

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 2318

By: McBride

COMMITTEE SUBSTITUTE

[scholarships - Oklahoma Equal Opportunity Education
Scholarship Act - higher education institution
foundations - tax credits -
emergency]

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 2357.206, as
amended by Section 1, Chapter 49, O.S.L. 2022 (68 O.S. Supp. 2022,
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".

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

1 The credit shall be equal to fifty percent (50%) of the total
2 amount of contributions made during a taxable year, not to exceed
3 One Thousand Dollars (\$1,000.00) for single individuals, Two
4 Thousand Dollars (\$2,000.00) for married individuals filing jointly,
5 or One Hundred Thousand Dollars (\$100,000.00) for any taxpayer which
6 is a legal business entity including limited and general
7 partnerships, corporations, subchapter S corporations and limited
8 liability companies, plus any suspended credits pursuant to
9 subparagraph d e of paragraph 2 of subsection F J of this section;
10 provided, if total credits claimed pursuant to this paragraph exceed
11 the cap amount established pursuant to paragraphs 1 and 2 of
12 subsection F 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 F J of this section.

15 2. For any taxpayer who makes a contribution to an eligible
16 scholarship-granting organization and makes a written commitment to
17 contribute the same amount for an additional year, the credit for
18 the first year and the additional year shall be equal to seventy-
19 five percent (75%) of the total amount of the contribution made
20 during a taxable year, not to exceed the amounts established in
21 paragraph 1 of this subsection for the taxable year in which the
22 credit provided in this subsection is claimed. The taxpayer shall
23 provide evidence of the written commitment to the Oklahoma Tax
24 Commission at the time of filing the refund claim.

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 two (2) years
17 thereafter, such scholarship-granting organization and educational
18 improvement grant organization shall electronically submit to the
19 Oklahoma Tax Commission, the Governor, President Pro Tempore of the
20 Oklahoma State Senate, the Speaker of the Oklahoma House of
21 Representatives, and the chairs and vice chairs of the education
22 committees of the Senate and House of Representatives an audited
23 financial statement for the organization along with information
24 detailing the benefits, successes, or failures of the program, and

1 make publicly available on its website the financial statement and
2 information submitted pursuant to this paragraph.

3 C. 1. Except as provided in subsection G H of this section,
4 after August 26, 2011, there shall be allowed a credit for any
5 taxpayer who makes a contribution to an eligible educational
6 improvement grant organization. Except as otherwise provided by
7 paragraph 2 of this subsection, the credit shall be equal to fifty
8 percent (50%) of the total amount of contributions made during a
9 taxable year, not to exceed One Thousand Dollars (\$1,000.00) for
10 single individuals, Two Thousand Dollars (\$2,000.00) for married
11 individuals filing jointly, or One Hundred Thousand Dollars
12 (\$100,000.00) for any taxpayer which is a legal business entity
13 including limited and general partnerships, corporations, subchapter
14 S corporations and limited liability companies, plus any suspended
15 credits pursuant to subparagraph d e of paragraph 2 of subsection I
16 J of this section; provided, if total credits claimed pursuant to
17 this paragraph exceed the cap amount established pursuant to
18 paragraphs 3 and 4 of subsection E F of this section, the credit
19 shall be equal to the taxpayer's proportionate share of the cap for
20 the taxable year, as determined pursuant to subsection I J of this
21 section.

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

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

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

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

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

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

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

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

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

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

11 E. 1. For contributions made on or after January 1, 2024,
12 there shall be allowed a credit for any taxpayer who makes a
13 contribution to an eligible higher education institution foundation.
14 Except as otherwise provided by paragraph 2 of this subsection, the
15 credit shall be equal to fifty percent (50%) of the total amount of
16 contributions made during a taxable year, not to exceed One Thousand
17 Dollars (\$1,000.00) for single individuals, Two Thousand Dollars
18 (\$2,000.00) for married individuals filing jointly, or One Hundred
19 Thousand Dollars (\$100,000.00) for any taxpayer which is a legal
20 business entity including limited and general partnerships,
21 corporations, subchapter S corporations, and limited liability
22 companies; provided, if total credits claimed pursuant to this
23 paragraph exceed the cap amount established pursuant to paragraph 4
24 of subsection F 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 J of this section.

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

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

1 with required schedules, forms, or reports of the partners,
2 shareholders, members, or other equity owners of the taxpayer. Tax
3 credits which are allocated to such equity owners shall only be
4 limited in amount for the income tax return of a natural person or
5 persons based upon the limitation of the total credit amount to the
6 entity from which the tax credits have been allocated and shall not
7 be limited to One Thousand Dollars (\$1,000.00) for single
8 individuals or limited to Two Thousand Dollars (\$2,000.00) for
9 married persons filing a joint return.

