

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 2643

By: Denney of the House

and

Halligan of the Senate

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5
6
7 An Act relating to revenue and taxation; ***;
8 modifying provisions related to allocation of tax
9 credits; providing for increase in certain tax
10 credits related to scholarship-granting
11 organizations; ***; prescribing method for allocation
of tax credits; modifying provisions related to
computation of per-pupil expenditures; and providing
an effective date.

12 AUTHOR: Change the primary Senate Author to Newberry
13 and retain Halligan as Coauthor

14 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
15 entire bill and insert

16 "An Act relating to revenue and taxation; amending 68
17 O.S. 2011, Section 2357.206, which relates to the
18 Oklahoma Equal Opportunity Education Scholarship Act;
19 updating reference; providing for expiration of
20 credit after specified date; authorizing specified
21 entities to claim credit; deleting certain caps on
22 total credit allowed; providing specified credit
23 amount for taxpayer making certain commitment;
24 providing for allocation of tax credits based upon
entities treated as partnerships for purposes of
federal income taxation and providing for exclusion
from certain limit; setting limit on total credits
authorized; modifying definition; modifying method
for allocation of tax credits by Oklahoma Tax
Commission; deleting provisions related to certain
allocation of credits; and providing an effective
date.

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

2 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.206, is
3 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 E of this section,
7 after ~~the effective date of this act~~ August 26, 2011, and before
8 January 1, 2017, there shall be allowed a credit for any taxpayer
9 who makes a contribution to an eligible scholarship-granting
10 organization. The credit shall be equal to fifty percent (50%) of
11 the total amount of contributions made during a taxable year, not to
12 exceed 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; provided, if total credits claimed pursuant to
18 this paragraph exceed the caps established pursuant to paragraph 2
19 of this subsection, the credit shall be equal to the taxpayer's
20 proportionate share of the cap for the taxable year, as determined
21 pursuant to subsection G of this section.

22 2. a. ~~The total credits authorized by paragraph 1 of this~~
23 ~~subsection for all single individuals and married~~
24 ~~individuals filing jointly shall not exceed One~~

1 ~~Million Seven Hundred Fifty Thousand Dollars~~
2 ~~(\$1,750,000.00) annually.~~

3 ~~b. The total credits authorized by paragraph 1 of this~~
4 ~~subsection for all other taxpayers not subject to~~
5 ~~subparagraph a of this paragraph shall not exceed One~~
6 ~~Million Seven Hundred Fifty Thousand Dollars~~
7 ~~(\$1,750,000.00) annually.~~

8 ~~c. Each cap on total credits as provided for in this~~
9 ~~paragraph shall be allocated by the Oklahoma Tax~~
10 ~~Commission as provided in subsection C of this~~
11 ~~section.~~

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

22 3. The credits authorized pursuant to the provisions of this
23 subsection shall be allocable to the partners, shareholders, members
24 or other equity owners of a taxpayer that is authorized to be

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

13 C. 1. Except as provided in subsection ~~E~~ F of this section,
14 after ~~the effective date of this act~~ August 26, 2011, and before
15 January 1, 2017, there shall be allowed a credit for any taxpayer
16 who makes a contribution to an eligible educational improvement
17 grant organization. The credit shall be equal to fifty percent
18 (50%) of the total amount of contributions made during a taxable
19 year, not to exceed One Thousand Dollars (\$1,000.00) for single
20 individuals, Two Thousand Dollars (\$2,000.00) for married
21 individuals filing jointly, or One Hundred Thousand Dollars
22 (\$100,000.00) for any taxpayer which is a legal business entity
23 including limited and general partnerships, corporations, subchapter
24 S corporations and limited liability companies; provided, if total

1 credits claimed pursuant to this paragraph exceed the cap
2 established pursuant to paragraph 3 of this subsection, the credit
3 shall be equal to the taxpayer's proportionate share of the cap for
4 the taxable year, as determined pursuant to subsection G of this
5 section.

