

OKLAHOMA STATE SENATE
JOINT
COMMITTEE REPORT

May 17, 2021

JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET

SB 1080

By: Thompson of the Senate and Wallace of the House

Title: Public finance. Specifying certain duty of Director of Office of Management and Enterprise Services. Emergency.

Recommendation: **DO PASS AS AMENDED**

Aye: Dugger, Haste, Howard, Jech, Kidd, Montgomery, Newhouse, Pederson, Rader, Rosino, Simpson, Weaver, Hall, Thompson, David, Treat

Nay: Brooks, Dossett (J.J.), Floyd, Kirt, Pemberton

Constitutional Privilege:

Senator Roger Thompson, Chair

Committee Substitute, motion by Senator TREAT - Adopted (Request No: 2209)

OKLAHOMA HOUSE OF REPRESENTATIVES
COMMITTEE REPORT

JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET COMMITTEE

SB1080

By: Wallace et al of the House

Thompson et al of the Senate

Title: Public finance. Specifying certain duty of Director of Office of Management and Enterprise Services. Emergency.

Coauthored By:

Recommendation: **DO PASS AS AMENDED BY CS**

Amendments:

1. Committee Substitute Attached


Chr.
Representative Kevin Wallace

YEAS: 28

Baker, Boatman, Dills, Echols, Fetgatter, Ford, Hilbert, Hill, Kannady, Lawson, Lepak, Martinez, McBride, McDugle, McEntire, Miller, Mize, Newton, Osburn, Pfeiffer, Roberts (D), Roberts (S), Russ, Sterling, Strom, Wallace, West (J), West (T)

NAYS: 7

Bennett, Blancett, Goodwin, Munson, Nichols, Virgin, Walke

CONSTITUTIONAL PRIVILEGE: 0

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1080

6 By: Thompson and Hall of the
7 Senate

8 and

9 Wallace and Hilbert of the
10 House

11 COMMITTEE SUBSTITUTE

12 An Act relating to tax credit; amending 68 O.S. 2011,
13 Section 2357.206, as last amended by Section 1,
14 Chapter 288, O.S.L. 2017 (68 O.S. Supp. 2020, Section
15 2357.206), which relates to income tax credits for
16 contributions made to certain education improvement
17 grant or scholarship-granting organizations;
18 prescribing treatment of certain suspended tax
19 credits; adding entity to receive certain statement;
20 requiring posting of statement to website; providing
21 for income tax credit based upon contributions to
22 eligible public school foundations to benefit certain
23 school districts and public school districts;
24 prescribing limit on credits based on filing status;
providing for proportionate reduction of tax credits
based upon certain limitation amount; providing for
credit percentage based upon certain written
commitment; prescribing procedures related to
commitment; providing for allocability of tax credits
to certain equity owners; requiring submission of
certain statement; modifying maximum amount of tax
credits; providing for cap amounts based upon
contributions to designated entities; modifying
definition; adding definition; conforming statutory
language; requiring the Commission to allocate
credits upon certain determination; requiring the
Commission to determine percentage of certain
contribution upon certain determination; requiring

1 scholarship-granting organization to provide annual
2 report to Commission; providing for contents of
3 certain information on website; requiring
4 scholarship-granting organization to annually submit
5 verification; and providing an effective date.

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

7 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.206, as
8 last amended by Section 1, Chapter 288, O.S.L. 2017 (68 O.S. Supp.
9 2020, Section 2357.206), is amended to read as follows:

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

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

16 The credit shall be equal to fifty percent (50%) of the total
17 amount of contributions made during a taxable year, not to exceed
18 One Thousand Dollars (\$1,000.00) for single individuals, Two
19 Thousand Dollars (\$2,000.00) for married individuals filing jointly,
20 or One Hundred Thousand Dollars (\$100,000.00) for any taxpayer which
21 is a legal business entity including limited and general
22 partnerships, corporations, subchapter S corporations and limited
23 liability companies, plus any suspended credits pursuant to
24 subparagraph d of paragraph 2 of subsection I of this section;

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

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

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

1 limited in amount for the income tax return of a natural person or
2 persons based upon the limitation of the total credit amount to the
3 entity from which the tax credits have been allocated and shall not
4 be limited to One Thousand Dollars (\$1,000.00) for single
5 individuals or limited to Two Thousand Dollars (\$2,000.00) for
6 married persons filing a joint return.

