

## FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2701 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

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

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Toni Hasenbeck

\_\_\_\_\_  
Reading Clerk

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

FLOOR SUBSTITUTE  
FOR

HOUSE BILL NO. 2701

By: Hasenbeck

FLOOR SUBSTITUTE

An Act relating to revenue and taxation; enacting the Education Investment for Oklahoma Act; amending 68 O.S. 2011, Section 2357.206, as last amended by Section 1, Chapter 288, O.S.L. 2017 (68 O.S. Supp. 2020, Section 2357.206), which relates to income tax credits for contributions made to certain education improvement grant or scholarship-granting organizations; prescribing treatment of certain suspended tax credits; imposing certain duties on Oklahoma Tax Commission; providing for income tax credit based upon contributions to eligible educational improvement grant organizations to benefit certain school districts; prescribing limit on credits based on filing status; providing for determination of student enrollment for purposes of tax credits; providing for proportionate reduction of tax credits based upon certain limitation amount; providing for tax credits based upon contribution to eligible public school districts; specifying amount of tax credit; prescribing limit on credits based on filing status; imposing limitation on tax credit amounts; providing for determination of student enrollment for purposes of tax credits; providing for proportionate reduction of tax credits based upon certain limitation amount; providing for credit percentage based upon certain written commitment; providing for determination of proportionate share of tax credit; prescribing procedures related to commitment; providing for allocability of tax credits to certain equity owners; requiring accounting through the Oklahoma Cost Accounting System; providing for income tax credit based upon contributions to eligible public school foundations

1 to benefit certain school districts; prescribing  
2 limit on credits based on filing status; providing  
3 for determination of student enrollment for purposes  
4 of tax credits; providing for proportionate reduction  
5 of tax credits based upon certain limitation amount;  
6 providing for credit percentage based upon certain  
7 written commitment; providing for determination of  
8 proportionate share of tax credit; prescribing  
9 procedures related to commitment; providing for  
10 allocability of tax credits to certain equity owners;  
11 requiring reports to Oklahoma Tax Commission,  
12 Governor, Speaker of the Oklahoma House of  
13 Representatives and President Pro Tempore of the  
14 Oklahoma State Senate; modifying maximum amount of  
15 tax credits; providing for cap amounts based upon  
16 contributions to designated entities; providing for  
17 adjustment of cap amount and prescribing procedures  
18 related thereto; imposing limitation related to  
19 school districts; modifying definitions; modifying  
20 provisions related to reports by certain entities;  
21 requiring designated organizations to make certain  
22 annual reports; prescribing content of reports;  
23 requiring Tax Commission to publish certain  
24 information; modifying provisions related to  
allocation of certain tax credit; requiring Oklahoma  
Tax Commission to provide for certain allocation of  
tax credits; requiring certain entities to provide  
notice to contributors; providing for applications to  
Oklahoma Tax Commission; requiring annual reports;  
requiring information to be available on websites;  
imposing duties on scholarship-granting  
organizations; requiring reports to Oklahoma Tax  
Commission; prescribing content of reports; requiring  
availability of information on Tax Commission  
website; requiring annual verification; providing for  
noncodification; 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 not to be  
codified in the Oklahoma Statutes reads as follows:

1 This act shall be known and may be cited as the "Education  
2 Investment for Oklahoma Act".

3 SECTION 2. AMENDATORY 68 O.S. 2011, Section 2357.206, as  
4 last amended by Section 1, Chapter 288, O.S.L. 2017 (68 O.S. Supp.  
5 2020, Section 2357.206), is amended to read as follows:

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

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

12 The credit shall be equal to fifty percent (50%) of the total  
13 amount of contributions made during a taxable year, not to exceed  
14 ~~One Thousand Dollars (\$1,000.00)~~ Two Thousand Eight Hundred Dollars  
15 (\$2,800.00) for single individuals, ~~Two Thousand Dollars (\$2,000.00)~~  
16 Five Thousand Six Hundred Dollars (\$5,600.00) for married  
17 individuals filing jointly, or One Hundred Thousand Dollars  
18 (\$100,000.00) for any taxpayer which is a legal business entity  
19 including limited and general partnerships, corporations, subchapter  
20 S corporations and limited liability companies, plus any suspended  
21 credits pursuant to subparagraph b of paragraph 2 of subsection J of  
22 this section; provided, if total credits claimed pursuant to this  
23 paragraph exceed the ~~caps~~ cap amount established pursuant to  
24 paragraph 1 of subsection ~~D~~ F of this section, the credit shall be

1 equal to the taxpayer's proportionate share of the cap for the  
2 taxable year, as determined pursuant to subsection ~~H~~ J of this  
3 section.