6 2. For any taxpayer who makes a contribution to an eligible
7 educational improvement grant organization and makes a written
8 commitment to contribute the same amount for two (2) additional
9 consecutive years the credit shall be equal to seventy-five percent
10 (75%) of the total amount of the contribution established in
11 paragraph 1 of this subsection, not to exceed the amounts
12 established in paragraph 1 of this subsection for the taxable year
13 in which the credit provided in this subsection is claimed;
14 provided, if total credits claimed pursuant to this paragraph exceed
15 the cap established pursuant to paragraph 3 of this subsection, the
16 credit shall be equal to the taxpayer's proportionate share of the
17 cap for the taxable year, as determined pursuant to subsection G of
18 this section. The taxpayer shall provide evidence of the written
19 commitment to the Oklahoma Tax Commission at the time of filing the
20 refund claim.

21 3. a. ~~The total credits authorized by paragraph 1 of this~~
22 ~~subsection for all single individuals, married~~
23 ~~individuals filing jointly and for all other taxpayers~~

24

1 ~~shall not exceed One Million Five Hundred Thousand~~
2 ~~Dollars (\$1,500,000.00) annually.~~

3 ~~b. The cap on total credits as provided for in this~~
4 ~~paragraph shall be allocated by the Oklahoma Tax~~
5 ~~Commission as provided in subsection C of this~~
6 ~~section.~~

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

22 D. 1. The total credits authorized pursuant to subsection B of
23 this section for all taxpayers shall not exceed Three Million Five
24 Hundred Thousand Dollars (\$3,500,000.00) annually.

1 2. The total credits authorized pursuant to subsection C of
2 this section for all taxpayers shall not exceed One Million Five
3 Hundred Thousand Dollars (\$1,500,000.00) annually.

4 3. The cap on total credits provided for in this subsection
5 shall be allocated by the Tax Commission as provided in subsection H
6 of this section.

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

19 ~~E.~~ F. Any tax credits which are earned by a taxpayer pursuant
20 to this section during the time period beginning on the effective
21 date of this act through December 31, 2012, may not be claimed for
22 any period prior to the taxable year beginning January 1, 2013. No
23 credits which accrue during the time period beginning on the
24 effective date of this act through December 31, 2012, may be used to

1 file an amended tax return for any taxable year prior to the taxable
2 year beginning January 1, 2013.

3 ~~F.~~ G. As used in this section:

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

19 2. "Eligible special needs student" means a child of school age
20 who has attended public school in our state with an individualized
21 education program pursuant to the Individuals With Disabilities
22 Education Act, 20 U.S.C.A., Section 1400 et seq.;

23 3. "Educational scholarships" means:
24

1 a. scholarships to an eligible student of up to Five
2 Thousand Dollars (\$5,000.00) or eighty percent (80%)
3 of the statewide annual average per-pupil expenditure
4 ~~in the school district where the recipient student~~
5 ~~resides~~ as determined by the National Center for
6 Education Statistics, U.S. Department of Education,
7 whichever is greater, to cover all or part of the
8 tuition, fees and transportation costs of a qualified
9 school which is accredited by the State Board of
10 Education or an accrediting association approved by
11 the Board pursuant to Section 3-104 of Title 70 of the
12 Oklahoma Statutes, or

13 b. 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;

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

1 5. "Qualified school" means an elementary or secondary private
2 school in this state, including schools which provide
3 prekindergarten educational programs for four-year-olds, which:

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

15 6. "Qualified school for eligible special needs students" means
16 an elementary or secondary private school in a county in this state;

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 school" means any public school that is not
16 located within a ten-mile radius of a qualified school in this
17 state, or any public school that is located within a ten-mile radius
18 of a qualified school in this state but offers grade-level
19 instruction different from the qualified school or any public school
20 located within a public school district with fewer than four
21 thousand five hundred (4,500) students;

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

1 12. "Innovative educational program" means an advanced academic
2 or academic improvement program that is not part of the regular
3 coursework of a public school but that enhances the curriculum or
4 academic program of the school or provides early childhood education
5 programs to students;

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

11 14. "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 ninety percent (90%) of its
17 annual receipts as grants to eligible schools for
18 innovative educational programs. For purposes of this
19 subparagraph, an educational improvement grant
20 organization contributes its annual cash receipts when
21 it expends or otherwise irrevocably encumbers those
22 funds for expenditure during the then current fiscal
23 year of the organization or during the next succeeding
24 fiscal year of the organization.