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

16 C. 1. Except as provided in subsection ~~F~~ G of this section,
17 after August 26, 2011, there shall be allowed a credit for any
18 taxpayer who makes a contribution to an eligible educational
19 improvement grant organization. ~~The~~ Except as otherwise provided by
20 paragraph 2 of this subsection, the credit shall be equal to fifty
21 percent (50%) of the total amount of contributions made during a
22 taxable year, not to exceed One Thousand Dollars (\$1,000.00) for
23 single individuals, Two Thousand Dollars (\$2,000.00) for married
24 individuals filing jointly, or One Hundred Thousand Dollars

1 (\$100,000.00) for any taxpayer which is a legal business entity
2 including limited and general partnerships, corporations, subchapter
3 S corporations and limited liability companies, plus any suspended
4 credits pursuant to subparagraph d of paragraph 2 of subsection I of
5 this section; provided, if total credits claimed pursuant to this
6 paragraph exceed the cap amount established pursuant to ~~paragraph 1~~
7 paragraphs 3 and 4 of subsection ~~D~~ E of this section, the credit
8 shall be equal to the taxpayer's proportionate share of the cap for
9 the taxable year, as determined pursuant to subsection ~~H~~ I of this
10 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 ~~paragraph 1~~ paragraphs 3 and 4 of subsection E of
18 ~~this subsection~~ this 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 ~~paragraph 3~~ paragraphs 3 and 4 of ~~this~~
22 subsection E 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~~ I 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. For contributions made on or after January 1, 2022,
19 there shall be allowed a credit for any taxpayer who makes a
20 contribution to an eligible public school foundation or public
21 school district. Except as otherwise provided by paragraph 2 of
22 this subsection, the credit shall be equal to fifty percent (50%) of
23 the total amount of contributions made during a taxable year, not to
24 exceed One Thousand Dollars (\$1,000.00) for single individuals, Two

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

11 2. Except as otherwise provided by paragraph 1 of this
12 subsection, for any taxpayer who makes a contribution to an eligible
13 public school foundation or public school district and makes a
14 written commitment to contribute the same amount for an additional
15 year, the credit for the first year and the additional year shall be
16 equal to seventy-five percent (75%) of the total amount of the
17 contribution made during a taxable year, not to exceed the cap
18 amount established in paragraph 4 of subsection E of this section
19 for the taxable year in which the credit provided in this paragraph
20 is claimed. The taxpayer shall provide evidence of the written
21 commitment to the Oklahoma Tax Commission at the time of filing the
22 refund claim; provided, if total credits claimed pursuant to this
23 paragraph exceed the cap amount established pursuant to paragraph 4
24 of subsection E of this section, the credit shall be equal to the

1 taxpayer's proportionate share of the cap for the taxable year, as
2 determined pursuant to subsection I of this section.

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

1 E. Except as otherwise provided pursuant to subsection # I of
2 this section, ~~for tax years 2017 and thereafter:~~

3 1. The total credits authorized pursuant to subsection B of
4 this section for all taxpayers for tax years 2017 through 2021 shall
5 not exceed Three Million Five Hundred Thousand Dollars
6 (\$3,500,000.00) annually;

7 2. The total credits authorized pursuant to subsection B of
8 this section for all taxpayers for tax years 2022 and subsequent tax
9 years shall not exceed Twenty-five Million Dollars (\$25,000,000.00)
10 annually;

11 3. The total credits authorized pursuant to subsection C of
12 this section for all taxpayers for tax years 2017 through 2021 shall
13 not exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00)
14 annually; ~~and~~

15 ~~3.~~ 4. The total credits authorized pursuant to subsections C
16 and D of this section for all taxpayers for tax year 2022 and
17 subsequent tax years shall not exceed Twenty-five Million Dollars
18 (\$25,000,000.00) annually. In addition to the cap amount prescribed
19 by this paragraph, the credit amount shall also be limited to Two
20 Hundred Thousand Dollars (\$200,000.00) of credits per public school
21 district annually; and

22 5. The cap on total credits provided for in this subsection
23 shall be allocated by the Tax Commission as provided in subsection #
24 I of this section.