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

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

1 entity from which the tax credits have been allocated and shall not  
2 be limited to ~~One Thousand Dollars (\$1,000.00)~~ Two Thousand Eight  
3 Hundred Dollars (\$2,800.00) for single individuals or limited to ~~Two~~  
4 ~~Thousand Dollars (\$2,000.00)~~ Five Thousand Six Hundred Dollars  
5 (\$5,600.00) for married persons filing a joint return.

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

15 C. 1. Except as provided in subsection ~~F~~ H of this section,  
16 after August 26, 2011, there shall be allowed a credit for any  
17 taxpayer who makes a contribution to an eligible educational  
18 improvement grant organization. ~~The~~

19 a. Except as otherwise provided by subparagraph b of this  
20 paragraph or paragraph 2 of this subsection, the  
21 credit shall be equal to fifty percent (50%) of the  
22 total amount of contributions made during a taxable  
23 year, not to exceed ~~One Thousand Dollars (\$1,000.00)~~  
24 Two Thousand Eight Hundred Dollars (\$2,800.00) for

1 single individuals, ~~Two Thousand Dollars (\$2,000.00)~~  
2 Five Thousand Six Hundred Dollars (\$5,600.00) for  
3 married individuals filing jointly, or One Hundred  
4 Thousand Dollars (\$100,000.00) for any taxpayer which  
5 is a legal business entity including limited and  
6 general partnerships, corporations, subchapter S  
7 corporations and limited liability companies, plus any  
8 suspended credits pursuant to subparagraph b of  
9 paragraph 2 of subsection J of this section; provided,  
10 if total credits claimed pursuant to this ~~paragraph~~  
11 subparagraph exceed the cap amount established  
12 pursuant to subparagraph a of paragraph 1 2 of  
13 subsection ~~D~~ F of this section, the credit shall be  
14 equal to the taxpayer's proportionate share of the cap  
15 for the taxable year, as determined pursuant to  
16 subsection ~~H~~ J of this section.

17 b. If a contribution is made to an eligible educational  
18 improvement grant organization to benefit a school  
19 district which has less than two thousand (2,000)  
20 students enrolled on October 1 as determined by the  
21 State Department of Education, the amount of the  
22 credit shall be one hundred percent (100%) of the  
23 amount contributed to an eligible educational  
24 improvement grant organization, but shall be subject

1 to the maximum credit amounts based on filing status  
2 as prescribed by subparagraph a of this paragraph. A  
3 person or entity claiming a tax credit pursuant to the  
4 provisions of this subparagraph may rely on the  
5 student enrollment information contained in the State  
6 Department reports as of the date the contribution is  
7 made. If the taxpayer preserves either an electronic  
8 file or record created by the State Department of  
9 Education or produces a document by printing  
10 information contained in an electronic data file  
11 originally created by the State Department of  
12 Education, such information shall be conclusive with  
13 respect to the student enrollment number for purposes  
14 of claiming the tax credit authorized by this  
15 subparagraph or any audit of the taxpayer's income tax  
16 return; provided, if total credits claimed pursuant to  
17 this subparagraph exceed the cap amount established  
18 pursuant to subparagraph a of paragraph 2 of  
19 subsection F of this section, the credit shall be  
20 equal to the taxpayer's proportionate share of the cap  
21 for the taxable year, as determined pursuant to  
22 subsection J of this section.

23 2. For any taxpayer who makes a contribution to an eligible  
24 educational improvement grant organization and makes a written

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

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

1 persons based upon the limitation of the total credit amount to the  
2 entity from which the tax credits have been allocated and shall not  
3 be limited to ~~One Thousand Dollars (\$1,000.00)~~ Two Thousand Eight  
4 Hundred Dollars (\$2,800.00) for single individuals or limited to ~~Two~~  
5 ~~Thousand Dollars (\$2,000.00)~~ Five Thousand Six Hundred Dollars  
6 (\$5,600.00) for married persons filing a joint return.

