

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE  
4 FOR  
5 HOUSE BILL NO. 1693

By: Denney

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7  
8 COMMITTEE SUBSTITUTE

9 An Act relating to revenue and taxation; amending 68  
10 O.S. 2011, Section 2357.206, as amended by Section 1,  
11 Chapter 349, O.S.L. 2014 (68 O.S. Supp. 2014, Section  
12 2357.206), which relates to the Oklahoma Equal  
13 Opportunity Education Scholarship Act; modifying  
14 amount of credit made for consecutive years;  
15 modifying definitions; and providing an effective  
16 date.

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

17 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.206, as  
18 amended by Section 1, Chapter 349, O.S.L. 2014 (68 O.S. Supp. 2014,  
19 Section 2357.206), is amended to read as follows:

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

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

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

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

1           3. The credits authorized pursuant to the provisions of this  
2 subsection shall be allocable to the partners, shareholders, 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 One Thousand Dollars (\$1,000.00) for single  
14 individuals or limited to Two Thousand Dollars (\$2,000.00) for  
15 married persons filing a joint return.

16           4. On or before December 31, 2017, and once every four (4)  
17 years thereafter, such scholarship-granting organization and  
18 educational improvement granting organization shall submit to the  
19 Governor, President Pro Tempore of the Senate and the Speaker of the  
20 House of Representatives, an audited financial statement for the  
21 organization along with information detailing the benefits,  
22 successes or failures of the program.

23           C. 1. Except as provided in subsection F of this section,  
24 after August 26, 2011, there shall be allowed a credit for any

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

15 2. For any taxpayer who makes a contribution to an eligible  
16 educational improvement grant organization and makes a written  
17 commitment to contribute the same amount for ~~two (2)~~ an additional  
18 ~~consecutive years~~ year, the credit for the first year and the  
19 additional year shall be equal to seventy-five percent (75%) of the  
20 total amount of the contribution ~~established in paragraph 1 of this~~  
21 ~~subsection~~ made during a taxable year, not to exceed the amounts  
22 established in paragraph 1 of this subsection for the taxable year  
23 in which the credit provided in this subsection is claimed;  
24 provided, if total credits claimed pursuant to this paragraph exceed

1 the cap established pursuant to paragraph 3 of this subsection, the  
2 credit shall be equal to the taxpayer's proportionate share of the  
3 cap for the taxable year, as determined pursuant to subsection H of  
4 this section. The taxpayer shall provide evidence of the written  
5 commitment to the Oklahoma Tax Commission at the time of filing the  
6 refund claim.

7 3. The credits authorized pursuant to the provisions of this  
8 subsection shall be allocable to the partners, shareholders, members  
9 or other equity owners of a taxpayer that is authorized to be  
10 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 D. 1. The total credits authorized pursuant to subsection B of  
23 this section for all taxpayers shall not exceed Three Million Five  
24 Hundred Thousand Dollars (\$3,500,000.00) annually.

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

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

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

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

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

3 G. As used in this section:

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

19 2. "Eligible special needs student" means a child 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 ~~or~~

17 b. scholarships to an eligible student of up to Five  
18 Thousand Dollars (\$5,000.00) or eighty percent (80%)  
19 of the statewide annual average per-pupil expenditure  
20 as determined by the National Center for Education  
21 Statistics, U.S. Department of Education, whichever is  
22 greater, to cover the educational costs of a qualified  
23 school which does not charge tuition, which enrolls  
24 special populations of students and which is

1           accredited by the State Board of Education or an  
2           accrediting association approved by the Board pursuant  
3           to Section 3-104 of Title 70 of the Oklahoma Statutes,  
4           or

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

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

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

- 20           a.   is accredited by the State Board of Education or an  
21           accrediting association approved by the Board pursuant  
22           to Section 3-104 of Title 70 of the Oklahoma Statutes,  
23           b.   is in compliance with all applicable health and safety  
24           laws and codes,

- 1           c.    has a stated policy against discrimination in  
2                    admissions on the basis of race, color, national  
3                    origin or disability, and  
4           d.    ensures academic accountability to parents and  
5                    guardians of students through regular progress  
6                    reports;

7           6.    "Qualified school for eligible special needs students" means  
8    an early childhood, elementary or secondary private school in a  
9    county in this state, including schools which provide special  
10 educational programs for three-year-olds or prekindergarten  
11 educational programs for four-year-olds;

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

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

- 1 d. spends each year a portion of its expenditures on  
2 educational scholarships for low-income eligible  
3 students, as defined in paragraph 4 of this  
4 subsection, in an amount equal to or greater than the  
5 percentage of low-income eligible students in the  
6 state,
- 7 e. ensures that scholarships are portable during the  
8 school year and can be used at any qualified school  
9 that accepts the eligible student or at any qualified  
10 school for special needs students that accepts the  
11 eligible special needs student,
- 12 f. registers with the Oklahoma Tax Commission as a  
13 scholarship-granting organization, and
- 14 g. has policies in place to:
- 15 (1) carry out criminal background checks on all  
16 employees and board members to ensure that no  
17 individual is involved with the organization who  
18 might reasonably pose a risk to the appropriate  
19 use of contributed funds, and
- 20 (2) maintain full and accurate records with respect  
21 to the receipt of contributions and expenditures  
22 of those contributions and supply such records  
23 and any other documentation required by the Tax  
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1 Commission to demonstrate financial  
2 accountability;

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

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

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

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

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

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

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

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

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

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

22 H. Total credits authorized by this section shall be allocated  
23 as follows:

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

10           2.    a. If the Tax Commission determines the total combined  
11                   credits claimed for contributions made to scholarship-  
12                   granting organizations during the most recently  
13                   completed calendar year by all taxpayers are in excess  
14                   of the statewide caps provided in paragraph 1 of  
15                   subsection D of this section, the Tax Commission shall  
16                   determine the percentage of the contribution which  
17                   establishes the proportionate share of the credit  
18                   which may be claimed by any taxpayer so that the  
19                   maximum credits authorized by this section are not  
20                   exceeded.

21                   b. If the Tax Commission determines the total combined  
22                   credits claimed for contributions made to educational  
23                   improvement grant organizations during the most  
24                   recently completed calendar year by all taxpayers are

1 in excess of the statewide caps provided in paragraph  
2 of subsection D of this section, the Tax Commission  
3 shall determine the percentage of the contribution  
4 which establishes the proportionate share of the  
5 credit which may be claimed by any taxpayer so that  
6 the maximum credits authorized by this section are not  
7 exceeded; and

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

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

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

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

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

5 b. describes the proposed innovative educational program  
6 or programs supported by the organization.

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

10 3. In order to maintain eligibility under this section, an  
11 educational improvement grant organization shall annually report the  
12 following information to the Tax Commission by September 1 of each  
13 year:

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

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

22 c. the names of the public school and school districts  
23 where innovative educational programs that received  
24

1 grants during the immediately preceding school year  
2 were implemented,

3 d. where the organization collects information on a  
4 county-by-county basis, and

5 e. the total number and total amount of grants made  
6 during the immediately preceding school year for  
7 innovative educational programs at public school by  
8 each county in which the organization made grants.

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

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

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

3 SECTION 2. This act shall become effective January 1, 2016.

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