

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1405

By: Hall

AS INTRODUCED

An Act relating to income tax credit; amending 68 O.S. 2021, Section 2357.206, as amended by Section 1, Chapter 49, O.S.L. 2022 (68 O.S. Supp. 2023, Section 2357.206), which relates to the Oklahoma Equal Opportunity Education Scholarship Act; providing tax credit for contributions to certain higher education institution foundations; limiting credit amount; providing for reduction of credit when cap is exceeded; providing credit amount upon certain commitment of additional contribution; prescribing allocation of credit claimed by certain entities; requiring submission of audited statement; limiting total credits claimed for tax year; limiting credits claimed for tax year for contributions to higher education institutions; modifying definition; defining terms; providing for allocation of unclaimed credit upon certain determination by the Oklahoma Tax Commission; requiring submission of report to maintain certain eligibility; adding consulting entity for promulgation of rules; updating statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 2357.206, as amended by Section 1, Chapter 49, O.S.L. 2022 (68 O.S. Supp. 2023, Section 2357.206), is amended to read as follows:

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

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

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

21 2. For any taxpayer who makes a contribution to an eligible
22 scholarship-granting organization and makes a written commitment to
23 contribute the same amount for an additional year, the credit for
24 the first year and the additional year shall be equal to seventy-

1 five percent (75%) of the total amount of the contribution made
2 during a taxable year, not to exceed the amounts established in
3 paragraph 1 of this subsection for the taxable year in which the
4 credit provided in this subsection is claimed. The taxpayer shall
5 provide evidence of the written commitment to the Oklahoma Tax
6 Commission at the time of filing the refund claim.

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

22 4. On or before April 30, 2024, and once every two (2) years
23 thereafter, such scholarship-granting organization and educational
24 improvement grant organization shall electronically submit to the

1 Oklahoma Tax Commission, the Governor, President Pro Tempore of the
2 Senate, the Speaker of the House of Representatives, and the chairs
3 and vice chairs of the education committees of the Senate and House
4 of Representatives an audited financial statement for the
5 organization along with information detailing the benefits,
6 successes, or failures of the program, and make publicly available
7 on its website the financial statement and information submitted
8 pursuant to this paragraph.

9 C. 1. Except as provided in subsection G H of this section,
10 after August 26, 2011, there shall be allowed a credit for any
11 taxpayer who makes a contribution to an eligible educational
12 improvement grant organization. Except as otherwise provided by
13 paragraph 2 of this subsection, the credit shall be equal to fifty
14 percent (50%) of the total amount of contributions made during a
15 taxable year, not to exceed One Thousand Dollars (\$1,000.00) for
16 single individuals, Two Thousand Dollars (\$2,000.00) 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 d e of paragraph 2 of subsection I
22 J of this section; provided, if total credits claimed pursuant to
23 this paragraph exceed the cap amount established pursuant to
24 paragraphs 3 and 4 of subsection E F of this section, the credit

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

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

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

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

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

1 taxable year, as determined pursuant to subsection ± J of this
2 section.

3 2. Except as otherwise provided by paragraph 1 of this
4 subsection, for any taxpayer who makes a contribution to an eligible
5 public school foundation or public school district 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 paragraph 4 of subsection ± F of this section
11 for the taxable year in which the credit provided in this paragraph
12 is claimed. The taxpayer shall provide evidence of the written
13 commitment to the Oklahoma Tax Commission at the time of filing the
14 refund claim; provided, if total credits claimed pursuant to this
15 paragraph exceed the cap amount established pursuant to paragraph 4
16 of subsection ± F of this section, the credit shall be equal to the
17 taxpayer's proportionate share of the cap for the taxable year, as
18 determined pursuant to subsection ± J of this section.

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

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

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

17 E. 1. For contributions made on or after January 1, 2025,
18 there shall be allowed a credit for any taxpayer who makes a
19 contribution to an eligible higher education institution foundation.
20 Except as otherwise provided by paragraph 2 of this subsection, the
21 credit shall be equal to fifty percent (50%) of the total amount of
22 contributions made during a taxable year, not to exceed One Thousand
23 Dollars (\$1,000.00) for single individuals, Two Thousand Dollars
24 (\$2,000.00) for married individuals filing jointly, or One Hundred

1 Thousand Dollars (\$100,000.00) for any taxpayer which is a business
2 entity formed under the laws of any state including limited and
3 general partnerships, corporations, subchapter S corporations, and
4 limited liability companies; provided, if total credits claimed
5 pursuant to this paragraph exceed the cap amount established
6 pursuant to paragraph 5 of subsection F of this section, the credit
7 shall be equal to the taxpayer's proportionate share of the cap for
8 the tax year, as determined pursuant to subsection J of this
9 section.