7 D. 1. On or after the effective date of this act, there shall  
8 be allowed a credit for any taxpayer who makes a contribution to an  
9 eligible public school district.

10 a. Except as otherwise provided by subparagraph b of this  
11 paragraph or paragraph 2 of this subsection, the  
12 credit shall be equal to fifty percent (50%) of the  
13 total amount of contributions made during a taxable  
14 year, not to exceed Two Thousand Eight Hundred Dollars  
15 (\$2,800.00) for single individuals, Five Thousand Six  
16 Hundred Dollars (\$5,600.00) for married individuals  
17 filing jointly or One Hundred Thousand Dollars  
18 (\$100,000.00) for any taxpayer which is a legal  
19 business entity including limited and general  
20 partnerships, corporations, subchapter S corporations  
21 and limited liability companies; provided, if total  
22 credits claimed pursuant to this subparagraph exceed  
23 the cap amount established pursuant to subparagraph a  
24 of paragraph 2 of subsection F of this section, the

1 credit shall be equal to the taxpayer's proportionate  
2 share of the cap for the taxable year, as determined  
3 pursuant to subsection J of this section.

4 b. If a contribution is made to a school district which  
5 has less than two thousand (2,000) students enrolled  
6 on October 1 as determined by the State Department of  
7 Education, the amount of the credit shall be one  
8 hundred percent (100%) of the amount contributed to an  
9 eligible school district, but shall be subject to the  
10 maximum credit amounts based on filing status as  
11 prescribed by subparagraph a of this paragraph. A  
12 person or entity claiming a tax credit pursuant to the  
13 provisions of this subparagraph may rely on the  
14 student enrollment information contained in the State  
15 Department reports as of the date the contribution is  
16 made. If the taxpayer preserves either an electronic  
17 file or record created by the State Department of  
18 Education or produces a document by printing  
19 information contained in an electronic data file  
20 originally created by the State Department of  
21 Education, such information shall be conclusive with  
22 respect to the student enrollment number for purposes  
23 of claiming the tax credit authorized by this  
24 subparagraph or any audit of the taxpayer's income tax

1           return; provided, if total credits claimed pursuant to  
2           this subparagraph exceed the cap amount established  
3           pursuant to subparagraph a of paragraph 2 of  
4           subsection F of this section, the credit shall be  
5           equal to the taxpayer's proportionate share of the cap  
6           for the taxable year, as determined pursuant to  
7           subsection J of this section;

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

1       3. The credits authorized pursuant to the provisions of this  
2 subsection shall be allocable to the partners, shareholders, members  
3 or other equity owners of a taxpayer that is authorized to be  
4 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 Two Thousand Eight Hundred Dollars (\$2,800.00) for  
14 single individuals or limited to Five Thousand Six Hundred Dollars  
15 (\$5,600.00) for married persons filing a joint return.

16       4. Each eligible public school district to which contributions  
17 have been made for purposes of the tax credit authorized by this  
18 subsection shall annually account for all revenue and expenditures  
19 through the Oklahoma Cost Accounting System (OCAS) and shall  
20 annually publish on its website the total dollar amount raised  
21 pursuant to paragraphs 1 and 2 of this subsection along with  
22 information detailing the benefits, successes or failures of the  
23 program.

1       E. 1. On or after the effective date of this act, there shall  
2 be allowed a credit for any taxpayer who makes a contribution to an  
3 eligible public school foundation.

4       a. Except as otherwise provided by subparagraph b of this  
5 paragraph or paragraph 2 of this subsection, the  
6 credit shall be equal to fifty percent (50%) of the  
7 total amount of contributions made during a taxable  
8 year, not to exceed Two Thousand Eight Hundred Dollars  
9 (\$2,800.00) for single individuals, Five Thousand Six  
10 Hundred Dollars (\$5,600.00) for married individuals  
11 filing jointly or One Hundred Thousand Dollars  
12 (\$100,000.00) for any taxpayer which is a legal  
13 business entity including limited and general  
14 partnerships, corporations, subchapter S corporations  
15 and limited liability companies; provided, if total  
16 credits claimed pursuant to this subparagraph exceed  
17 the cap amount established pursuant to subparagraph a  
18 of paragraph 2 of subsection F of this section, the  
19 credit shall be equal to the taxpayer's proportionate  
20 share of the cap for the taxable year, as determined  
21 pursuant to subsection J of this section.

