

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2318 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

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

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Kyle Hilbert

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2318

By: McBride

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to scholarships; amending 68 O.S.
9 2021, Section 2357.206, as amended by Section 1,
10 Chapter 49, O.S.L. 2022 (68 O.S. Supp. 2022, Section
11 2357.206), which relates to the Oklahoma Equal
12 Opportunity Education Scholarship Act; providing for
13 income tax credit based upon contributions to
14 eligible higher education institution foundations;
15 prescribing limit on credits based on filing status;
16 providing for proportionate reduction of tax credits
17 based upon certain limitation amount; providing for
18 credit percentage based upon certain written
19 commitment; prescribing procedures related to
20 commitment; providing for allocability of tax credits
21 to certain equity owners; requiring submission of
22 certain statement; modifying maximum amount of tax
23 credits; providing for cap amounts based upon
24 contributions to designated entities; modifying
terms; adding definitions; requiring the Tax
Commission to allocate credits upon certain
determination; requiring the Commission to determine
percentage of certain contribution upon certain
determination; requiring foundation to provide annual
report to Commission; providing for contents of
report; requiring foundation to annually submit
verification; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2357.206, as
2 amended by Section 1, Chapter 49, O.S.L. 2022 (68 O.S. Supp. 2022,
3 Section 2357.206), is amended to read as follows:

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

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

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

24

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

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

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

3 4. On or before April 30, 2024, and once every two (2) years
4 thereafter, such scholarship-granting organization and educational
5 improvement grant organization shall electronically submit to the
6 Oklahoma Tax Commission, the Governor, President Pro Tempore of the
7 Oklahoma State Senate, the Speaker of the Oklahoma House of
8 Representatives, and the chairs and vice chairs of the education
9 committees of the Senate and House of Representatives an audited
10 financial statement for the organization along with information
11 detailing the benefits, successes, or failures of the program, and
12 make publicly available on its website the financial statement and
13 information submitted pursuant to this paragraph.

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

1 S corporations and limited liability companies, plus any suspended
2 credits pursuant to subparagraph ~~d~~ e of paragraph 2 of subsection ~~h~~
3 j of this section; provided, if total credits claimed pursuant to
4 this paragraph exceed the cap amount established pursuant to
5 paragraphs 3 and 4 of subsection ~~h~~ f of this section, the credit
6 shall be equal to the taxpayer's proportionate share of the cap for
7 the taxable year, as determined pursuant to subsection ~~h~~ j of this
8 section.

9 2. For any taxpayer who makes a contribution to an eligible
10 educational improvement grant organization and makes a written
11 commitment to contribute the same amount for an additional year, the
12 credit for the first year and the additional year shall be equal to
13 seventy-five percent (75%) of the total amount of the contribution
14 made during a taxable year, not to exceed the cap amount established
15 in paragraphs 3 and 4 of subsection ~~h~~ f of this section for the
16 taxable year in which the credit provided in this paragraph is
17 claimed; provided, if total credits claimed pursuant to this
18 paragraph exceed the cap established pursuant to paragraphs 3 and 4
19 of subsection ~~h~~ f of this section, the credit shall be equal to the
20 taxpayer's proportionate share of the cap for the taxable year, as
21 determined pursuant to subsection ~~h~~ j of this section. The taxpayer
22 shall provide evidence of the written commitment to the Oklahoma Tax
23 Commission at the time of filing the refund claim.

