

1 ENGROSSED HOUSE
2 BILL NO. 1935

By: McCall, Bashore, Baker,
Luttrell, Caldwell (Chad),
Maynard, Echols, McBride,
Hilbert of the House

4 and

5 Daniels and Jett of the
6 Senate

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8
9 An Act relating to students; creating the Oklahoma
10 Parental Choice Tax Credit Act; providing short
11 title; providing legislative intent; defining terms;
12 establishing the Oklahoma Parental Choice Tax Credit
13 Program; providing for purpose of program; creating
14 income tax credit for certain taxpayers; prescribing
15 maximum credit amount; directing taxpayer to retain
16 certain receipts; authorizing Tax Commission to
17 prescribe forms; permitting advancement of certain
18 credit; listing procedures for taxpayers claiming
19 credit; authorizing dual participation in certain
20 programs; authorizing prorated recapture of credits;
21 suspending credits if certain funding levels are not
22 met; reducing credit amount if certain event occurs;
23 providing for confidentiality of certain records;
24 requiring Department to provide notice to certain
taxpayers; directing Department to implement certain
system; mandating coordination of a process to verify
student enrollment status; providing for promulgation
of rules; providing immunity from liability for
certain actions; allowing certain parents to
intervene in certain legal proceeding; prohibiting
severability of act provisions; creating the Oklahoma
Student Fund; making the fund a continuing fund;
stating source of funds; providing for budgeting and
expenditure of monies; stating purpose; requiring
expenditures to be made upon warrants; providing for
conditional enactment; providing for codification;
providing an effective date; and declaring an
emergency.

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

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 28-100 of Title 70, unless there
4 is created a duplication in numbering, reads as follows:

5 A. This act shall be known and may be cited as the "Oklahoma
6 Parental Choice Tax Credit Act".

7 B. It is the intent of the Legislature that parents, legal
8 guardians, custodians, and others with legal authority over children
9 in this state be able to choose educational services that meet the
10 needs of their individual children. The Legislature affirms that
11 parents and legal guardians are best suited to make choices to help
12 children in this state reach their full potential and achieve a
13 brighter future.

14 SECTION 2. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 28-101 of Title 70, unless there
16 is created a duplication in numbering, reads as follows:

17 A. As used in the Oklahoma Parental Choice Tax Credit Act:

18 1. "Commission" means the Oklahoma Tax Commission;

19 2. "Curriculum" means a complete course of study for a
20 particular content area or grade level;

21 3. "Department" means the State Department of Education;

22 4. "Education service provider" means a person, business,
23 public school district, public charter school, magnet school,
24 institution within The Oklahoma State System of Higher Education, or

1 organization that provides educational goods and/or services to
2 eligible students;

3 5. "Eligible student" means a resident of this state who is
4 eligible to enroll in a public school in this state. Eligible
5 student shall include a student who is enrolled in and attends a
6 private school accredited by the State Board of Education or another
7 accrediting association or a student who is educated pursuant to the
8 other means of education exception provided for in subsection A of
9 Section 10-105 of Title 70 of the Oklahoma Statutes;

10 6. "Qualified expense" means the following services:

- 11 a. tuition and fees at a private school accredited by the
12 State Board of Education or another accrediting
13 association,
- 14 b. tuition and fees for nonpublic online learning
15 programs,
- 16 c. academic tutoring services provided by an individual
17 or a private academic tutoring facility,
- 18 d. textbooks, curriculum, or other instructional
19 materials including, but not limited to, supplemental
20 materials or associated online instruction required by
21 an education service provider,
- 22 e. fees for nationally standardized assessments
23 including, but not limited to, assessments used to
24 determine college admission and advanced placement

1 examinations as well as tuition and fees for tutoring
2 or preparatory courses for the assessments, and
3 f. tuition and fees for concurrent enrollment at an
4 institution within The Oklahoma State System of Higher
5 Education; and

6 7. "Taxpayer" means a biological or adoptive parent,
7 grandparent, aunt, uncle, legal guardian, custodian, or other person
8 with legal authority to act on behalf of an eligible student.

9 B. There is hereby created the Oklahoma Parental Choice Tax
10 Credit Program to provide an income tax credit to a taxpayer for
11 qualified expenses to support the education of eligible students in
12 this state.