1 ~~G.~~ H. Total credits authorized by this section shall be
2 allocated as follows:

3 1. By January 10 of the year immediately following each
4 calendar year, a scholarship-granting organization or an educational
5 improvement grant organization which accepts contributions pursuant
6 to this section shall provide electronically to the Tax Commission
7 information on each contribution accepted during such taxable year.
8 At least once each taxable year, the scholarship-granting
9 organization or the educational improvement grant organization shall
10 notify each contributor that Oklahoma law provides for a total,
11 statewide cap on the amount of income tax credits allowed annually;

12 2. a. If the Tax Commission determines the total combined
13 credits claimed for contributions made to scholarship-
14 granting organizations during the most recently
15 completed calendar year by all ~~single individual~~
16 ~~taxpayers and married individuals filing jointly~~ are
17 in excess of ~~One Million Seven Hundred Fifty Thousand~~
18 ~~Dollars (\$1,750,000.00), plus any additional amount~~
19 ~~allocated pursuant to subsection H of this section,~~
20 the statewide caps provided in paragraph 1 of
21 subsection D of this section, the Tax Commission shall
22 determine the percentage of the contribution which
23 establishes the proportionate share of the credit
24 which may be claimed by any taxpayer so that the

1 maximum credits authorized by ~~subparagraph a of~~
2 ~~paragraph 2 of subsection B of this section~~ are not
3 exceeded.

4 b. ~~If the Tax Commission determines the total combined~~
5 ~~credits claimed for contributions made to scholarship-~~
6 ~~granting organizations during the most recently~~
7 ~~completed calendar year by all taxpayers not subject~~
8 ~~to subparagraph a of this paragraph are in excess of~~
9 ~~One Million Seven Hundred Fifty Thousand Dollars~~
10 ~~(\$1,750,000.00), plus any additional amount allocated~~
11 ~~pursuant to subsection H of this section, the Tax~~
12 ~~Commission shall determine the percentage of the~~
13 ~~contribution which establishes the proportionate share~~
14 ~~of the credit which may be claimed by any taxpayer so~~
15 ~~that the maximum credits authorized by subparagraph b~~
16 ~~of paragraph 2 of subsection B of this section are not~~
17 ~~exceeded.~~

18 e. ~~If the Tax Commission determines the total combined~~
19 ~~credits claimed for contributions made to educational~~
20 ~~improvement grant organizations during the most~~
21 ~~recently completed calendar year by all single~~
22 ~~individual taxpayers, married individuals filing~~
23 ~~jointly and all other taxpayers are in excess of One~~
24 ~~Million Five Hundred Thousand Dollars (\$1,500,000.00),~~

1 ~~plus any additional amount allocated pursuant to~~
2 ~~subsection H of this section, the statewide caps~~
3 ~~provided in paragraph 2 of subsection D of this~~
4 ~~section, the Tax Commission shall determine the~~
5 percentage of the contribution which establishes the
6 proportionate share of the credit which may be claimed
7 by any taxpayer so that the maximum credits authorized
8 by ~~subparagraph a of paragraph 3 of subsection C of~~
9 this section are not exceeded; and

10 3. The Tax Commission shall publish the percentage of the
11 contribution which may be claimed as a credit by contributors for
12 the most recently completed calendar year on the Tax Commission
13 website no later than February 15 of each calendar year for
14 contributions made the previous year. Each scholarship-granting
15 organization or educational improvement grant organization shall
16 notify contributors of that amount annually.

