

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2651

By: Echols

4  
5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68  
8 O.S. 2011, Section 2357.206, as last amended by  
9 Section 1, Chapter 288, O.S.L. 2017 (68 O.S. Supp.  
10 2020, Section 2357.206), which relates to income tax  
11 credits for contributions made to certain education  
12 improvement grant or scholarship-granting  
13 organizations; prescribing treatment of certain  
14 suspended tax credits; imposing certain duties on  
15 Oklahoma Tax Commission; providing for income tax  
16 credit based upon contributions to eligible  
17 educational improvement grant organizations to  
18 benefit certain school districts; prescribing limit  
19 on credits based on filing status; providing for  
20 determination of student enrollment for purposes of  
21 tax credits; providing for proportionate reduction of  
22 tax credits based upon certain limitation amount;  
23 providing for tax credits based upon contribution to  
24 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  
to benefit certain school districts; prescribing  
limit on credits based on filing status; providing  
for determination of student enrollment for purposes

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

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

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

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

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

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

1 paragraph 1 of this subsection for the taxable year in which the  
2 credit provided in this subsection is claimed. The taxpayer shall  
3 provide evidence of the written commitment to the Oklahoma Tax  
4 Commission at the time of filing the refund claim.

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

20 4. On or before December 31, 2017, and once every four (4)  
21 years thereafter, such scholarship-granting organization and  
22 educational improvement ~~granting~~ grant organization shall submit to  
23 the Oklahoma Tax Commission, Governor, President Pro Tempore of the  
24 Senate and the Speaker of the House of Representatives, an audited

1 financial statement for the organization along with information  
2 detailing the benefits, successes or failures of the program, and  
3 make publicly available on its website the financial statement and  
4 information submitted pursuant to this paragraph.

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

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 One Thousand Dollars (\$1,000.00)  
14 for single individuals, Two Thousand Dollars  
15 (\$2,000.00) for married individuals filing jointly, or  
16 One Hundred Thousand Dollars (\$100,000.00) for any  
17 taxpayer which is a legal business entity including  
18 limited and general partnerships, corporations,  
19 subchapter S corporations and limited liability  
20 companies, plus any suspended credits pursuant to  
21 subparagraph d of paragraph 2 of subsection J of this  
22 section; provided, if total credits claimed pursuant  
23 to this ~~paragraph~~ subparagraph exceed the cap amount  
24 established pursuant to subparagraph a of paragraph 1

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

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

1 respect to the student enrollment number for purposes  
2 of claiming the tax credit authorized by this  
3 subparagraph or any audit of the taxpayer's income tax  
4 return; provided, if total credits claimed pursuant to  
5 this subparagraph exceed the cap amount established  
6 pursuant to subparagraph a of paragraph 2 of  
7 subsection F of this section, the credit shall be  
8 equal to the taxpayer's proportionate share of the cap  
9 for the taxable year, as determined pursuant to  
10 subsection J of this section.

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

1 shall provide evidence of the written commitment to the Oklahoma Tax  
2 Commission at the time of filing the refund claim.

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

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

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



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

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

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

19 2. Except as otherwise provided by subparagraph a or b of  
20 paragraph 1 of this subsection, for any taxpayer who makes a  
21 contribution to an eligible public school district and makes a  
22 written commitment to contribute the same amount for an additional  
23 year, the credit for the first year and the additional year shall be  
24 equal to seventy-five percent (75%) of the total amount of the

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

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

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

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

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

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

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

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

1           State Department of Education, such information shall  
2           be conclusive with respect to the student enrollment  
3           number for purposes of claiming the tax credit  
4           authorized by this subparagraph or any audit of the  
5           taxpayer's income tax return; provided, if total  
6           credits claimed pursuant to this subparagraph exceed  
7           the cap amount established pursuant to subparagraph a  
8           of paragraph 2 of subsection F of this section, the  
9           credit shall be equal to the taxpayer's proportionate  
10           share of the cap for the taxable year, as determined  
11           pursuant to subsection J of this section.