22       b. If a contribution is made to an eligible public school  
23 foundation to benefit a school district which has less  
24 than two thousand (2,000) students enrolled on October

1 as determined by the State Department of Education,  
the amount of the credit shall be one hundred percent  
(100%) of the amount contributed to an eligible public  
school foundation, but shall be subject to the maximum  
credit amounts based on filing status as prescribed by  
subparagraph a of this paragraph. A person or entity  
claiming a tax credit pursuant to the provisions of  
this subparagraph may rely on the student enrollment  
information contained in the State Department reports  
as of the date the contribution is made. If the  
taxpayer preserves either an electronic file or record  
created by the State Department of Education or  
produces a document by printing information contained  
in an electronic data file originally created by the  
State Department of Education, such information shall  
be conclusive with respect to the student enrollment  
number for purposes of claiming the tax credit  
authorized by this subparagraph or any audit of the  
taxpayer's income tax return; provided, if total  
credits claimed pursuant to this subparagraph exceed  
the cap amount established pursuant to subparagraph a  
of paragraph 2 of subsection F of this section, the  
credit shall be equal to the taxpayer's proportionate

1                   share of the cap for the taxable year, as determined  
2                   pursuant to subsection J of this section.

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

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

1 by this subsection are claimed on the applicable return, together  
2 with required schedules, forms or reports of the partners,  
3 shareholders, members or other equity owners of the taxpayer. Tax  
4 credits which are allocated to such equity owners shall only be  
5 limited in amount for the income tax return of a natural person or  
6 persons based upon the limitation of the total credit amount to the  
7 entity from which the tax credits have been allocated and shall not  
8 be limited to Two Thousand Eight Hundred Dollars (\$2,800.00) for  
9 single individuals or limited to Five Thousand Six Hundred Dollars  
10 (\$5,600.00) for married persons filing a joint return.

11 4. On or before December 31, 2022, and once every four (4)  
12 years thereafter, such eligible public school foundation shall  
13 submit to the Oklahoma Tax Commission, Governor, President Pro  
14 Tempore of the Senate and the Speaker of the House of  
15 Representatives an audited financial statement for the organization  
16 along with information detailing the benefits, successes or failures  
17 of the programs.

18 F. Except as otherwise provided pursuant to subsection ~~H~~ J of  
19 this section, for tax years ~~2017~~ 2022 and thereafter:

20 1. ~~The~~ Unless the cap amount otherwise prescribed by this  
21 paragraph is adjusted pursuant to paragraph 3 of this subsection,  
22 the total credits authorized pursuant to subsection B of this  
23 section for all taxpayers for any tax year beginning on or after  
24 January 1, 2022, shall not exceed ~~Three Million Five Hundred~~

1 ~~Thousand Dollars (\$3,500,000.00)~~ Ten Million Dollars

2 (\$10,000,000.00) annually;

3 2. ~~The~~ Unless the cap amount otherwise prescribed by  
4 subparagraph a of this paragraph is adjusted pursuant to paragraph 3  
5 of this subsection, the total credits authorized pursuant to  
6 ~~subsection~~ subsections C, D and E of this section for all taxpayers  
7 for any tax year beginning on or after January 1, 2022, shall not  
8 exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00):

9 a. Twenty Million Dollars (\$20,000,000.00) annually,

10 b. in addition to the cap amount prescribed by  
11 subparagraph a of this paragraph, the credit amount  
12 shall also be limited to Two Hundred Thousand Dollars  
13 (\$200,000.00) of credits per public school district  
14 annually; and

15 3. In any tax year when the annual tax credit amount as  
16 prescribed by either paragraph 1 of this subsection or by  
17 subparagraph a of paragraph 2 of this subsection for the prior tax  
18 year is equal to or greater than ninety percent (90%) of the tax  
19 credit cap amount applicable to that tax year, such tax credit cap  
20 amount shall increase by fifteen percent (15%). The adjustment  
21 shall not be applicable to the amount prescribed by subparagraph b  
22 of paragraph 2 of this subsection. The Tax Commission shall publish  
23 on its website information identifying the tax credit cap amount  
24 when it is increased pursuant to this paragraph; and

1        4. The cap on total credits provided for in this subsection  
2 shall be allocated by the Tax Commission as provided in subsection ~~H~~  
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        ~~F.~~ H. Any tax credits which are earned by a taxpayer pursuant  
17 to this section during the time period beginning on the effective  
18 date of this act through December 31, 2012, may not be claimed for  
19 any period prior to the taxable year beginning January 1, 2013. No  
20 credits which accrue during the time period beginning on the  
21 effective date of this act through December 31, 2012, may be used to  
22 file an amended tax return for any taxable year prior to the taxable  
23 year beginning January 1, 2013.