10 2. Except as otherwise provided by paragraph 1 of this
11 subsection, for any taxpayer who makes a contribution to an eligible
12 higher education institution foundation and makes a written
13 commitment to contribute the same amount for an additional year, the
14 credit for the first year and the additional year shall be equal to
15 seventy-five percent (75%) of the total amount of the contribution
16 made during a tax year, not to exceed the cap amount established in
17 paragraph 5 of subsection F of this section for the tax year in
18 which the credit provided in this paragraph is claimed. The
19 taxpayer shall provide evidence of the written commitment to the
20 Oklahoma Tax Commission at the time of filing the refund claim;
21 provided, if total credits claimed pursuant to this paragraph exceed
22 the cap amount established pursuant to paragraph 5 of subsection F
23 of this section, the credit shall be equal to the taxpayer's
24

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

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

18 4. On or before April 30, 2027, and once every four (4) years
19 thereafter, each eligible higher education institution foundation
20 shall electronically submit to the Oklahoma Tax Commission, the
21 Governor, President Pro Tempore of the Senate, and the Speaker of
22 the House of Representatives an audited financial statement for the
23 foundation along with information detailing the benefits, successes,
24 or failures of the program.

1 F. Except as otherwise provided pursuant to subsection ~~F~~ J of
2 this section:

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

7 2. The total credits authorized pursuant to subsection B of
8 this section for all taxpayers for tax ~~years~~ year 2022 and
9 subsequent tax years shall not exceed Twenty-five Million Dollars
10 (\$25,000,000.00) annually;

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

15 4. The total credits authorized pursuant to subsections C and D
16 of this section for all taxpayers for tax year 2022 and subsequent
17 tax years shall not exceed Twenty-five Million Dollars
18 (\$25,000,000.00) annually. ~~In~~ Except as otherwise provided pursuant
19 to subparagraph c of paragraph 2 of subsection J of this section, in
20 addition to the cap amount prescribed by this paragraph, the credit
21 amount shall also be limited to Two Hundred Thousand Dollars
22 (\$200,000.00) of credits per public school district annually; ~~and~~

23 5. The total credits authorized pursuant to subsection E of
24 this section for all taxpayers for tax year 2025 and subsequent tax

1 years shall not exceed Twenty-five Million Dollars (\$25,000,000.00)
2 annually. Except as otherwise provided pursuant to subparagraph d
3 of paragraph 2 of subsection J of this section, in addition to the
4 cap amount prescribed by this paragraph, the credit amount shall
5 also be limited to Seven Million Five Hundred Thousand Dollars
6 (\$7,500,000.00) of credits per public higher education institution
7 annually; and

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

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

23 ~~G.~~ H. Any tax credits which are earned by a taxpayer pursuant
24 to this section during the time period beginning August 26, 2011,

1 through December 31, 2012, may not be claimed for any period prior
2 to the taxable year beginning January 1, 2013. No credits which
3 accrue during the time period beginning August 26, 2011, through
4 December 31, 2012, may be used to file an amended tax return for any
5 taxable year prior to the taxable year beginning January 1, 2013.

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

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

23 2. "Eligible special needs student" means a child who has been
24 provided services under an ~~Individualized Family Service Plan~~

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

10 3. "Educational scholarships" means:

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

1 Statistics, U.S. Department of Education, whichever is
2 greater, to cover the educational costs of a qualified
3 school which does not charge tuition, which enrolls
4 special populations of students, and which is
5 accredited by the State Board of Education or an
6 accrediting association approved by the Board pursuant
7 to Section 3-104 of Title 70 of the Oklahoma Statutes,
8 ~~or~~

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

17 d. scholarships to an eligible public higher education
18 institution student to cover all or part of the
19 tuition and fees for undergraduate courses at an
20 institution authorized by the Oklahoma State Regents
21 for Higher Education;

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

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

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

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

21 7. "Scholarship-granting organization" means an organization
22 which:
23
24

- 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 might reasonably pose a risk to the appropriate use of contributed funds, and
- (2) maintain full and accurate records with respect to the receipt of contributions and expenditures of those contributions and supply such records and any other documentation required by the Tax Commission to demonstrate financial accountability;

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

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

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

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

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; ~~and~~

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

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

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

23 ~~I.~~ J. Total credits authorized by this section shall be
24 allocated as follows:

1 1. By January 10 of the year immediately following each
2 calendar year, a scholarship-granting organization, an educational
3 improvement grant organization, an eligible public school
4 foundation, ~~or a public school district,~~ or an eligible higher
5 education institution foundation which accepts contributions
6 pursuant to this section shall provide electronically to the Tax
7 Commission information on each contribution accepted during such
8 taxable year. At least once each taxable year, the entity making
9 the report shall notify each contributor that Oklahoma law provides
10 for a total, statewide cap on the amount of income tax credits
11 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 taxpayers are in excess
16 of the statewide cap amount provided in paragraphs 1
17 and 2 of subsection ~~E~~ F of this section, the Tax
18 Commission shall first allocate any amount of credits
19 not claimed for contributions made to organizations
20 authorized pursuant to subsections C ~~and~~ D, and E of
21 this section, then shall determine the percentage of
22 the contribution which establishes the proportionate
23 share of the credit which may be claimed by any
24

1 taxpayer so that the total maximum credits authorized
2 by this section are not exceeded.

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

18 c. If the Tax Commission determines the total combined
19 credits claimed for contributions made to
20 organizations authorized pursuant to subsections C and
21 D of this section during the most recently completed
22 calendar year by all taxpayers are in excess of the
23 per public school district cap of Two Hundred Thousand
24 Dollars (\$200,000.00) pursuant to paragraph 4 of

1 subsection ~~E~~ F of this section, the Tax Commission
2 shall first allocate any amount of credits not claimed
3 for contributions made to other organizations
4 authorized pursuant to subsections C and D of this
5 section, then 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 this section
9 are not exceeded.

10 d. If the Tax Commission determines the total combined
11 credits claimed for contributions made to
12 organizations authorized pursuant to subsection E of
13 this section during the most recently completed
14 calendar year by all taxpayers are in excess of the
15 per higher education institution cap of Seven Million
16 Five Hundred Thousand Dollars (\$7,500,000.00) pursuant
17 to paragraph 5 of subsection F of this section, the
18 Tax Commission shall first allocate any amount of
19 credits not claimed for contributions made to other
20 organizations authorized pursuant to subsection E of
21 this section, then shall determine the percentage of
22 the contribution which establishes the proportionate
23 share of the credit which may be claimed by any
24

1 taxpayer so that the maximum credits authorized by
2 this section are not exceeded.

3 e. Beginning for tax year 2016, credits earned, but not
4 allowed due to the application of statewide caps
5 provided in subsection ~~B~~ F of this section will be
6 considered suspended and authorized to be used in the
7 next immediate tax year and applied to the next year's
8 statewide cap; and

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

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

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

21 ~~L.~~ M. 1. In order to qualify under this section, each
22 organization authorized pursuant to subsections C ~~and~~, D, and E of
23 this section shall submit an application with information to the
24

1 Oklahoma Tax Commission on a form prescribed by the Tax Commission
2 that:

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

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

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

- 17 a. the name of the innovative educational program or
18 programs and the total amount of the grant or grants
19 made to those programs during the immediately
20 preceding school year,
- 21 b. a description of how each grant was utilized during
22 the immediately preceding school year and a
23 description of any demonstrated or expected innovative
24 educational improvements,

- c. the names of the public school and school districts where innovative educational programs that received grants during the immediately preceding school year were implemented,
- d. where the organization collects information on a county-by-county basis, and
- e. the total number and total amount of grants made during the immediately preceding school year for innovative educational programs at public school by each county in which the organization made grants.

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

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

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

7 ~~5.~~ 6. The Tax Commission shall not require any other
8 information be provided by an organization, except as expressly
9 authorized in this section.

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

- 16 a. the name and address of the scholarship-granting
17 organization,
18 b. the names of the qualifying schools that received
19 funding for educational scholarships, the total amount
20 of funds paid to each qualifying school, and the total
21 number of scholarship recipients enrolled in each
22 qualifying school,
23
24

- 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,
- 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, ~~division~~ subparagraph b of ~~subparagraph~~
11 paragraph 2 of subsection C of Section 3-168 of Title
12 70 of the Oklahoma Statutes, and the Family
13 Educational Rights and Privacy Act of 1974 (FERPA), 20
14 U.S.C., Section 1232g, and
- 15 h. the percentage of the total amount of education
16 scholarship expenditures spent on low-income eligible
17 students.

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

- 19 a. the information submitted by the scholarship-granting
20 organization pursuant to paragraph 1 of this
21 subsection,
- 22 b. a list of participating schools, and
- 23 c. all other application information submitted to the Tax
24 Commission by a scholarship-granting organization,

1 except that information which would violate the
2 privacy of an individual.

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

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

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

22 SECTION 2. This act shall become effective November 1, 2024.
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