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

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

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

20 4. On or before December 31, 2022, and once every four (4)  
21 years thereafter, such eligible public school foundation shall  
22 submit to the Oklahoma Tax Commission, Governor, President Pro  
23 Tempore of the Senate and the Speaker of the House of  
24 Representatives an audited financial statement for the organization

1 along with information detailing the benefits, successes or failures  
2 of the programs.

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

5 1. ~~The~~ Unless the cap amount otherwise prescribed by this  
6 paragraph is adjusted pursuant to paragraph 3 of this subsection,  
7 the total credits authorized pursuant to subsection B of this  
8 section for all taxpayers for any tax year beginning on or after  
9 January 1, 2022, shall not exceed ~~Three Million Five Hundred~~  
10 ~~Thousand Dollars (\$3,500,000.00)~~ Ten Million Dollars  
11 (\$10,000,000.00) annually;

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

18 a. Twenty Million Dollars (\$20,000,000.00) annually,  
19 b. in addition to the cap amount prescribed by  
20 subparagraph a of this paragraph, the credit amount  
21 shall also be limited to Two Hundred Thousand Dollars  
22 (\$200,000.00) of credits per public school district  
23 annually; and

24



1       3. In any tax year when the annual tax credit amount as  
2 prescribed by either paragraph 1 of this subsection or by  
3 subparagraph a of paragraph 2 of this subsection for the prior tax  
4 year is equal to or greater than ninety percent (90%) of the tax  
5 credit cap amount applicable to that tax year, such tax credit cap  
6 amount shall increase by twenty-five percent (25%). The adjustment  
7 shall not be applicable to the amount prescribed by subparagraph b  
8 of paragraph 2 of this subsection. The Tax Commission shall publish  
9 on its website information identifying the tax credit cap amount  
10 when it is increased pursuant to this paragraph; and

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

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

1 award as educational scholarships or educational improvement grants  
2 over the most recent twenty-four (24) months.

3 ~~F.~~ H. Any tax credits which are earned by a taxpayer pursuant  
4 to this section during the time period beginning on the effective  
5 date of this act through December 31, 2012, may not be claimed for  
6 any period prior to the taxable year beginning January 1, 2013. No  
7 credits which accrue during the time period beginning on the  
8 effective date of this act through December 31, 2012, may be used to  
9 file an amended tax return for any taxable year prior to the taxable  
10 year beginning January 1, 2013.

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

12 1. "Eligible student" means a child of school age who is  
13 lawfully present in the United States and who is a member of a  
14 household in which the total annual income during the preceding tax  
15 year does not exceed an amount equal to ~~three hundred percent (300%)~~  
16 two hundred twenty-five percent (225%) of the income standard used  
17 to qualify for a free or ~~reduced~~ reduced-price school lunch and  
18 whose custodial parents or legal guardians are not taxpayers who  
19 make contributions to an eligible scholarship-granting organization  
20 or who, during the immediately preceding school year, attended or,  
21 by virtue of the location of such student's place of residence, was  
22 eligible to attend a public school in this state which has been  
23 identified for school improvement as determined by the State Board  
24 of Education pursuant to the requirements of the No Child Left

1 Behind Act of 2001, P.L. No. 107-110. Once a student has received  
2 an educational scholarship, as defined in paragraph 3 of this  
3 subsection, the student and any siblings who are members of the same  
4 household shall remain eligible until they graduate from high school  
5 or reach twenty-one (21) years of age, whichever occurs first;

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

16 3. "Educational scholarships" means:

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

1 (90%) 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 which is accredited by the State Board of  
7 Education or an accrediting association approved by  
8 the Board pursuant to Section 3-104 of Title 70 of the  
9 Oklahoma Statutes, or

10 e. scholarships to an eligible military student of up to  
11 Five Thousand Dollars (\$5,000.00) or eighty percent  
12 (80%) of the statewide annual average per pupil  
13 expenditure as determined by the National Center for  
14 Education Statistics, U.S. Department of Education,  
15 whichever is greater, to cover all or part of the  
16 tuition, fees and transportation costs of a qualified  
17 school for eligible military students which is  
18 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 As used in this subparagraph, "eligible military  
22 student" means a child who has a parent or legal  
23 guardian who is serving or has served in the United  
24 States Armed Forces on active duty or is actively