24        ~~G.~~ I. As used in this section:

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 two hundred thirty-five percent (235%) of the income standard used  
6 to qualify for a free or ~~reduced~~ reduced-price school lunch and  
7 whose custodial parents or legal guardians are not taxpayers who  
8 make contributions to an eligible scholarship-granting organization  
9 or who, during the immediately preceding school year, attended or,  
10 by virtue of the location of such student's place of residence, was  
11 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 who has been  
20 provided services under an Individual Family Service Plan through  
21 the SoonerStart program and during transition was evaluated and  
22 determined to be eligible for school district services, a child of  
23 school age who has attended public school in our state with an  
24 individualized education program pursuant to the Individuals With

1 Disabilities Education Act, 20 U.S.C.A., Section 1400 et seq. or a  
2 child who has been diagnosed by a clinical professional as having a  
3 significant disability that will affect learning and who has been  
4 approved by the board of a scholarship-granting organization;

5 3. "Educational scholarships" means:

- 6 a. scholarships to an eligible student of up to Five  
7 Thousand Dollars (\$5,000.00) or eighty percent (80%)  
8 of the statewide annual average per-pupil expenditure  
9 as determined by the National Center for Education  
10 Statistics, U.S. Department of Education, whichever is  
11 greater, to cover all or part of the tuition, fees and  
12 transportation costs of a qualified school which is  
13 accredited by the State Board of Education or an  
14 accrediting association approved by the Board pursuant  
15 to Section 3-104 of Title 70 of the Oklahoma Statutes,  
16 b. scholarships to an eligible student of up to Five  
17 Thousand Dollars (\$5,000.00) or eighty percent (80%)  
18 of the statewide annual average per-pupil expenditure  
19 as determined by the National Center for Education  
20 Statistics, U.S. Department of Education, whichever is  
21 greater, to cover the educational costs of a qualified  
22 school which does not charge tuition, which enrolls  
23 special populations of students and which is  
24 accredited by the State Board of Education or an

1 accrediting association approved by the Board pursuant  
2 to Section 3-104 of Title 70 of the Oklahoma Statutes,  
3 ~~or~~

4 c. scholarships to an eligible special needs student of  
5 up to Twenty-five Thousand Dollars (\$25,000.00) to  
6 cover all or part of the tuition, fees and  
7 transportation costs of a qualified school for  
8 eligible special needs students which is accredited by  
9 the State Board of Education or an accrediting  
10 association approved by the Board pursuant to Section  
11 3-104 of Title 70 of the Oklahoma Statutes,

12 d. scholarships to a low-income eligible student of up to  
13 Five Thousand Dollars (\$5,000.00) or ninety percent  
14 (90%) of the statewide annual average per-pupil  
15 expenditure as determined by the National Center for  
16 Education Statistics, U.S. Department of Education,  
17 whichever is greater, to cover all or part of the  
18 tuition, fees and transportation costs of a qualified  
19 school which is accredited by the State Board of  
20 Education or an accrediting association approved by  
21 the Board pursuant to Section 3-104 of Title 70 of the  
22 Oklahoma Statutes, or

23 e. scholarships to an eligible military student of up to  
24 Five Thousand Dollars (\$5,000.00) or eighty percent

(80%) of the statewide annual average per pupil expenditure as determined by the National Center for Education Statistics, U.S. Department of Education, whichever is greater, to cover all or part of the tuition, fees and transportation costs of a qualified school for eligible military students which 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. As used in this subparagraph, "eligible military student" means a child who has a parent or legal guardian who is serving or has served in the United States Armed Forces on active duty or is actively serving in the United States Reserves or the National Guard to include drill-status National Guard and Reservists;

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

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

- 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 early childhood, elementary or secondary private school in a county in this state, including schools which provide special educational programs for three-year-olds or prekindergarten educational programs for four-year-olds;

