

**FLOOR AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1935 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Charles McCall

\_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 FLOOR SUBSTITUTE  
4 FOR

5 HOUSE BILL NO. 1935

6 By: McCall

7 FLOOR SUBSTITUTE

8 An Act relating to students; creating the Oklahoma  
9 Parental Choice Tax Credit Act; providing short  
10 title; providing legislative intent; defining terms;  
11 establishing the Oklahoma Parental Choice Tax Credit  
12 Program; providing for purpose of program; creating  
13 income tax credit for certain taxpayers; prescribing  
14 maximum credit amount; directing taxpayer to retain  
15 certain receipts; authorizing Tax Commission to  
16 prescribe forms; permitting advancement of certain  
17 credit; listing procedures for taxpayers claiming  
18 credit; authorizing dual participation in certain  
19 programs; authorizing prorated recapture of credits;  
20 suspending credits if certain funding levels are not  
21 met; reducing credit amount if certain event occurs;  
22 providing for confidentiality of certain records;  
23 requiring Department to provide notice to certain  
24 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  
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1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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