13 C. For tax years beginning after January 1, 2023, there shall
14 be allowed against the tax imposed by Section 2355 of Title 68 of
15 the Oklahoma Statutes a credit for any Oklahoma taxpayer who incurs
16 a qualified expense on behalf of an eligible student. The credit
17 shall be administered subject to the following:

18 1. The maximum credit amount shall be:

19 a. Five Thousand Dollars (\$5,000.00) in qualified expenses
20 per eligible student in each tax year if the eligible
21 student attends a private school accredited by the
22 State Board of Education or another accrediting
23 association, and
24

1 b. Two Thousand Five Hundred Dollars (\$2,500.00) in
2 qualified expenses per eligible student in each tax
3 year if the eligible student is educated pursuant to
4 the other means of education exception provided for in
5 subsection A of Section 10-105 of Title 70 of the
6 Oklahoma Statutes;

7 2. The taxpayer shall retain all receipts of qualified expenses
8 as proof of the amounts paid each tax year the credit is claimed;
9 and

10 3. If the credit exceeds the tax imposed by Section 2355 of
11 Title 68 of the Oklahoma Statutes, the excess amount shall be
12 refunded to the taxpayer.

13 D. The Commission may prescribe forms for purposes of claiming
14 the credits authorized by the Oklahoma Parental Choice Tax Credit
15 Act. The Commission shall create a form for the purpose of allowing
16 taxpayers to request that the credit amount provided in subparagraph
17 a of paragraph 1 of subsection C of this section be advanced to the
18 taxpayer in two installments of not more than Two Thousand Five
19 Hundred Dollars (\$2,500.00) per semester for a maximum credit of
20 Five Thousand Dollars (\$5,000.00) per tax year. Eligible taxpayers
21 who submit the form and qualify for an advance shall be approved and
22 paid within sixty (60) days of submitting the prescribed form.

23 E. Taxpayers claiming the credit shall:
24

1 1. Only claim the credit for qualified expenses as defined in
2 paragraph 6 of subsection A of this section to provide an education
3 for an eligible student;

4 2. Ensure no other person is claiming a credit for the eligible
5 student;

6 3. Not claim the credit for an eligible student who enrolls as
7 a full-time student in a public school district, public charter
8 school, public virtual charter school, or magnet school; and

9 4. Comply with rules and requirements established by the
10 Commission for administration of the Oklahoma Parental Choice Tax
11 Credit Program.

12 F. Eligible students may accept a scholarship from the Lindsey
13 Nicole Henry Scholarships for Students with Disabilities Program
14 created by Section 13-101.2 of Title 70 of the Oklahoma Statutes
15 while participating in the Oklahoma Parental Choice Tax Credit
16 Program.

17 G. The Commission shall be authorized to recapture the credits
18 otherwise authorized by the provisions of this act on a prorated
19 basis if it finds that the taxpayer has claimed an eligible student
20 who no longer attends a private school or has enrolled in a public
21 school in the state or that the credit does not meet the
22 requirements of the Oklahoma Parental Choice Tax Credit Act.

23 H. Beginning July 1, 2024, and beginning on each succeeding
24 July 1 if the amount of money appropriated to the State Board of

1 Education for the financial support of public schools for the fiscal
2 year which begins July 1, 2024, is less than the amount of money
3 appropriated to the State Board of Education for the financial
4 support of public schools for the fiscal year ending June 30, 2024,
5 including funds appropriated pursuant to Sections 1, 2, and 3 of
6 Enrolled House Bill No. 2775 enacted by the 1st Session of the 59th
7 Oklahoma Legislature, the tax credits otherwise authorized in
8 subsection C of this section shall be suspended until the amount of
9 money appropriated to the State Board of Education for the financial
10 support of public schools is greater than or equal to the amount
11 appropriated for the fiscal year ending June 30, 2024.

12 I. In the event of a failure of revenue pursuant to the
13 Oklahoma State Finance Act, the tax credits otherwise authorized in
14 subsection C of this section shall be reduced proportionately to the
15 reduction in the amount of money appropriated to the State Board of
16 Education for the financial support of public schools for the fiscal
17 year in which the failure of revenue occurs.