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

13 ~~F.~~ G. Any tax credits which are earned by a taxpayer pursuant
14 to this section during the time period beginning ~~on the effective~~
15 ~~date of this act~~ August 26, 2011, through December 31, 2012, may not
16 be claimed for any period prior to the taxable year beginning
17 January 1, 2013. No credits which accrue during the time period
18 beginning ~~on the effective date of this act~~ August 26, 2011, through
19 December 31, 2012, may be used to file an amended tax return for any
20 taxable year prior to the taxable year beginning January 1, 2013.

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

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

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

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

24 3. "Educational scholarships" means:

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

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

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

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

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

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

11 b. distributes periodic scholarship payments as checks
12 made out to an eligible student's or eligible special
13 needs student's parent or guardian and mailed to the
14 qualified school where the student is enrolled,

15 c. spends no more than ten percent (10%) of its annual
16 revenue on expenditures other than educational
17 scholarships as defined in paragraph 3 of this
18 subsection,

19 d. spends each year a portion of its expenditures on
20 educational scholarships for low-income eligible
21 students, as defined in paragraph 4 of this
22 subsection, in an amount equal to or greater than the
23 percentage of low-income eligible students in the
24 state,

1 e. ensures that scholarships are portable during the
2 school year and can be used at any qualified school
3 that accepts the eligible student or at any qualified
4 school for special needs students that accepts the
5 eligible special needs student,

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

8 g. has policies in place to:

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

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

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

1 9. "Public school" means public schools as defined in Section
2 1-106 of Title 70 of the Oklahoma Statutes;

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

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

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

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

1 14. "Educational improvement grant organization" means an
2 organization which:

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

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

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

21 ~~H.~~ I. Total credits authorized by this section shall be
22 allocated as follows:

23 1. By January 10 of the year immediately following each
24 calendar year, a scholarship-granting organization ~~or,~~ an

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

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

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

16 c. If the Tax Commission determines the total combined
17 credits claimed for contributions made to
18 organizations authorized pursuant to subsections C and
19 D of this section during the most recently completed
20 calendar year by all taxpayers are in excess of the
21 per public school district cap pursuant to paragraph 4
22 of subsection E of this section, the Tax Commission
23 shall first allocate any amount of credits not claimed
24 for contributions made to other organizations

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

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

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

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

1 ~~J.~~ K. 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.~~ L. 1. In order to qualify under this section, ~~an~~
5 ~~educational improvement grant~~ each organization authorized pursuant
6 to subsections C and D of this section shall submit an application
7 with information to the Oklahoma Tax Commission on a form prescribed
8 by 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 authorized pursuant to
21 subsections C and D of this section shall annually report the
22 following information to the Tax Commission and publish on its
23 website by 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 M. 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,

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

5 h. the percentage of the total amount of education
6 scholarship expenditures spent on low-income eligible
7 students.

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

9 a. the information submitted by the scholarship-granting
10 organization pursuant to paragraph 1 of this
11 subsection,

12 b. a list of participating schools, and

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

17 3. A scholarship-granting organization shall annually submit
18 verification to the Tax Commission that the organization still meets
19 the criteria set forth in paragraph 7 of subsection H of this
20 section.

21 N. Contributions made pursuant to subsections B, C and D of
22 this act shall not be used by the Legislature to reduce the amount
23 appropriated for the financial support of public schools.

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

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

11
12 58-1-2209 QD 5/17/2021 7:32:43 PM

13
14
15
16
17
18
19
20
21
22
23
24