

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 2133

By: Steele

4  
5 AS INTRODUCED

6  
7 An act relating to revenue and taxation; creating  
8 Educational Improvement Act; creating income tax  
9 credits; limiting amount of credits; capping total  
10 amount of credits; defining terms; prohibiting  
11 refund; requiring educational innovation  
12 organizations to submit an application; specifying  
13 content of application; authorizing the Oklahoma Tax  
14 Commission to consult with certain state agency;  
15 providing for review of applications; requiring  
16 organizations to submit an annual report; specifying  
17 contents of the annual report; directing the  
18 Commission to distribute certain forms; prohibiting  
19 additional information; creating Educational  
20 Improvement Act Fund; providing for deposit of  
21 revenues; prescribing procedures; providing for  
22 refund claim process; imposing limitation upon  
23 payment of claims until specified period; allowing  
24 carryover; providing for recapture; requiring  
promulgation of rules; providing for codification;  
and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 2357.206 of Title 68, unless  
there is created a duplication in numbering, reads as follows:

A. This section shall be known and may be cited as the  
"Educational Improvement Act".

1           B. 1. For tax years beginning after December 31, 2011, there  
2 shall be allowed against the tax imposed by Section 2355 of Title 68  
3 of the Oklahoma Statutes a credit for any taxpayer who makes a  
4 contribution to an eligible educational improvement grant  
5 organization or educational improvement scholarship organization.  
6 The credit authorized by this paragraph shall be equal to fifty  
7 percent (50%) of the total amount of contributions made during a  
8 taxable year, not to exceed an amount which is equal to fifty  
9 percent (50%) of the total tax liability of the taxpayer for the  
10 taxable year in which the credit provided in this paragraph is  
11 claimed.

12           2. For tax years beginning after December 31, 2011, there shall  
13 be allowed against the tax imposed by Section 2355 of Title 68 of  
14 the Oklahoma Statutes a credit for any taxpayer who makes a  
15 contribution to an eligible educational improvement grant  
16 organization or educational improvement scholarship organization and  
17 makes a written commitment to contribute the same amount for two (2)  
18 additional consecutive years. The credit authorized by this  
19 paragraph shall be equal to seventy-five percent (75%) of the total  
20 amount of contributions made during each taxable year, not to exceed  
21 an amount which is equal to seventy-five percent (75%) of the total  
22 tax liability of the taxpayer for the taxable year in which the  
23 credit provided in this paragraph is claimed. The taxpayer shall  
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1 provide evidence of the written commitment to the Oklahoma Tax  
2 Commission at the time of filing the refund claim.

3 3. The total of the credits authorized by this subsection shall  
4 not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00)  
5 annually, to be allocated by the Oklahoma Tax Commission on a first-  
6 come, first-served basis.

7 C. As used in this section:

8 1. "Early childhood education programs" means a program  
9 provided to children who are at least four (4) years of age but not  
10 more than five (5) years of age on or before September 1;

11 2. "Educational improvement grant organization" means an  
12 organization which:

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

16 b. contributes at least eighty percent (80%) of its  
17 annual receipts as grants to teachers or public  
18 schools for innovative educational programs. For  
19 purposes of this subparagraph, an educational  
20 improvement organization contributes its annual cash  
21 receipts when it expends or otherwise irrevocably  
22 encumbers those funds for expenditure during the then  
23 current fiscal year of the organization or during the  
24 next succeeding fiscal year of the organization;

1           3. "Educational improvement scholarship 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. awards at least eighty percent (80%) of its annual  
7 receipts as scholarships to individual eligible  
8 students to enroll in or attend an innovative  
9 educational program operated by a school or in  
10 conjunction with a school located in this state. The  
11 award of scholarships to eligible students shall be  
12 made without limiting availability to only students of  
13 one school;

14           4. "Eligible student" means a student who is lawfully present  
15 in the United States and who is a member of a household whose total  
16 annual income during the preceding tax year does not exceed an  
17 amount equal to the income standard used to qualify for a free or  
18 reduced-price school lunch. Once a student meets the requirements  
19 of this paragraph, the student remains eligible regardless of  
20 household income until the student graduates high school or reaches  
21 twenty-one (21) years of age, whichever occurs first;

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

1 academic program of the school, provides private academic  
2 instruction or provides early childhood education programs to  
3 students; and

4 6. "Public school" means public schools as defined in Section  
5 1-106 of Title 70 of the Oklahoma Statutes.

6 D. 1. In order to qualify under this section, an educational  
7 improvement grant organization or educational improvement  
8 scholarship organization shall submit an application with  
9 information to the Oklahoma Tax Commission on a form prescribed by  
10 the Commission that:

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

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

17 2. The Commission shall consult with the State Department of  
18 Education as necessary.

19 3. The Commission shall review and approve or disapprove the  
20 application.

21 4. In order to maintain eligibility under this section, an  
22 educational improvement grant organization shall annually report the  
23 following information to the Commission by September 1 of each year:

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

19 5. In order to maintain eligibility under this section, an  
20 educational improvement scholarship organization shall annually  
21 report the following information to the Commission by September 1 of  
22 each year:  
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- a. the number of scholarships awarded during the immediately preceding school year to eligible students,
- b. the total and average amounts of the scholarships awarded during the immediately preceding school year to eligible students,
- c. the number of scholarships and the total and average amounts of the scholarships awarded during the immediately preceding school year to eligible students in kindergarten through the eighth grade,
- d. the number of scholarships and the total and average amounts of the scholarships awarded during the immediately preceding school year to eligible students in the ninth grade through twelfth grade, and
- e. where the organization collects information on a county-by-county basis.

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

7. The Commission shall not require any other information be provided by an organization, except as expressly authorized in this section.

1 E. There is hereby created within the State Treasury a special  
2 fund for the Oklahoma Tax Commission to be designated the  
3 "Educational Improvement Act Fund". The Oklahoma Tax Commission is  
4 hereby authorized and directed to withhold a portion of the taxes  
5 levied and collected pursuant to Section 2355 of Title 68 of the  
6 Oklahoma Statutes for deposit into the fund. The amount deposited  
7 shall be appropriate to pay the claims for the credit provided in  
8 subsection B of this section. All of the amounts deposited in such  
9 fund shall be used and expended by the Oklahoma Tax Commission  
10 solely for the purpose of payment of the credits authorized by  
11 subsection B of this section. The liability of the State of  
12 Oklahoma to make the credit payments under subsection B of this  
13 section shall be limited to the balance contained in the fund  
14 created by this section. Provided, no claim for credit may be paid  
15 by the Tax Commission before July 1, 2012.

16 F. The credit provided in subsection B of this section shall be  
17 perfected by a refund claim filed by the taxpayer who shall provide  
18 evidence of the contribution satisfactory to the Oklahoma Tax  
19 Commission. The Tax Commission shall provide the necessary forms  
20 and instructions to taxpayers electing to make a refund claim as  
21 provided herein.

22 G. If an individual claims a credit under this section and  
23 later has any of the contributions made to an eligible educational  
24 improvement grant organization or eligible educational improvement

1 scholarship organization for which the credit was claimed returned,  
2 then the individual shall be required to add to the Oklahoma income  
3 tax liability of the individual the amount of the credit claimed  
4 pursuant to this section the following taxable year.

5 H. The Tax Commission shall promulgate rules necessary to  
6 implement this section.

7 SECTION 2. This act shall become effective January 1, 2012.

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