1                     serving in the United States Reserves or the National  
2                     Guard;

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

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

- 10           a. is accredited by the State Board of Education or an  
11           accrediting association approved by the Board pursuant  
12           to Section 3-104 of Title 70 of the Oklahoma Statutes,
- 13           b. is in compliance with all applicable health and safety  
14           laws and codes,
- 15           c. has a stated policy against discrimination in  
16           admissions on the basis of race, color, national  
17           origin or disability, and
- 18           d. ensures academic accountability to parents and  
19           guardians of students through regular progress  
20           reports;

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

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

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

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

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

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

5 g. has policies in place to:

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

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

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

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

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



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

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

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

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

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

- 1 a. is a nonprofit entity exempt from taxation pursuant to  
2 the provisions of the Internal Revenue Code, 26  
3 U.S.C., Section 501(c)(3), and
- 4 b. contributes at least ninety percent (90%) of its  
5 annual receipts as grants to eligible schools for  
6 innovative educational programs. For purposes of this  
7 subparagraph, an educational improvement grant  
8 organization contributes its annual cash receipts when  
9 it expends or otherwise irrevocably encumbers those  
10 funds for expenditure during the then current fiscal  
11 year of the organization or during the next succeeding  
12 fiscal year of the organization; and

13 15. "Eligible public school foundation" means a nonprofit  
14 entity formed pursuant to Oklahoma law but which is exempt from  
15 federal income taxation pursuant to either Section 501(c)(3) or  
16 Section 509(a) of the Internal Revenue Code of 1986, as amended.  
17 Each public school foundation must be approved by the local board of  
18 education prior to accepting qualifying donations.

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

21 1. By January 10 of the year immediately following each  
22 calendar year, a scholarship-granting organization ~~or~~, an  
23 educational improvement grant organization, a public school district  
24 or an eligible public school foundation which accepts contributions

1 pursuant to this section shall provide electronically to the Tax  
2 Commission information on each contribution accepted during such  
3 taxable year. At least once each taxable year, the ~~scholarship-~~  
4 ~~granting organization or the educational improvement grant~~  
5 ~~organization~~ entity making the report shall notify each contributor  
6 that Oklahoma law provides for a total, statewide cap on the amount  
7 of income tax credits allowed annually;

8       2.    a.    If the Tax Commission determines the total combined  
9               credits claimed for contributions made to scholarship-  
10              granting organizations during the most recently  
11              completed calendar year by all taxpayers are in excess  
12              of the statewide ~~caps~~ cap amount provided in paragraph  
13              1 of subsection ~~D~~ F of this section, the Tax  
14              Commission shall first allocate any amount of credits  
15              not claimed for contributions made to ~~educational~~  
16              ~~improvement-granting~~ organizations authorized pursuant  
17              to subsections C, D and E of this section, 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 total  
21              maximum credits authorized by this section are not  
22              exceeded.

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

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

14 c. If the Tax Commission determines the total combined  
15 credits claimed for contributions made to  
16 organizations authorized pursuant to subsections C, D  
17 and E of this section during the most recently  
18 completed calendar year by all taxpayers are in excess  
19 of the per-public-school-district cap amount provided  
20 in subparagraph b of paragraph 2 of subsection F of  
21 this section, the Tax Commission shall first allocate  
22 any amount of credits not claimed for contributions  
23 made to other organizations authorized pursuant to  
24 subsections C, D and E of this section, then shall

1 determine the percentage of the contribution which  
2 establishes the proportionate share of the credit  
3 which may be claimed by any taxpayer so that the  
4 maximum credits authorized by this section are not  
5 exceeded.

