to fifty percent (50%) of the

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

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

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

20 2. Except as otherwise provided by subparagraph a or b of  
21 paragraph 1 of this subsection, for any taxpayer who makes a  
22 contribution to an eligible public school foundation and makes a  
23 written commitment to contribute the same amount for an additional  
24 year, the credit for the first year and the additional year shall be

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

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

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

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

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

20 2. The Unless the cap amount otherwise prescribed by  
21 subparagraph a of this paragraph is adjusted pursuant to paragraph 3  
22 of this subsection, the total credits authorized pursuant to  
23 ~~subsection~~ subsections C, D and E of this section for all taxpayers  
24

1 for any tax year beginning on or after January 1, 2022, shall not  
2 exceed ~~One Million Five Hundred Thousand Dollars (\$1,500,000.00)~~:

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

4 b. in addition to the cap amount prescribed by

5 subparagraph a of this paragraph, the credit amount

6 shall also be limited to Two Hundred Thousand Dollars

7 (\$200,000.00) of credits per public school district

8 annually; and

9 3. In any tax year when the annual tax credit amount as

10 prescribed by either paragraph 1 of this subsection or by

11 subparagraph a of paragraph 2 of this subsection for the prior tax

12 year is equal to or greater than ninety percent (90%) of the tax

13 credit cap amount applicable to that tax year, such tax credit cap

14 amount shall increase by twenty-five percent (25%). The adjustment

15 shall not be applicable to the amount prescribed by subparagraph b

16 of paragraph 2 of this subsection. The Tax Commission shall publish

17 on its website information identifying the tax credit cap amount

18 when it is increased pursuant to this paragraph; and

19 4. The cap on total credits provided for in this subsection

20 shall be allocated by the Tax Commission as provided in subsection ~~H~~

21 J of this section.

22 ~~E. G.~~ For credits claimed for eligible contributions made

23 during tax year 2014 and thereafter, a credit shall not be allowed

24 by the Oklahoma Tax Commission for contributions made to a



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

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

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

19 1. "Eligible student" means a child of school age who is  
20 lawfully present in the United States and who is a member of a  
21 household in which the total annual income during the preceding tax  
22 year does not exceed an amount equal to ~~three hundred percent (300%)~~  
23 two hundred thirty-five percent (235%) of the income standard used  
24 to qualify for a free or ~~reduced~~ reduced-price school lunch and

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

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

23 3. "Educational scholarships" means:  
24

1 a. scholarships to an eligible student of up to Five  
2 Thousand Dollars (\$5,000.00) or eighty percent (80%)  
3 of the statewide annual average per-pupil expenditure  
4 as determined by the National Center for Education  
5 Statistics, U.S. Department of Education, whichever is  
6 greater, to cover all or part of the tuition, fees and  
7 transportation costs of a qualified school which is  
8 accredited by the State Board of Education or an  
9 accrediting association approved by the Board pursuant  
10 to Section 3-104 of Title 70 of the Oklahoma Statutes,

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

22 ~~or~~

23 c. scholarships to an eligible special needs student of  
24 up to Twenty-five Thousand Dollars (\$25,000.00) to

1 cover all or part of the tuition, fees and  
2 transportation costs of a qualified school for  
3 eligible special needs students which is accredited by  
4 the State Board of Education or an accrediting  
5 association approved by the Board pursuant to Section  
6 3-104 of Title 70 of the Oklahoma Statutes,

7 d. scholarships to a low-income eligible student of up to  
8 Five Thousand Dollars (\$5,000.00) or ninety percent  
9 (90%) of the statewide annual average per-pupil  
10 expenditure as determined by the National Center for  
11 Education Statistics, U.S. Department of Education,  
12 whichever is greater, to cover all or part of the  
13 tuition, fees and transportation costs of a qualified  
14 school which is accredited by the State Board of  
15 Education or an accrediting association approved by  
16 the Board pursuant to Section 3-104 of Title 70 of the  
17 Oklahoma Statutes, or

18 e. scholarships to an eligible military student of up to  
19 Five Thousand Dollars (\$5,000.00) or eighty percent  
20 (80%) of the statewide annual average per pupil  
21 expenditure as determined by the National Center for  
22 Education Statistics, U.S. Department of Education,  
23 whichever is greater, to cover all or part of the  
24 tuition, fees and transportation costs of a qualified

1 school for eligible military students which is  
2 accredited by the State Board of Education or an  
3 accrediting association approved by the Board pursuant  
4 to Section 3-104 of Title 70 of the Oklahoma Statutes.  
5 As used in this subparagraph, "eligible military  
6 student" means a child who has a parent or legal  
7 guardian who is serving or has served in the United  
8 States Armed Forces on active duty or is actively  
9 serving in the United States Reserves or the National  
10 Guard;

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

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

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

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

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

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

- a. is a nonprofit entity exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
- b. distributes periodic scholarship payments as checks made out to an eligible student's or eligible special needs student's parent or guardian and mailed to the qualified school where the student is enrolled,
- c. spends no more than ten percent (10%) of its annual revenue on expenditures other than educational scholarships as defined in paragraph 3 of this subsection,

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

1 Commission to demonstrate financial  
2 accountability;

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 16 a. enables the Tax Commission to confirm that the  
17 organization is a nonprofit entity exempt from  
18 taxation pursuant to the provisions of the Internal  
19 Revenue Code, 26 U.S.C., Section 501(c)(3) or Section  
20 509(a), and
- 21 b. describes the proposed innovative educational program  
22 or programs supported by the organization.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11       (1) low-income eligible students,

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

18       (3) eligible special needs students, and

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



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

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

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

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

18       b. a list of participating schools, and

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

23       3. A scholarship-granting organization shall annually submit

24       verification to the Tax Commission that the organization still meets

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

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

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

14 58-1-7783 JM 02/25/21

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