18 J. The Tax Commission shall keep all records relating to the
19 Oklahoma Parental Choice Tax Credit Act confidential including, but
20 not limited to, the Social Security numbers of eligible students.

21 SECTION 3. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 28-102 of Title 70, unless there
23 is created a duplication in numbering, reads as follows:

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1 A. The State Department of Education shall provide parents,
2 legal guardians, custodians, or other persons with legal authority
3 of eligible students with disabilities notice that participation in
4 the Oklahoma Parental Choice Tax Credit Program shall have the same
5 effect as a parental revocation of consent pursuant to 20 U.S.C.,
6 Sections 1414(a)(1)(D) and 1414(C) of the Individuals with
7 Disabilities Education Act (IDEA) and an explanation of the rights
8 parents, legal guardians, custodians, or other persons with legal
9 authority of eligible students with disabilities have under IDEA and
10 any applicable state laws and regulations.

11 B. The Department shall implement a commercially viable, cost-
12 effective, and user-friendly system for users to publicly rate,
13 review, and share information about education service providers.

14 C. The Oklahoma Tax Commission shall coordinate with the State
15 Department of Education to develop a process to review student
16 enrollment information in order to verify that an eligible student
17 who is claimed by a taxpayer receiving a tax credit is not enrolled
18 in a public school in the state.

19 D. The Commission and Department may promulgate rules to
20 implement the provisions of the Oklahoma Parental Choice Tax Credit
21 Act.

22 SECTION 4. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 28-103 of Title 70, unless there
24 is created a duplication in numbering, reads as follows:

1 A. No liability shall arise on the part of the Oklahoma Tax
2 Commission, State Department of Education, State Board of Education,
3 the state, a public school district, a public charter school, a
4 public virtual charter school, or a magnet school based on the award
5 of or use of a tax credit pursuant to the Oklahoma Parental Choice
6 Tax Credit Act.

7 B. If any part of the Oklahoma Parental Choice Tax Credit Act
8 is challenged in a state court as violating either the Oklahoma
9 Constitution or United States Constitution, taxpayers shall be
10 permitted to intervene for the purposes of defending the Oklahoma
11 Parental Choice Tax Credit Program's constitutionality. However,
12 for the purposes of judicial administration, a court may require
13 that all taxpayers file a joint brief so long as they are not
14 required to join any brief filed on behalf of any named state
15 defendant.

16 C. The provisions of the Oklahoma Parental Choice Tax Credit
17 Act shall not be severable, and if any provision of the Oklahoma
18 Parental Choice Tax Credit Act or the application thereof to any
19 person or circumstances is held invalid, such invalidity shall
20 invalidate the other provisions or applications of this act.

21 SECTION 5. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 28-104 of Title 70, unless there
23 is created a duplication in numbering, reads as follows:

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1 There is hereby created in the State Treasury a revolving fund
2 for the State Board of Education to be designated the "Oklahoma
3 Student Fund". The fund shall be a continuing fund, not subject to
4 fiscal year limitations, and shall consist of all monies designated
5 for deposit to the fund by law. All monies accruing to the credit
6 of the fund are hereby appropriated and may be budgeted and expended
7 by the State Board of Education for the purpose of funding public
8 school districts as provided in Sections 2 and 3 of Enrolled House
9 Bill No. 2775 enacted by the 1st Session of the 59th Oklahoma
10 Legislature. Expenditures from the fund shall be made upon warrants
11 issued by the State Treasurer against claims filed as prescribed by
12 law with the Director of the Office of Management and Enterprise
13 Services for approval and payment.

14 SECTION 6. The provisions of this act shall be contingent upon
15 the enactment of Enrolled House Bill No. 2775 of the 1st Session of
16 the 59th Oklahoma Legislature.

17 SECTION 7. This act shall become effective July 1, 2023.

18 SECTION 8. It being immediately necessary for the preservation
19 of the public peace, health or safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

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1 Passed the House of Representatives the 22nd day of February,
2023.

4 _____
Presiding Officer of the House
of Representatives

6 Passed the Senate the ____ day of _____, 2023.

8 _____
Presiding Officer of the Senate