

<DateSubmitted>

HOUSE OF REPRESENTATIVES  
CONFERENCE COMMITTEE REPORT

Mr. President:  
Mr. Speaker:

The Conference Committee, to which was referred

**HB1693**

By: Calvey of the House and Loveless of the Senate

Title: Revenue and taxation; Equal Opportunity Education Scholarship Act; modifying provisions related to allocation of tax credits; effective date.

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Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment No.1.

Respectfully submitted,

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

**SENATE CONFEREES**

Allen	_____
Anderson	_____
Barrington	_____
Bass	_____
Bice	_____
Bingman	_____
Boggs	_____
Brecheen	_____
Brinkley	_____
Brooks	_____
Brown	_____
Crain	_____
Dahm	_____
David	_____
Fields	_____
Floyd	_____
Ford	_____
Fry	_____
Garrison	_____
Griffin	_____
Halligan	_____
Holt	_____
Jech	_____
Jolley	_____
Justice	_____

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

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Marlatt

Mazzei

Newberry

Paddack

Pittman

Quinn

Schulz

Sharp

Shaw

Shortey

Shumate

Silk

Simpson

Smalley

Sparks

Standridge

Stanislowski

Sykes

Thompson

Treat

Wyrick

Yen

1 ENGROSSED SENATE AMENDMENT  
2 TO  
3 ENGROSSED HOUSE  
4 BILL NO. 1693

By: Calvey of the House

and

Loveless of the Senate

6  
7 An Act relating to revenue and taxation; amending 68  
8 O.S. 2011, Section 2357.206, as amended by Section 1,  
9 Chapter 349, O.S.L. 2014 (68 O.S. Supp. 2014, Section  
10 2357.206), which relates to the Oklahoma Equal  
11 Opportunity Education Scholarship Act; modifying  
12 amount of credit made for consecutive years;  
13 modifying definitions; and providing an effective  
14 date.

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1 Passed the Senate the 21st day of April, 2015.

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3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2015.

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8 \_\_\_\_\_  
9 Presiding Officer of the House  
of Representatives

1 ENGROSSED HOUSE  
2 BILL NO. 1693

By: Calvey of the House

and

Loveless of the Senate

3  
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7 An Act relating to revenue and taxation; amending 68  
8 O.S. 2011, Section 2357.206, as amended by Section 1,  
9 Chapter 349, O.S.L. 2014 (68 O.S. Supp. 2014, Section  
10 2357.206), which relates to the Oklahoma Equal  
11 Opportunity Education Scholarship Act; modifying  
12 amount of credit made for consecutive years;  
13 modifying definitions; and providing an effective  
14 date.

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

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

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

21 B. 1. Except as provided in subsection F of this section,  
22 after August 26, 2011, there shall be allowed a credit for any  
23 taxpayer who makes a contribution to an eligible scholarship-  
24 granting organization. The credit shall be equal to fifty percent  
(50%) of the total amount of contributions made during a taxable  
year, not to exceed One Thousand Dollars (\$1,000.00) for single

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

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

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

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

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

20 C. 1. Except as provided in subsection F of this section,  
21 after August 26, 2011, there shall be allowed a credit for any  
22 taxpayer who makes a contribution to an eligible educational  
23 improvement grant organization. The credit shall be equal to fifty  
24 percent (50%) of the total amount of contributions made during a



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

12 2. For any taxpayer who makes a contribution to an eligible  
13 educational improvement grant organization and makes a written  
14 commitment to contribute the same amount for ~~two (2)~~ an additional  
15 ~~consecutive years~~ year, the credit for the first year and the  
16 additional year shall be equal to seventy-five percent (75%) of the  
17 total amount of the contribution ~~established in paragraph 1 of this~~  
18 ~~subsection~~ made during a taxable year, not to exceed the amounts  
19 established in paragraph 1 of this subsection for the taxable year  
20 in which the credit provided in this subsection is claimed;  
21 provided, if total credits claimed pursuant to this paragraph exceed  
22 the cap established pursuant to paragraph 3 of this subsection, the  
23 credit shall be equal to the taxpayer's proportionate share of the  
24 cap for the taxable year, as determined pursuant to subsection H of

1 this section. The taxpayer shall provide evidence of the written  
2 commitment to the Oklahoma Tax Commission at the time of filing the  
3 refund claim.

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

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

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

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

4        E. For credits claimed for eligible contributions made during  
5 tax year 2014 and thereafter, a credit shall not be allowed by the  
6 Oklahoma Tax Commission for contributions made to a scholarship-  
7 granting organization or an educational improvement grant  
8 organization if that organization's percentage of funds actually  
9 awarded is less than ninety percent (90%). For purposes of this  
10 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. Any tax credits which are earned by a taxpayer pursuant to  
17 this section during the time period beginning on the effective date  
18 of this act through December 31, 2012, may not be claimed for any  
19 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. 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 of the income standard used to qualify for a free or reduced school  
6 lunch or who, during the immediately preceding school year, attended  
7 or, by virtue of the location of such student's place of residence,  
8 was eligible to attend a public school in this state which has been  
9 identified for school improvement as determined by the State Board  
10 of Education pursuant to the requirements of the No Child Left  
11 Behind Act of 2001, P.L. No. 107-110. Once a student has received  
12 an educational scholarship, as defined in paragraph 3 of this  
13 subsection, the student and any siblings who are members of the same  
14 household shall remain eligible until they graduate from high school  
15 or reach twenty-one (21) years of age, whichever occurs first;

16        2. "Eligible special needs student" means a child who has been  
17 provided services under an Individual Family Service Plan through  
18 the SoonerStart program and during transition was evaluated and  
19 determined to be eligible for school district services, a child of  
20 school age who has attended public school in our state with an  
21 individualized education program pursuant to the Individuals With  
22 Disabilities Education Act, 20 U.S.C.A., Section 1400 et seq. or a  
23 child who has been diagnosed by a clinical professional as having a  
24

1 significant disability that will affect learning and who has been  
2 approved by the board of a scholarship-granting organization;

3 3. "Educational scholarships" means:

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

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

1                   to Section 3-104 of Title 70 of the Oklahoma Statutes,  
2                   or

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

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

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

- 18               a.   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.   is in compliance with all applicable health and safety  
22               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,

- 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  
24



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

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;

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

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:  
24

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:  
24

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

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

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

- a. the name of the innovative educational program or programs and the total amount of the grant or grants made to those programs during the immediately preceding school year,
- b. a description of how each grant was utilized during the immediately preceding school year and a description of any demonstrated or expected innovative educational improvements,
- c. the names of the public school and school districts where innovative educational programs that received

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  
24

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.

4 Passed the House of Representatives the 11th day of March, 2015.

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6 \_\_\_\_\_  
7 Presiding Officer of the House  
8 of Representatives

9 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2015.

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12 Presiding Officer of the Senate  
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