24

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

16 D. 1. For contributions made on or after January 1, 2022,
17 there shall be allowed a credit for any taxpayer who makes a
18 contribution to an eligible public school foundation or public
19 school district. Except as otherwise provided by paragraph 2 of
20 this subsection, the credit shall be equal to fifty percent (50%) of
21 the total amount of contributions made during a taxable year, not to
22 exceed One Thousand Dollars (\$1,000.00) for single individuals, Two
23 Thousand Dollars (\$2,000.00) for married individuals filing jointly,
24 or One Hundred Thousand Dollars (\$100,000.00) for any taxpayer which

1 is a legal business entity including limited and general
2 partnerships, corporations, subchapter S corporations and limited
3 liability companies; provided, if total credits claimed pursuant to
4 this paragraph exceed the cap amount established pursuant to
5 paragraph 4 of subsection Ⓔ F of this section, the credit shall be
6 equal to the taxpayer's proportionate share of the cap for the
7 taxable year, as determined pursuant to subsection Ⓔ J of this
8 section.

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

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

16 4. On or before April 30, 2024, and once every four (4) years
17 thereafter, such eligible public school foundation and public school
18 district shall submit to the Oklahoma Tax Commission, the Governor,
19 President Pro Tempore of the Oklahoma State Senate, and the Speaker
20 of the Oklahoma House of Representatives an audited financial
21 statement for the organization along with information detailing the
22 benefits, successes, or failures of the programs.

23 E. 1. For contributions made on or after January 1, 2024,
24 there shall be allowed a credit for any taxpayer who makes a

1 contribution to an eligible higher education institution foundation.
2 Except as otherwise provided by paragraph 2 of this subsection, the
3 credit shall be equal to fifty percent (50%) of the total amount of
4 contributions made during a taxable year, not to exceed One Thousand
5 Dollars (\$1,000.00) for single individuals, Two Thousand Dollars
6 (\$2,000.00) for married individuals filing jointly, or One Hundred
7 Thousand Dollars (\$100,000.00) for any taxpayer which is a legal
8 business entity including limited and general partnerships,
9 corporations, subchapter S corporations, and limited liability
10 companies; provided, if total credits claimed pursuant to this
11 paragraph exceed the cap amount established pursuant to paragraph 4
12 of subsection F of this section, the credit shall be equal to the
13 taxpayer's proportionate share of the cap for the taxable year, as
14 determined pursuant to subsection J of this section.

15 2. Except as otherwise provided by paragraph 1 of this
16 subsection, for any taxpayer who makes a contribution to an eligible
17 higher education institution foundation 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 cap amount established
22 in paragraph 4 of subsection F of this section for the taxable year
23 in which the credit provided in this paragraph is claimed. The
24 taxpayer shall provide evidence of the written commitment to the

1 Oklahoma Tax Commission at the time of filing the refund claim;
2 provided, if total credits claimed pursuant to this paragraph exceed
3 the cap amount established pursuant to paragraph 4 of subsection F
4 of this section, the credit shall be equal to the taxpayer's
5 proportionate share of the cap for the taxable year, as determined
6 pursuant to subsection J of this section.

7 3. The credits authorized pursuant to the provisions of this
8 subsection shall be allocable to the partners, shareholders,
9 members, or other equity owners of a taxpayer that is authorized to
10 be 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) for single
20 individuals or limited to Two Thousand Dollars (\$2,000.00) for
21 married persons filing a joint return.

22 4. On or before April 30, 2026, and once every four (4) years
23 thereafter, each eligible higher education institution foundation
24 shall submit to the Oklahoma Tax Commission, the Governor, President

1 Pro Tempore of the Oklahoma State Senate, and the Speaker of the
2 Oklahoma House of Representatives an audited financial statement for
3 the foundation along with information detailing the benefits,
4 successes, or failures of the program.