17 ~~H. I. The provisions of this subsection shall be applicable~~
18 ~~with respect to any calendar year for which any one of the tax~~
19 ~~credit pools is fully utilized and for which one or both of the~~
20 ~~remaining tax credit pool amounts are not fully utilized.~~

21 ~~1. If for any calendar year there is any amount of available~~
22 ~~credit remaining pursuant to the provisions of paragraph 2 of~~
23 ~~subsection G of this section, and only one of the other tax credit~~
24 ~~pools has been fully utilized, the remaining amount from the tax~~

1 ~~credit pool which was not fully utilized shall be allocated to and~~
2 ~~added to the total tax credit pool amount for the other tax credit.~~

3 ~~2. If for any calendar year there is any amount of available~~
4 ~~credit remaining pursuant to the provisions of paragraph 2 of~~
5 ~~subsection G of this section, and the other two tax credit pools~~
6 ~~have both been fully utilized, the remaining amount from the tax~~
7 ~~credit pool which was not fully utilized shall be divided by the~~
8 ~~whole number two (2) and the resulting amount shall be allocated to~~
9 ~~and added to the amount of available tax credits for each of the~~
10 ~~other tax credit pools.~~

11 ~~I.~~ The credit authorized by this section shall not be used to
12 reduce the tax liability of the taxpayer to less than zero (0).

13 J. Any credits allowed but not used in any tax year may be
14 carried over, in order, to each of the three (3) years following the
15 year of qualification.

16 K. 1. In order to qualify under this section, an educational
17 improvement grant organization shall submit an application with
18 information to the Oklahoma Tax Commission on a form prescribed by
19 the Tax Commission that:

20 a. enables the Tax Commission to confirm that the
21 organization is a nonprofit entity exempt from
22 taxation pursuant to the provisions of the Internal
23 Revenue Code, 26 U.S.C., Section 501(c)(3), and

24

1 b. describes the proposed innovative educational program
2 or programs supported by the organization.

3 2. The Tax Commission shall review and approve or disapprove
4 the application, in consultation with the State Department of
5 Education.

6 3. In order to maintain eligibility under this section, an
7 educational improvement grant organization shall annually report the
8 following information to the Tax Commission by September 1 of each
9 year:

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

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

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

22 d. where the organization collects information on a
23 county-by-county basis, and
24

1 e. the total number and total amount of grants made
2 during the immediately preceding school year for
3 innovative educational programs at public school by
4 each county in which the organization made grants.

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

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

14 L. In consultation with the State Department of Education, the
15 Tax Commission shall promulgate rules necessary to implement this
16 act. The rules shall include procedures for the registration of a
17 scholarship-granting organization or an educational improvement
18 grant organization for purposes of determining if the organization
19 meets the requirements of this act, or for the revocation of the
20 registration of an organization, if applicable, and for notice as
21 required in subsection G of this section.

22 SECTION 2. This act shall become effective January 1, 2015."
23
24

1 ENGROSSED HOUSE
2 BILL NO. 2643

By: Denney of the House

3 and

4 Halligan of the Senate

5
6
7 An Act relating to revenue and taxation; amending 68
8 O.S. 2011, Section 2357.206, which relates to the
9 Oklahoma Equal Opportunity Education Scholarship Act;
10 modifying provisions related to reduction of tax
11 credit amounts; modifying provisions related to
12 allocation of tax credits; providing for increase in
13 certain tax credits related to scholarship-granting
14 organizations; providing for allocation of tax
15 credits based upon entities treated as partnerships
16 for purposes of federal income taxation; providing
17 for maximum credits available; prescribing method for
18 allocation of tax credits; modifying provisions
19 related to computation of per-pupil expenditures; and
20 providing an effective date.

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

22 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2357.206, is
23 amended to read as follows:

24 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 E of this section,
after the effective date of this act, there shall be allowed a
credit for any taxpayer who makes a contribution to an eligible
scholarship-granting organization. The credit shall be equal to

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

13 2. a. ~~The total credits authorized by paragraph 1 of this~~
14 ~~subsection for all single individuals and married~~
15 ~~individuals filing jointly shall not exceed One~~
16 ~~Million Seven Hundred Fifty Thousand Dollars~~
17 ~~(\$1,750,000.00) annually.~~

18 b. ~~The total credits authorized by paragraph 1 of this~~
19 ~~subsection for all other taxpayers not subject to~~
20 ~~subparagraph a of this paragraph shall not exceed One~~
21 ~~Million Seven Hundred Fifty Thousand Dollars~~
22 ~~(\$1,750,000.00) annually.~~