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 scholarships as defined in paragraph 3 of this subsection,
  - d. spends each year a portion of its expenditures on educational scholarships for low-income eligible students, as defined in paragraph 4 of this subsection, in an amount equal to or greater than the percentage of low-income eligible students in the state,
  - e. ensures that scholarships are portable during the school year and can be used at any qualified school that accepts the eligible student or at any qualified school for special needs students that accepts the eligible special needs student,
  - f. registers with the Oklahoma Tax Commission as a scholarship-granting organization, and
  - g. has policies in place to:
    - (1) carry out criminal background checks on all employees and board members to ensure that no individual is involved with the organization who

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 ~~that is not located within a ten-mile radius of a qualified school~~  
17 ~~in this state, or any public school that is located within a ten-~~  
18 ~~mile radius of a qualified school in this state but offers grade-~~  
19 ~~level instruction different from the qualified school or any public~~  
20 ~~school 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 special  
23 educational program for eligible special needs students who are  
24 three (3) years of age or a prekindergarten educational program

1 provided to children who are at least four (4) years of age but not  
2 more than five (5) years of age on or before September 1;

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

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

13 14. "Educational improvement grant organization" means an  
14 organization which:

- 15 a. is a nonprofit entity exempt from taxation pursuant to  
16 the provisions of the Internal Revenue Code, 26  
17 U.S.C., Section 501(c)(3), and  
18 b. contributes at least ninety percent (90%) of its  
19 annual receipts as grants to eligible schools for  
20 innovative educational programs. For purposes of this  
21 subparagraph, an educational improvement grant  
22 organization contributes its annual cash receipts when  
23 it expends or otherwise irrevocably encumbers those  
24 funds for expenditure during the then current fiscal

1 year of the organization or during the next succeeding  
2 fiscal year of the organization; and

3 15. "Eligible public school foundation" means a nonprofit  
4 entity formed pursuant to Oklahoma law but which is exempt from  
5 federal income taxation pursuant to either Section 501(c)(3) or  
6 Section 509(a) of the Internal Revenue Code of 1986, as amended.  
7 Each public school foundation must be approved by the local board of  
8 education prior to accepting qualifying donations.

9 ~~H.~~ J. Total credits authorized by this section shall be  
10 allocated as follows:

11 1. By January 10 of the year immediately following each  
12 calendar year, a scholarship-granting organization ~~or, an~~  
13 educational improvement grant organization, a public school district  
14 or an eligible public school foundation which accepts contributions  
15 pursuant to this section shall provide electronically to the Tax  
16 Commission information on each contribution accepted during such  
17 taxable year. At least once each taxable year, the ~~scholarship-~~  
18 ~~granting organization or the educational improvement grant~~  
19 ~~organization~~ entity making the report shall notify each contributor  
20 that Oklahoma law provides for a total, statewide cap on the amount  
21 of income tax credits allowed annually;

22 2. a. ~~If the Tax Commission determines the total combined~~  
23 ~~credits claimed for contributions made to scholarship-~~  
24 ~~granting organizations during the most recently~~

1 ~~completed calendar year by all taxpayers are in excess~~  
2 ~~of the statewide caps provided in paragraph 1 of~~  
3 ~~subsection D of this section, the Tax Commission shall~~  
4 ~~first allocate any amount of credits not claimed for~~  
5 ~~contributions made to educational improvement-granting~~  
6 ~~organizations, then shall determine the percentage of~~  
7 ~~the contribution which establishes the proportionate~~  
8 ~~share of the credit which may be claimed by any~~  
9 ~~taxpayer so that the total maximum credits authorized~~  
10 ~~by this section are not exceeded.~~

11 ~~b. 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 taxpayers are~~  
15 ~~in excess of the statewide caps provided in paragraph~~  
16 ~~2 of subsection D of this section, the Tax Commission~~  
17 ~~shall first allocate any amount of credits not claimed~~  
18 ~~for contributions made to scholarship-granting~~  
19 ~~organizations, then shall determine the percentage of~~  
20 ~~the contribution which establishes the proportionate~~  
21 ~~share of the credit which may be claimed by any~~  
22 ~~taxpayer so that the maximum credits authorized by~~  
23 ~~this section are not exceeded.~~