5 F. Except as otherwise provided pursuant to subsection ~~F~~ J of
6 this section:

7 1. The total credits authorized pursuant to subsection B of
8 this section for all taxpayers for tax years 2017 through 2021 shall
9 not exceed Three Million Five Hundred Thousand Dollars
10 (\$3,500,000.00) annually;

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

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

19 4. The total credits authorized pursuant to subsections C and D
20 of this section for all taxpayers for tax year 2022 and subsequent
21 tax years shall not exceed Twenty-five Million Dollars
22 (\$25,000,000.00) annually. ~~In~~ Except as otherwise provided pursuant
23 to subparagraph c of paragraph 2 of subsection J of this section, in
24 addition to the cap amount prescribed by this paragraph, the credit

1 amount shall also be limited to Two Hundred Thousand Dollars
2 (\$200,000.00) of credits per public school district annually; and

3 5. The total credits authorized pursuant to subsection E of
4 this section for all taxpayers for tax year 2024 and subsequent tax
5 years shall not exceed Twenty-five Million Dollars (\$25,000,000.00)
6 annually. Except as otherwise provided pursuant to subparagraph d
7 of paragraph 2 of subsection J of this section, in addition to the
8 cap amount prescribed by this paragraph, the credit amount shall
9 also be limited to Six Million Dollars (\$6,000,000.00) of credits
10 per public higher education institution annually; and

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

14 ~~F.~~ 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 ~~G.~~ H. Any tax credits which are earned by a taxpayer pursuant
4 to this section during the time period beginning August 26, 2011,
5 through December 31, 2012, may not be claimed for any period prior
6 to the taxable year beginning January 1, 2013. No credits which
7 accrue during the time period beginning August 26, 2011, through
8 December 31, 2012, may be used to file an amended tax return for any
9 taxable year prior to the taxable year beginning January 1, 2013.

10 ~~H.~~ I. As used in this section:

11 1. "Eligible student" means a child of school age who is
12 lawfully present in the United States and who is a member of a
13 household in which the total annual income during the preceding tax
14 year does not exceed an amount equal to three hundred percent (300%)
15 of the income standard used to qualify for a free or reduced-price
16 school lunch or who, during the immediately preceding school year,
17 attended or, by virtue of the location of such student's place of
18 residence, was eligible to attend a public school in this state
19 which has been identified for school improvement as determined by
20 the State Board of Education pursuant to the requirements of the No
21 Child Left Behind Act of 2001, P.L. No. 107-110. Once a student has
22 received an educational scholarship, as defined in paragraph 3 of
23 this subsection, the student and any siblings who are members of the
24 same household shall remain eligible until they graduate from high

1 school or reach twenty-one (21) years of age, whichever occurs
2 first;

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

13 3. "Educational scholarships" means:

14 a. scholarships to an eligible student of up to Five
15 Thousand Dollars (\$5,000.00) or eighty percent (80%)
16 of the statewide annual average per-pupil expenditure
17 as determined by the National Center for Education
18 Statistics, U.S. Department of Education, whichever is
19 greater, to cover all or part of the tuition, fees,
20 and transportation costs of a qualified school which
21 is accredited by the State Board of Education or an
22 accrediting association approved by the Board pursuant
23 to Section 3-104 of Title 70 of the Oklahoma Statutes,
24

1 b. 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 the educational costs of a qualified
7 school which does not charge tuition, which enrolls
8 special populations of students, and which is
9 accredited by the State Board of Education or an
10 accrediting association approved by the Board pursuant
11 to Section 3-104 of Title 70 of the Oklahoma Statutes,
12 ~~or~~

13 c. scholarships to an eligible special needs student of
14 up to Twenty-five Thousand Dollars (\$25,000.00) to
15 cover all or part of the tuition, fees, and
16 transportation costs of a qualified school for
17 eligible special needs students which is accredited by
18 the State Board of Education or an accrediting
19 association approved by the Board pursuant to Section
20 3-104 of Title 70 of the Oklahoma Statutes, or

21 d. scholarships to an eligible public higher education
22 institution student to cover all or part of the
23 tuition and fees for undergraduate courses at an
24

1 institution authorized by the Oklahoma State Regents
2 for Higher Education;

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

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

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

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

16 14. "Educational improvement grant organization" means an
17 organization which:

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

21 b. contributes at least ninety percent (90%) of its
22 annual receipts as grants to eligible schools for
23 innovative educational programs. For purposes of this
24 subparagraph, an educational improvement grant