23 c. ~~Each cap on total credits as provided for in this~~
24 ~~paragraph shall be allocated by the Oklahoma Tax~~

1 ~~Commission as provided in subsection G of this~~
2 ~~section.~~

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

13 3. The credits authorized pursuant to the provisions of this
14 subsection shall be allocable to the partners, shareholders, members
15 or other equity owners of a taxpayer that is authorized to be
16 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 C. 1. Except as provided in subsection ~~E~~ F of this section,
5 after the effective date of this act, there shall be allowed a
6 credit for any taxpayer who makes a contribution to an eligible
7 educational improvement grant organization. The credit shall be
8 equal to fifty percent (50%) of the total amount of contributions
9 made during a taxable year, not to exceed One Thousand Dollars
10 (\$1,000.00) for single individuals, Two Thousand Dollars (\$2,000.00)
11 for married individuals filing jointly, or One Hundred Thousand
12 Dollars (\$100,000.00) for any taxpayer which is a legal business
13 entity including limited and general partnerships, corporations,
14 Subchapter S corporations and limited liability companies; ~~provided,~~
15 ~~if total credits claimed pursuant to this paragraph exceed the cap~~
16 ~~established pursuant to paragraph 3 of this subsection, the credit~~
17 ~~shall be equal to the taxpayer's proportionate share of the cap for~~
18 ~~the taxable year, as determined pursuant to subsection C of this~~
19 ~~section.~~

20 2. For any taxpayer who makes a contribution to an eligible
21 educational improvement grant organization and makes a written
22 commitment to contribute the same amount for two (2) additional
23 consecutive years the credit shall be equal to seventy-five percent
24 (75%) of the total amount of the contribution established in

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

11 3. a. ~~The total credits authorized by paragraph 1 of this~~
12 ~~subsection for all single individuals, married~~
13 ~~individuals filing jointly and for all other taxpayers~~
14 ~~shall not exceed One Million Five Hundred Thousand~~
15 ~~Dollars (\$1,500,000.00) annually.~~

16 b. ~~The cap on total credits as provided for in this~~
17 ~~paragraph shall be allocated by the Oklahoma Tax~~
18 ~~Commission as provided in subsection C of this~~
19 ~~section.~~

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

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

11 D. 1. The total credits authorized pursuant to subsection B of
12 this section for all taxpayers shall not exceed Three Million Five
13 Hundred Thousand Dollars (\$3,500,000.00) annually. The cap on total
14 credits as provided for in this paragraph shall be allocated by the
15 Oklahoma Tax Commission on a first-come first-served basis using the
16 date upon which a tax return claiming a credit pursuant to
17 subsection B of this section is filed and using such order of
18 receipt as the Tax Commission may prescribe if two or more returns
19 are received on the same date.

20 2. The total credits authorized pursuant to subsection C of
21 this section for all taxpayers shall not exceed One Million Five
22 Hundred Thousand Dollars (\$1,500,000.00) annually. The cap on total
23 credits as provided for in this paragraph shall be allocated by the
24 Oklahoma Tax Commission on a first-come first-served basis using the

1 date upon which a tax return claiming a credit pursuant to
2 subsection C of this section is filed and using such order of
3 receipt as the Tax Commission may prescribe if two or more returns
4 are received on the same date.

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

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

1 ~~F.~~ G. As used in this section:

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

17 2. "Eligible special needs student" means a child of school age
18 who has attended public school in our state with an individualized
19 education program pursuant to the Individuals With Disabilities
20 Education Act, 20 U.S.C.A., Section 1400 et seq.;

21 3. "Educational scholarships" means:

- 22 a. scholarships to an eligible student of up to Five
23 Thousand Dollars (\$5,000.00) or eighty percent (80%)
24 of the statewide annual average per-pupil expenditure