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

17       b.   Beginning for tax year ~~2016~~ 2022, credits earned, but  
18       not allowed due to the application of statewide caps  
19       provided in subsection ~~D~~ F of this section will be  
20       considered suspended and authorized to be used in the  
21       next immediate tax year and applied to the next year's  
22       statewide cap; and

23       3.   The Tax Commission shall publish the percentage of the  
24       contribution which may be claimed as a credit by contributors for

1 the most recently completed calendar year on the Tax Commission  
2 website no later than February 15 of each calendar year for  
3 contributions made the previous year. Each ~~scholarship-granting~~  
4 ~~organization or educational improvement grant~~ organization  
5 authorized pursuant to subsections B, C, D and E of this section  
6 shall notify contributors of that amount annually.

7 ~~I. The credit~~ K. No tax credits authorized by this section  
8 shall ~~not~~ be used to reduce the tax liability of the taxpayer to  
9 less than zero (0).

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

13 ~~K. M.~~ M. 1. In order to qualify under this section, ~~an~~  
14 ~~educational improvement grant~~ each organization authorized pursuant  
15 to subsections C and E of this section shall submit an application  
16 with information to the Oklahoma Tax Commission on a form prescribed  
17 by the Tax Commission that:

- 18 a. enables the Tax Commission to confirm that the  
19 organization is a nonprofit entity exempt from  
20 taxation pursuant to the provisions of the Internal  
21 Revenue Code, 26 U.S.C., Section 501(c)(3) or Section  
22 509(a), and
- 23 b. describes the proposed innovative educational program  
24 or programs supported by the organization.

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

4        3. In order to maintain eligibility under this section, an  
5 ~~educational improvement grant~~ organization authorized pursuant to  
6 subsections C and E of this section shall annually report the  
7 following information to the Tax Commission and publish on its  
8 website by September 1 of each year:

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

1 innovative educational programs at public school by  
2 each county in which the organization made grants.

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

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

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

18 a. the name and address of the scholarship-granting  
19 organization,

20 b. the names of the qualifying schools that received  
21 funding for educational scholarships, the total amount  
22 of funds paid to each qualifying school and the total  
23 number of scholarship recipients enrolled in each  
24 qualifying school,

- 1        c.    the total number and total dollar amount of  
2        contributions received during the previous academic  
3        year,
- 4        d.    the total number and total dollar amount of  
5        educational scholarships awarded and funded during the  
6        previous academic year,
- 7        e.    the total number, total dollar amount and percentage  
8        of educational scholarships awarded and funded during  
9        the previous academic year disaggregated into the  
10       following categories:
- 11       (1)   low-income eligible students,
- 12       (2)   students who during the immediately preceding  
13       school year attended or who were eligible by  
14       virtue of the residence of the student to attend  
15       a public school in the state which was identified  
16       for school improvement by the State Board of  
17       Education,
- 18       (3)   eligible special needs students, and
- 19       (4)   students who were first-time recipients of a  
20       scholarship, including information about the type  
21       of public or private school the student was  
22       enrolled in during the entire previous academic  
23       year,
- 24

- 1        f. the percentage of annual revenue received by the  
2        organization from donations which qualify for tax  
3        credits pursuant to this section which was not  
4        expended on scholarships, and  
5        g. disaggregated data reported under this subsection  
6        shall be redacted if reporting would allow for  
7        identification of specific children, and shall be  
8        reported in accordance with the Student Data  
9        Accessibility, Transparency and Accountability Act of  
10       2013, Section 3-168(C)(2)(b) of Title 70 of the  
11       Oklahoma Statutes, and the Family Educational Rights  
12       and Privacy Act of 1974 (FERPA), 20 U.S.C., Section  
13       1232g.

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

- 15       a. the information submitted by the scholarship-granting  
16       organization pursuant to paragraph 1 of this  
17       subsection,  
18       b. a list of participating schools, and  
19       c. all other application information submitted to the Tax  
20       Commission by a scholarship-granting organization,  
21       except that information which would violate the  
22       privacy of an individual.

23       3. A scholarship-granting organization shall annually submit  
24       verification to the Tax Commission that the organization still meets

1 the criteria set forth in paragraph 7 of subsection I of this  
2 section.

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

12 SECTION 3. This act shall become effective November 1, 2021.

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14 58-1-7892 MAH 03/07/21  
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