10 4. On or before April 30, 2026, and once every four (4) years
11 thereafter, each eligible higher education institution foundation
12 shall submit to the Oklahoma Tax Commission, the Governor, President
13 Pro Tempore of the Oklahoma State Senate, and the Speaker of the
14 Oklahoma House of Representatives an audited financial statement for
15 the foundation along with information detailing the benefits,
16 successes, or failures of the program.

17 F. Except as otherwise provided pursuant to subsection ¶ J of
18 this section:

19 1. The total credits authorized pursuant to subsection B of
20 this section for all taxpayers for tax years 2017 through 2021 shall
21 not exceed Three Million Five Hundred Thousand Dollars
22 (\$3,500,000.00) annually;

23 2. The total credits authorized pursuant to subsection B of
24 this section for all taxpayers for tax years 2022 and subsequent tax

1 years shall not exceed Twenty-five Million Dollars (\$25,000,000.00)
2 annually;

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

7 4. The total credits authorized pursuant to subsections C and D
8 of this section for all taxpayers for tax year 2022 and subsequent
9 tax years shall not exceed Twenty-five Million Dollars
10 (\$25,000,000.00) annually. ~~In~~ Except as otherwise provided pursuant
11 to subparagraph c of paragraph 2 of subsection J of this section, in
12 addition to the cap amount prescribed by this paragraph, the credit
13 amount shall also be limited to Two Hundred Thousand Dollars
14 (\$200,000.00) of credits per public school district annually; and

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

23
24

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

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

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

23 ~~H.~~ I. As used in this section:
24

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

17 2. "Eligible special needs student" means a child who has been
18 provided services under an Individualized Family Service Plan
19 through the SoonerStart program and during transition was evaluated
20 and determined to be eligible for school district services, a child
21 of school age who has attended public school in our state with an
22 individualized education program pursuant to the Individuals With
23 Disabilities Education Act, 20 U.S.C.A., Section 1400 et seq., or a
24 child who has been diagnosed by a clinical professional as having a

1 significant disability that will affect learning and who has been
2 approved by the board of a scholarship-granting organization;

3 3. "Educational scholarships" means:

- 4 a. scholarships to an eligible student of up to Five
5 Thousand Dollars (\$5,000.00) or eighty percent (80%)
6 of the statewide annual average per-pupil expenditure
7 as determined by the National Center for Education
8 Statistics, U.S. Department of Education, whichever is
9 greater, to cover all or part of the tuition, fees,
10 and transportation costs of a qualified school which
11 is 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 b. 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 the educational costs of a qualified
20 school which does not charge tuition, which enrolls
21 special populations of students, and which is
22 accredited by the State Board of Education or an
23 accrediting association approved by the Board pursuant
24

1 to Section 3-104 of Title 70 of the Oklahoma Statutes,

2 ~~or~~

3 c. scholarships to an eligible special needs student of
4 up to Twenty-five Thousand Dollars (\$25,000.00) to
5 cover all or part of the tuition, fees, and
6 transportation costs of a qualified school for
7 eligible special needs students which is accredited by
8 the State Board of Education or an accrediting
9 association approved by the Board pursuant to Section
10 3-104 of Title 70 of the Oklahoma Statutes, or

11 d. scholarships to an eligible public higher education
12 institution student to cover all or part of the
13 tuition and fees for undergraduate courses at an
14 institution authorized by the Oklahoma State Regents
15 for Higher Education;

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

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

- 1 a. is accredited by the State Board of Education or an
2 accrediting association approved by the Board pursuant
3 to Section 3-104 of Title 70 of the Oklahoma Statutes,
4 b. is in compliance with all applicable health and safety
5 laws and codes,
6 c. has a stated policy against discrimination in
7 admissions on the basis of race, color, national
8 origin, or disability, and
9 d. ensures academic accountability to parents and
10 guardians of students through regular progress
11 reports;

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

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

- 19 a. is a nonprofit entity exempt from taxation pursuant to
20 the provisions of the Internal Revenue Code, 26
21 U.S.C., Section 501(c)(3),
22 b. distributes periodic scholarship payments as checks
23 made out to an eligible student's or eligible special
24

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

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

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

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

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

15 10. "Eligible public school district" means any public school;

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

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

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

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

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

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

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

22 15. "Eligible public school foundation" means a nonprofit
23 entity formed pursuant to the laws of this state and is exempt from
24 federal income taxation pursuant to either Section 501(c)(3) or

1 Section 509(a) of the Internal Revenue Code of 1986, as amended.
2 Each public school foundation ~~must~~ shall be approved by the local
3 board of education prior to accepting qualifying donations;

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

11 17. "Eligible higher education institution foundation" means a
12 nonprofit entity formed pursuant to the laws of this state that is
13 exempt from federal income taxation pursuant to either Section 501
14 (c) (3) or Section 509(a) of the Internal Revenue Code of 1986, as
15 amended, and is formed for the primary purpose of supporting a
16 public higher education institution. Each public higher education
17 institution foundation shall be approved by the governing board of
18 the higher education institution prior to accepting qualifying
19 donations.

