



S.B. 1080

RE: S.B. 1080

SUBJECT: Contribution tax credit

Senate Bill 1080 becomes effective November 1, 2021. This bill makes changes to the Oklahoma Equal Opportunity Education Scholarship by increasing the total annual tax credit cap from \$5 to \$50 million, expanding the program to include public school districts/foundations, and divides the total cap evenly between public and private schools/organizations at \$25 million each.

- Section 1(B)(1): Requires any tax credits for contributions to *eligible scholarship-granting organizations* that were suspended due to the statewide cap having been reached in the year the credit was granted to be added to an individual's subsequent tax credit.
- Section 1(B)(4): Requires participating scholarship-granting and educational improvement grant organizations to submit an audited financial statement and program information every four years to the Oklahoma Tax Commission (OTC), in addition to the Governor and the Legislature, and to post these documents on the organization's website.
- Section 1(C)(1): Requires any tax credits for contributions to *eligible educational-improvement grant organizations* that were suspended due to the statewide cap having been reached in the year the credit was granted to be added to an individual's subsequent tax credit.
- Section 1(D)(1): Creates a tax credit for taxpayers contributing to *eligible public school foundations* or *public school districts* on or after January 1, 2022 of 50% of the total contribution until the total credits claimed reach the annual cap for the taxable year, in which case the credit will be equal to the taxpayer's proportional share of the statewide cap. Requires the credit amount to be:
 - \$1,000 for single individuals,
 - \$2,000 for married individuals filing jointly, and
 - \$100,000 for legal business entities (i.e., general partnerships, LLCs, etc.).
- Section 1(D)(2): Requires a tax credit of 75% of the total contribution if the taxpayer makes a written commitment to contribute the same amount for an additional year. Requires the taxpayer to provide evidence of the commitment to OTC at the time of filing the claim.

- Section 1(D)(3): Authorizes awarded credits to be allocated to the partners, shareholders, members or other equity owners of a partnership and are not limited to the caps for single individuals or married persons filing a joint return.
- Section 1(D)(4): Requires participating public school foundations and public school districts to submit an audited financial statement along with information detailing the benefits, successes or failures of the programs to OTC, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House by December 31, 2022 and then once every four years.
- Section 1(E)(1): Limits the annual statewide tax credit cap for donations to eligible scholarship-granting organizations to \$3.5 million through tax year 2021.
- Section 1(E)(2): Increases the annual statewide tax credit cap for donations to eligible scholarship-granting organizations to \$25 million beginning in tax year 2022.
- Section 1(E)(3): Limits the annual statewide tax credit cap for donations to eligible educational improvement-grant organizations to \$1.5 million through tax year 2021.
- Section 1(E)(4): Sets a \$25 million annual statewide tax credit cap for donations to both eligible educational improvement-grant organizations and public school foundations and public school districts beginning in tax year 2022.
 - Limits the credit amount to \$200,000 per public school district annually.
- Section 1H(10): Amends definition of “eligible public school district” to mean any public school and repeals the prior requirement that an eligible school not be located within a ten mile radius of a qualified school.
- Section 1H(15): Defines “eligible public school foundation” to mean a legally formed nonprofit entity that is exempt from federal income tax as a nonprofit organization or private foundation according to the Internal Revenue Code.
 - Requires each public school foundation to be approved by the local board of education prior to accepting qualifying donations.
- Section 1(I)(1): Requires eligible public school foundations and school districts to submit an annual report by January 10 to OTC with information on each contribution accepted during the tax year and to notify contributors of the annual statewide cap at least once per year.
- Section 1(I)(2)(a): Requires OTC to allocate any amount of unclaimed credits reserved for eligible educational improvement-grant organizations, public school foundations, and public school districts for claims made for contributions to eligible scholarship-granting organizations should these claims exceed the corresponding cap.

- Section 1(I)(2)(b): Requires OTC to allocate any amount of unclaimed credits reserved for eligible scholarship-granting organization for claims made for contributions to eligible educational improvement-grant organizations, public school foundations, and public school districts should these claims exceed the corresponding cap.
- Section 1(I)(2)(c): Requires OTC to allocate any amount of unclaimed credits reserved for eligible educational improvement-grant organizations, public school foundations, and public school districts, due to exceeding the \$200,000 credit cap per school district, for claims made for contributions to improvement-grant organizations and public school foundations.
- Section 1(I)(3): Requires OTC to publish the percentage of the contribution made in the previous year that may be claimed as a credit by contributors by February 15 each year and requires each organization having received donations to inform contributors of this amount.
- Section 1(L)(1): Requires all organizations to submit an application confirming their nonprofit status, as applicable, and a description of proposed innovative educational programs supported by the organization, in order to be qualified to accept contributions.
- Section 1(L)(3): Requires public school foundations and public school districts annually report to OTC and publish on the organization's website the same information as is required for educational improvement-grant organizations.
- Section 1(M): Requires scholarship-granting organizations to report annually, beginning September 1, 2023 for the 2023-24 school year, to OTC:
 - the name and address of the scholarship-granting organization,
 - the names of the qualifying schools that received funding for educational scholarships, the total amount of funds paid to each school and the total number of scholarship recipients enrolled in each school,
 - the total number and dollar amount of contributions received during the previous academic year,
 - the total number and dollar amount of educational scholarships awarded and funded during the previous academic year,
 - the total number, dollar amount and percentage of educational scholarships awarded and funded during the previous academic year disaggregated by:
 - low-income eligible students,
 - students who during the immediately preceding school year attended or who were eligible to attend a public school identified for school improvement by the State Board of Education,
 - eligible special needs students, and
 - students who were first-time recipients of a scholarship including information about the type of public or private school the student was enrolled in during the entire previous academic year,

- the percentage of annual revenue received by the organization from qualifying contributions not expended on scholarships,
 - disaggregated data redacted according to the Student Data Accessibility, Transparency and Accountability Act of 2013, the Family Educational Rights and Privacy Act of 1974 (FERPA), and
 - the percentage of the total amount of education scholarship expenditures spent on low-income eligible students.
- Section 1(M)(2): Requires OTC to publish the information submitted in the September 1 report, a list of participating schools, and all other application information, except that which would violate an individual's privacy.
 - Section 1(M)(3): Requires scholarship-granting organizations to annually submit verification to the Tax Commission that the organization continues to meet the criteria to be considered a scholarship-granting organization.
 - Section 1(N): Prohibits the Legislature from using contributions to eligible scholarship-granting organizations, educational-improvement grant organizations, public school foundations or public school districts to reduce the amount appropriated for the financial support of public schools.
 - Section 1(O): Requires OTC, in consultation with the State Department of Education (OSDE) to promulgate rules for implementation including procedures for organizations to register, revocation of eligibility, and for providing notice of total allocated credits.

Should you have any questions related to this bill, please contact Ms. Mathangi Shankar, Chief Financial Officer, at (405) 522-0162 or Ms. Carolyn Thompson, Chief of Government Affairs, at (405) 522-3520.

Amendment to: 68 O.S. § 2357.206

Helpful statutory reference: 70 O.S. § 3-168, 20 U.S.C. § 1232g (The Family Educational Rights and Privacy Act, i.e., FERPA), 26 U.S.C. § 501(c)(3), 509(a)