1 organization contributes its annual cash receipts when
2 it expends or otherwise irrevocably encumbers those
3 funds for expenditure during the then current fiscal
4 year of the organization or during the next succeeding
5 fiscal year of the organization; ~~and~~

6 15. "Eligible public school foundation" means a nonprofit
7 entity formed pursuant to the laws of this state and is exempt from
8 federal income taxation pursuant to either Section 501(c)(3) or
9 Section 509(a) of the Internal Revenue Code of 1986, as amended.
10 Each public school foundation ~~must~~ shall be approved by the local
11 board of education prior to accepting qualifying donations;

12 16. "Eligible public higher education institution student"
13 means a student who is enrolled in a public higher education
14 institution in the state, who is lawfully present in the United
15 States, and who is a member of a household in which the total annual
16 income during the preceding tax year does not exceed an amount equal
17 to three hundred percent (300%) of the income standard used to
18 qualify for a free or reduced-price school lunch; and

19 17. "Eligible higher education institution foundation" means a
20 nonprofit entity formed pursuant to the laws of this state that is
21 exempt from federal income taxation pursuant to either Section 501
22 (c)(3) or Section 509(a) of the Internal Revenue Code of 1986, as
23 amended, and is formed for the primary purpose of supporting a
24 public higher education institution. Each public higher education

1 institution foundation shall be approved by the governing board of
2 the higher education institution prior to accepting qualifying
3 donations.

4 ~~F.~~ 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, an educational
8 improvement grant organization, an eligible public school
9 foundation, ~~or a public school district,~~ or an eligible higher
10 education institution foundation which accepts contributions
11 pursuant to this section shall provide electronically to the Tax
12 Commission information on each contribution accepted during such
13 taxable year. At least once each taxable year, the entity making
14 the report shall notify each contributor that Oklahoma law provides
15 for a total, statewide cap on the amount of income tax credits
16 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 cap amount provided in paragraphs 1
22 and 2 of subsection ~~F~~ F of this section, the Tax
23 Commission shall first allocate any amount of credits
24 not claimed for contributions made to organizations

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

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

22 c. If the Tax Commission determines the total combined
23 credits claimed for contributions made to
24 organizations authorized pursuant to subsections C and

1 D of this section during the most recently completed
2 calendar year by all taxpayers are in excess of the
3 per public school district cap of Two Hundred Thousand
4 Dollars (\$200,000.00) pursuant to paragraph 4 of
5 subsection ~~E~~ F of this section, the Tax Commission
6 shall first allocate any amount of credits not claimed
7 for contributions made to other organizations
8 authorized pursuant to subsections C and D of this
9 section, then shall determine the percentage of the
10 contribution which establishes the proportionate share
11 of the credit which may be claimed by any taxpayer so
12 that the maximum credits authorized by this section
13 are not exceeded.

14 d. If the Tax Commission determines the total combined
15 credits claimed for contributions made to
16 organizations authorized pursuant to subsection E of
17 this section during the most recently completed
18 calendar year by all taxpayers are in excess of the
19 per higher education institution cap of Six Million
20 Dollars (\$6,000,000.00) pursuant to paragraph 5 of
21 subsection F of this section, the Tax Commission shall
22 first allocate any amount of credits not claimed for
23 contributions made to other organizations authorized
24 pursuant to subsection 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 e. Beginning for tax year 2016, credits earned, but not
7 allowed due to the application of statewide caps
8 provided in subsection ~~E~~ 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 organization authorized
17 pursuant to subsections B, C, ~~and D,~~ and E of this section shall
18 notify contributors of that amount annually.

19 ~~J.~~ K. No tax credits authorized by this section shall be used
20 to reduce the tax liability of the taxpayer to less than zero (0).