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

22 1. By January 10 of the year immediately following each
23 calendar year, a scholarship-granting organization, an educational
24 improvement grant organization, an eligible public school

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

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

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

1 organizations authorized pursuant to subsections C
2 ~~and~~, D, and E of this section during the most recently
3 completed calendar year by all taxpayers are in excess
4 of the statewide cap amount provided in paragraphs 3
5 ~~and~~, 4, and 5 of subsection ~~E~~ F of this section, the
6 Tax Commission shall first allocate any amount of
7 credits not claimed for contributions made to
8 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 and
17 D of this section during the most recently completed
18 calendar year by all taxpayers are in excess of the
19 per public school district cap of Two Hundred Thousand
20 Dollars (\$200,000.00) pursuant to paragraph 4 of
21 subsection ~~E~~ F of this section, the Tax Commission
22 shall first allocate any amount of credits not claimed
23 for contributions made to other organizations
24 authorized pursuant to subsections C and D of this

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

6 d. If the Tax Commission determines the total combined
7 credits claimed for contributions made to
8 organizations authorized pursuant to subsection E of
9 this section during the most recently completed
10 calendar year by all taxpayers are in excess of the
11 per higher education institution cap of Six Million
12 Dollars (\$6,000,000.00) pursuant to paragraph 5 of
13 subsection F of this section, the Tax Commission shall
14 first allocate any amount of credits not claimed for
15 contributions made to other organizations authorized
16 pursuant to subsection E of this section, 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 e. Beginning for tax year 2016, credits earned, but not
23 allowed due to the application of statewide caps
24 provided in subsection ~~E~~ F of this section will be

1 considered suspended and authorized to be used in the
2 next immediate tax year and applied to the next year's
3 statewide cap; and

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

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

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

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

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

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

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

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

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

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

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

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

24

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

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

- 11 a. the name of the higher education institution
12 scholarship program or programs and the total amount
13 of funds distributed by the foundation through those
14 programs during the immediately preceding school year,
- 15 b. a description of how the scholarship funds were
16 utilized during the immediately preceding school year,
17 and
- 18 c. the total number and total amount of scholarships
19 granted during the immediately preceding school year.

20 5. The information required under ~~paragraph~~ paragraphs 3 and 4
21 of this subsection shall be submitted on a form provided by the Tax
22 Commission. No later than May 1 of each year, the Tax Commission
23 shall annually distribute sample forms together with the forms on
24

1 which the reports are required to be made to each approved
2 organization.

3 ~~5.~~ 6. The Tax Commission shall not require any other
4 information be provided by an organization, except as expressly
5 authorized in this section.

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

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

1 e. the total number, total dollar amount, and percentage
2 of educational scholarships awarded and funded during
3 the previous academic year disaggregated into the
4 following categories:

5 (1) low-income eligible students,

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

12 (3) eligible special needs students, and

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

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

22 g. disaggregated data reported under this subsection
23 shall be redacted if reporting would allow for
24 identification of specific children, and shall be

1 reported in accordance with the Student Data
2 Accessibility, Transparency and Accountability Act of
3 2013, ~~division~~ subparagraph b of ~~subparagraph~~
4 paragraph 2 of subsection C of Section 3-168 of Title
5 70 of the Oklahoma Statutes, and the Family
6 Educational Rights and Privacy Act of 1974 (FERPA), 20
7 U.S.C., Section 1232g, and

8 h. the percentage of the total amount of education
9 scholarship expenditures spent on low-income eligible
10 students.

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

12 a. the information submitted by the scholarship-granting
13 organization pursuant to paragraph 1 of this
14 subsection,

15 b. a list of participating schools, and

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

20 3. A scholarship-granting organization shall annually submit
21 verification to the Tax Commission that the organization still meets
22 the criteria set forth in paragraph 7 of subsection # I of this
23 section.

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

4 ~~Q.~~ P. In consultation with the State Department of Education
5 and the Oklahoma State Regents for Higher Education, the Tax
6 Commission shall promulgate rules necessary to implement the
7 Oklahoma Equal Opportunity Education Scholarship Act. The rules
8 shall include procedures for the registration of a scholarship-
9 granting organization, an educational improvement grant
10 organization, a public school foundation, ~~or~~ public school district,
11 or public higher education institution foundation for purposes of
12 determining if the organization meets the requirements of the
13 Oklahoma Equal Opportunity Education Scholarship Act or for the
14 revocation of the registration of an organization, if applicable,
15 and for notice as required in subsection ~~I~~ J of this section.

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

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21 59-1-7956 JM 03/03/23

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