6 d. Beginning for tax year ~~2016~~ 2022, credits earned, but  
7 not allowed due to the application of statewide caps  
8 provided in subsection ~~D~~ F of this section will be  
9 considered suspended and authorized to be used in the  
10 next immediate tax year and applied to the next year's  
11 statewide cap; and

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

20 ~~I. The credit~~ K. No tax credits authorized by this section  
21 shall ~~not~~ be used to reduce the tax liability of the taxpayer to  
22 less than zero (0).  
23  
24

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

4        ~~K.~~ M. 1. In order to qualify under this section, ~~an~~  
5 ~~educational improvement grant~~ each organization pursuant to  
6 subsections C and E of this section shall submit an application with  
7 information to the Oklahoma Tax Commission on a form prescribed by  
8 the Tax Commission that:

9            a. enables the Tax Commission to confirm that the  
10            organization is a nonprofit entity exempt from  
11            taxation pursuant to the provisions of the Internal  
12            Revenue Code, 26 U.S.C., Section 501(c)(3) or Section  
13            509(a), and

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

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

19        3. In order to maintain eligibility under this section, ~~an~~  
20 ~~educational improvement grant~~ organization pursuant to subsections C  
21 and E of this section shall annually report the following  
22 information to the Tax Commission and publish on its website by  
23 September 1 of each year:  
24

- a. the name of the innovative educational program or programs and the total amount of the grant or grants made to those programs during the immediately preceding school year,
- b. a description of how each grant was utilized during the immediately preceding school year and a description of any demonstrated or expected innovative educational improvements,
- c. the names of the public school and school districts where innovative educational programs that received grants during the immediately preceding school year were implemented,
- d. where the organization collects information on a county-by-county basis, and
- e. the total number and total amount of grants made during the immediately preceding school year for innovative educational programs at public school by each county in which the organization made grants.

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

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

4       ~~L.~~ N. 1. Beginning in 2023 for the 2022-2023 academic year, in  
5 order to maintain registration, a scholarship-granting organization  
6 shall annually report to the Tax Commission by September 1 of each  
7 year the following information regarding the educational  
8 scholarships funded by the organization in the previous academic  
9 year:

- 10       a. the name and address of the scholarship-granting  
11       organization,
- 12       b. the names of the qualifying schools that received  
13       funding for educational scholarships, the total amount  
14       of funds paid to each qualifying school and the total  
15       number of scholarship recipients enrolled in each  
16       qualifying school,
- 17       c. the total number and total dollar amount of  
18       contributions received during the previous academic  
19       year,
- 20       d. the total number and total dollar amount of  
21       educational scholarships awarded and funded during the  
22       previous academic year,
- 23       e. the total number, total dollar amount and percentage  
24       of educational scholarships awarded and funded during



1 the previous academic year disaggregated into the  
2 following categories:

3 (1) low-income eligible students,

4 (2) students who during the immediately preceding  
5 school year attended or who were eligible by  
6 virtue of the residence of the student to attend  
7 a public school in the state which was identified  
8 for school improvement by the State Board of  
9 Education,

10 (3) eligible special needs students, and

11 (4) students who were first-time recipients of a  
12 scholarship, including information about the type  
13 of public or private school the student was  
14 enrolled in during the entire previous academic  
15 year,

16 f. the percentage of annual revenue received by the  
17 organization from donations which qualify for tax  
18 credits pursuant to this section which was not  
19 expended on scholarships, and

20 g. disaggregated data reported under this subsection  
21 shall be redacted if reporting would allow for  
22 identification of specific children, and shall be  
23 reported in accordance with the Student Data  
24 Accessibility, Transparency and Accountability Act of

1           2013, Section 3-168(C)(2)(b) of Title 70 of the  
2           Oklahoma Statutes, and the Family Educational Rights  
3           and Privacy Act of 1974 (FERPA), 20 U.S.C., Section  
4           1232g.

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

6           a. the information submitted by the scholarship-granting  
7           organization pursuant to paragraph 1 of this  
8           subsection,

9           b. a list of participating schools, and

10          c. all other application information submitted to the Tax  
11          Commission by a scholarship-granting organization,  
12          except that information which would violate the  
13          privacy of an individual.

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

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

1 applicable, and for notice as required in subsection # J of this  
2 section.

3 SECTION 2. This act shall become effective November 1, 2021.

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5 58-1-7126 MAH 01/20/21

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