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

1 ~~H.~~ M. 1. In order to qualify under this section, each
2 organization authorized pursuant to subsections C ~~and~~, D, and E of
3 this section shall submit an application with information to the
4 Oklahoma Tax Commission on a form prescribed by the Tax Commission
5 that:

- 6 a. enables the Tax Commission to confirm that the
7 organization is a nonprofit entity exempt from
8 taxation pursuant to the provisions of the Internal
9 Revenue Code, 26 U.S.C., Section 501(c)(3) or Section
10 509(a), and
- 11 b. describes the proposed innovative educational program
12 or programs supported by the organization.

13 2. The Tax Commission shall review and approve or disapprove
14 the application, in consultation with the State Department of
15 Education or the Oklahoma State Regents for Higher Education.

16 3. In order to maintain eligibility under this section, an
17 organization authorized pursuant to subsections C and D of this
18 section shall annually report the following information to the Tax
19 Commission and publish on its website by September 1 of each year:

- 20 a. the name of the innovative educational program or
21 programs and the total amount of the grant or grants
22 made to those programs during the immediately
23 preceding school year,

24

- 1 b. a description of how each grant was utilized during
2 the immediately preceding school year and a
3 description of any demonstrated or expected innovative
4 educational improvements,
- 5 c. the names of the public school and school districts
6 where innovative educational programs that received
7 grants during the immediately preceding school year
8 were implemented,
- 9 d. where the organization collects information on a
10 county-by-county basis, and
- 11 e. the total number and total amount of grants made
12 during the immediately preceding school year for
13 innovative educational programs at public school by
14 each county in which the organization made grants.

15 4. In order to maintain eligibility under this section, an
16 organization authorized pursuant to subsection E of this section
17 shall annually report the following information to the Tax
18 Commission and publish on its website by September 1 of each year:

- 19 a. the name of the higher education institution
20 scholarship program or programs and the total amount
21 of funds distributed by the foundation through those
22 programs during the immediately preceding school year,

- 1 b. a description of how the scholarship funds were
2 utilized during the immediately preceding school year,
3 and
4 c. the total number and total amount of scholarships
5 granted during the immediately preceding school year.

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

12 ~~5.~~ 6. The Tax Commission shall not require any other
13 information be provided by an organization, except as expressly
14 authorized in this section.

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

- 21 a. the name and address of the scholarship-granting
22 organization,
23 b. the names of the qualifying schools that received
24 funding for educational scholarships, the total amount

1 of funds paid to each qualifying school, and the total
2 number of scholarship recipients enrolled in each
3 qualifying school,

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

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

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

14 (1) low-income eligible students,

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

21 (3) eligible special needs students, and

22 (4) students who were first-time recipients of a
23 scholarship including information about the type
24 of public or private school the student was

1 enrolled in during the entire previous academic
2 year,

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

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

17 h. the percentage of the total amount of education
18 scholarship expenditures spent on low-income eligible
19 students.

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

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

24 b. a list of participating schools, and

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

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

9 ~~N.~~ O. Contributions made pursuant to subsections B, C, and D of
10 this section shall not be used by the Legislature to reduce the
11 amount appropriated for the financial support of public schools.

12 ~~Q.~~ P. In consultation with the State Department of Education
13 and the Oklahoma State Regents for Higher Education, the Tax
14 Commission shall promulgate rules necessary to implement the
15 Oklahoma Equal Opportunity Education Scholarship Act. The rules
16 shall include procedures for the registration of a scholarship-
17 granting organization, an educational improvement grant
18 organization, a public school foundation, ~~or~~ public school district,
19 or public higher education institution foundation for purposes of
20 determining if the organization meets the requirements of the
21 Oklahoma Equal Opportunity Education Scholarship Act or for the
22 revocation of the registration of an organization, if applicable,
23 and for notice as required in subsection ~~F~~ J of this section.

1 SECTION 2. It being immediately necessary for the preservation
2 of the public peace, health or safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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