1 ~~in the school district where the recipient student~~
2 ~~resides~~ as determined by the National Center for
3 Education Statistics, U.S. Department of Education,
4 whichever is greater, to cover all or part of the
5 tuition, fees and transportation costs of a qualified
6 school which is accredited by the State Board of
7 Education or an accrediting association approved by
8 the Board pursuant to Section 3-104 of Title 70 of the
9 Oklahoma Statutes, or

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

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

21 5. "Qualified school" means an elementary or secondary private
22 school in this state, including schools which provide
23 prekindergarten educational programs for four-year-olds, which:
24

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

6. "Qualified school for eligible special needs students" means an elementary or secondary private school in a county in this state;

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

- a. is a nonprofit entity exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
- b. distributes periodic scholarship payments as checks made out to an eligible student's or eligible special needs student's parent or guardian and mailed to the qualified school where the student is enrolled,
- c. spends no more than ten percent (10%) of its annual revenue on expenditures other than educational

1 scholarships as defined in paragraph 3 of this
2 subsection,

3 d. spends each year a portion of its expenditures on
4 educational scholarships for low-income eligible
5 students, as defined in paragraph 4 of this
6 subsection, in an amount equal to or greater than the
7 percentage of low-income eligible students in the
8 state,

9 e. ensures that scholarships are portable during the
10 school year and can be used at any qualified school
11 that accepts the eligible student or at any qualified
12 school for special needs students that accepts the
13 eligible special needs student,

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

16 g. has policies in place to:

17 (1) carry out criminal background checks on all
18 employees and board members to ensure that no
19 individual is involved with the organization who
20 might reasonably pose a risk to the appropriate
21 use of contributed funds, and

22 (2) maintain full and accurate records with respect
23 to the receipt of contributions and expenditures
24 of those contributions and supply such records

1 and any other documentation required by the Tax
2 Commission to demonstrate financial
3 accountability;

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

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

10 10. "Eligible school" means any public school that is not
11 located within a ten-mile radius of a qualified school in this
12 state, or any public school that is located within a ten-mile radius
13 of a qualified school in this state but offers grade-level
14 instruction different from the qualified school or any public school
15 located within a public school district with fewer than four
16 thousand five hundred (4,500) students;

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

20 12. "Innovative educational program" means an advanced academic
21 or academic improvement program that is not part of the regular
22 coursework of a public school but that enhances the curriculum or
23 academic program of the school or provides early childhood education
24 programs to students;

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

6 14. "Educational improvement grant organization" means an
7 organization which:

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

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

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

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

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

7 2. a. ~~If the Tax Commission determines the total combined~~
8 ~~credits claimed for contributions made to scholarship-~~
9 ~~granting organizations during the most recently~~
10 ~~completed calendar year by all single individual~~
11 ~~taxpayers and married individuals filing jointly are~~
12 ~~in excess of One Million Seven Hundred Fifty Thousand~~
13 ~~Dollars (\$1,750,000.00), plus any additional amount~~
14 ~~allocated pursuant to subsection H of this section,~~
15 ~~the Tax Commission shall determine the percentage of~~
16 ~~the contribution which establishes the proportionate~~
17 ~~share of the credit which may be claimed by any~~
18 ~~taxpayer so that the maximum credits authorized by~~
19 ~~subparagraph a of paragraph 2 of subsection B of this~~
20 ~~section are not exceeded.~~

21 b. ~~If the Tax Commission determines the total combined~~
22 ~~credits claimed for contributions made to scholarship-~~
23 ~~granting organizations during the most recently~~
24 ~~completed calendar year by all taxpayers not subject~~

1 ~~to subparagraph a of this paragraph are in excess of~~
2 ~~One Million Seven Hundred Fifty Thousand Dollars~~
3 ~~(\$1,750,000.00), plus any additional amount allocated~~
4 ~~pursuant to subsection H of this section, the Tax~~
5 ~~Commission shall determine the percentage of the~~
6 ~~contribution which establishes the proportionate share~~
7 ~~of the credit which may be claimed by any taxpayer so~~
8 ~~that the maximum credits authorized by subparagraph b~~
9 ~~of paragraph 2 of subsection B of this section are not~~
10 ~~exceeded.~~

11 ~~c. If the Tax Commission determines the total combined~~
12 ~~credits claimed for contributions made to educational~~
13 ~~improvement grant organizations during the most~~
14 ~~recently completed calendar year by all single~~
15 ~~individual taxpayers, married individuals filing~~
16 ~~jointly and all other taxpayers are in excess of One~~
17 ~~Million Five Hundred Thousand Dollars (\$1,500,000.00),~~
18 ~~plus any additional amount allocated pursuant to~~
19 ~~subsection H of this section, the Tax Commission shall~~
20 ~~determine the percentage of the contribution which~~
21 ~~establishes the proportionate share of the credit~~
22 ~~which may be claimed by any taxpayer so that the~~
23 ~~maximum credits authorized by subparagraph a of~~

1 ~~paragraph 3 of subsection C of this section are not~~
2 ~~exceeded; and~~

3 ~~3. The Tax Commission shall publish the percentage of the~~
4 ~~contribution which may be claimed as a credit by contributors for~~
5 ~~the most recently completed calendar year on the Tax Commission~~
6 ~~website no later than February 15 of each calendar year for~~
7 ~~contributions made the previous year. Each scholarship-granting~~
8 ~~organization or educational improvement grant organization shall~~
9 ~~notify contributors of that amount annually.~~

10 ~~H. The provisions of this subsection shall be applicable with~~
11 ~~respect to any calendar year for which any one of the tax credit~~
12 ~~pools is fully utilized and for which one or both of the remaining~~
13 ~~tax credit pool amounts are not fully utilized.~~

14 ~~1. If for any calendar year there is any amount of available~~
15 ~~credit remaining pursuant to the provisions of paragraph 2 of~~
16 ~~subsection C of this section, and only one of the other tax credit~~
17 ~~pools has been fully utilized, the remaining amount from the tax~~
18 ~~credit pool which was not fully utilized shall be allocated to and~~
19 ~~added to the total tax credit pool amount for the other tax credit.~~

20 ~~2. If for any calendar year there is any amount of available~~
21 ~~credit remaining pursuant to the provisions of paragraph 2 of~~
22 ~~subsection C of this section, and the other two tax credit pools~~
23 ~~have both been fully utilized, the remaining amount from the tax~~
24 ~~credit pool which was not fully utilized shall be divided by the~~

1 ~~whole number two (2) and the resulting amount shall be allocated to~~
2 ~~and added to the amount of available tax credits for each of the~~
3 ~~other tax credit pools.~~

4 ~~I.~~ The credit authorized by this section shall not be used to
5 reduce the tax liability of the taxpayer to less than zero (0).

6 ~~J.~~ I. Any credits allowed but not used in any tax year may be
7 carried over, in order, to each of the three (3) years following the
8 year of qualification.

9 ~~K.~~ J. 1. In order to qualify under this section, an
10 educational improvement grant organization shall submit an
11 application with information to the Oklahoma Tax Commission on a
12 form prescribed by the Tax Commission that:

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

17 b. describes the proposed innovative educational program
18 or programs supported by the organization.

19 2. The Tax Commission shall review and approve or disapprove
20 the application, in consultation with the State Department of
21 Education.

22 3. In order to maintain eligibility under this section, an
23 educational improvement grant organization shall annually report the
24

1 following information to the Tax Commission by September 1 of each
2 year:

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

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

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

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

6 ~~L.~~ K. In consultation with the State Department of Education,
7 the Tax Commission shall promulgate rules necessary to implement
8 this act. The rules shall include procedures for the registration
9 of a scholarship-granting organization or an educational improvement
10 grant organization for purposes of determining if the organization
11 meets the requirements of this act, or for the revocation of the
12 registration of an organization, if applicable, ~~and for notice as~~
13 ~~required in subsection C of this section.~~

14 SECTION 4. This act shall become effective January 1, 2015.

15 Passed the House of Representatives the 13th day of March, 2014.

16

17

Presiding Officer of the House
of Representatives

18

19

Passed the Senate the ___ day of _____, 2014.

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Presiding Officer of the Senate

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