

1 **SENATE FLOOR VERSION**

2 March 27, 2023

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 1935

6 By: McCall, Bashore, Baker,
7 Luttrell, Caldwell (Chad),
8 Maynard, Echols, McBride,
9 Hilbert, and Culver of the
10 House

11 and

12 Treat, Jett, Pugh, Daniels,
13 Bullard, Rogers, Rosino,
14 Thompson (Kristen),
15 Bergstrom, McCortney,
16 Thompson (Roger), Hall,
17 Coleman, Paxton, Rader,
18 Seifried, Green, Newhouse,
19 Stewart, Prieto, Murdock,
20 Montgomery, Pederson,
21 Dugger, Pemberton, Weaver,
22 Stanley, Haste, Garvin,
23 Stephens, Burns, and Alvord
24 of the Senate

16 An Act relating to students; creating the Oklahoma
17 Parental Choice Tax Credit Act; providing short
18 title; providing legislative intent; defining terms;
19 creating the Oklahoma Parental Choice Tax Credit
20 Program; providing purpose; creating income tax
21 credit for certain taxpayers beginning in certain tax
22 year; prescribing maximum credit amounts; directing
23 taxpayer to retain certain receipts and submit them
24 upon certain request; authorizing the Oklahoma Tax
Commission to prescribe certain forms; providing for
advancement of certain credit in installments;
providing procedures for claiming credit; authorizing
dual participation in certain program; authorizing
the Commission to conduct or contract for certain
audit; authorizing prorated recapture of credits
under certain circumstances; directing certain credit
amount to be reduced if certain event occurs;

1 requiring the posting of certain credit amounts;
2 requiring the State Department of Education to
3 provide certain notice; directing implementation of
4 certain system; requiring coordination of a process
5 to verify student enrollment status; providing for
6 promulgation of rules; providing immunity from
7 liability for certain actions; allowing certain
8 parents to intervene in certain legal proceeding;
9 prohibiting severability of act provisions; providing
10 for codification; providing conditional effective
11 date; and declaring an emergency.

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

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

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

18 B. It is the intent of the Legislature that parents, legal
19 guardians, custodians, and others with legal authority over children
20 in this state be able to choose educational services that meet the
21 needs of their individual children. The Legislature affirms that
22 parents and legal guardians are best suited to make choices to help
23 children in this state reach their full potential and achieve a
24 brighter future.

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

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

- 1 1. "Commission" means the Oklahoma Tax Commission;
- 2 2. "Curriculum" means a complete course of study for a
3 particular content area or grade level;
- 4 3. "Department" means the State Department of Education;
- 5 4. "Education service provider" means a person, business,
6 public school district, public charter school, magnet school,
7 institution within The Oklahoma State System of Higher Education, or
8 organization that provides educational goods and/or services to
9 eligible students;
- 10 5. "Eligible student" means a resident of this state who is
11 eligible to enroll in a public school in this state and who is a
12 member of a household in which the total adjusted gross income
13 during the preceding tax year does not exceed Two Hundred Fifty
14 Thousand Dollars (\$250,000.00). Eligible student shall include a
15 student who is enrolled in and attends a private school accredited
16 by the State Board of Education or another accrediting association
17 or a student who is educated pursuant to the other means of
18 education exception provided for in subsection A of Section 10-105
19 of Title 70 of the Oklahoma Statutes;
- 20 6. "Qualified expense" for the purpose of claiming the credit
21 authorized by subparagraph a of paragraph 1 of subsection C of this
22 section means tuition and fees at a private school accredited by the
23 State Board of Education or another accrediting association;

24

1 7. "Qualified expense" for the purpose of claiming the credit
2 authorized by subparagraph b of paragraph 1 of subsection C of this
3 section means the following expenditures:

- 4 a. tuition and fees for nonpublic online learning
5 programs,
- 6 b. academic tutoring services provided by an individual
7 or a private academic tutoring facility,
- 8 c. textbooks, curriculum, or other instructional
9 materials including, but not limited to, supplemental
10 materials or associated online instruction required by
11 an education service provider, and
- 12 d. fees for nationally standardized assessments
13 including, but not limited to, assessments used to
14 determine college admission and advanced placement
15 examinations as well as tuition and fees for tutoring
16 or preparatory courses for the assessments; and

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

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

1 C. For the tax year 2023 and subsequent tax years, there shall
2 be allowed against the tax imposed by Section 2355 of Title 68 of
3 the Oklahoma Statutes a credit for any Oklahoma taxpayer who incurs
4 a qualified expense on behalf of an eligible student. Provided, the
5 credit allowed for tax year 2023 shall only be for qualified
6 expenses made on or after July 1, 2023. The credit shall be
7 administered subject to the following:

8 1. The maximum credit amount shall be:

9 a. Seven Thousand Five Hundred Dollars (\$7,500.00) in
10 qualified expenses per eligible student in each tax

11 year if the eligible student attends a private school
12 accredited by the State Board of Education or another
13 accrediting association or the amount of tuition and
14 fees for the private school, whichever is less, and

15 b. One Thousand Dollars (\$1,000.00) in qualified expenses
16 per taxpayer in each tax year if one or more eligible

17 students is educated pursuant to the other means of
18 education exception provided for in subsection A of
19 Section 10-105 of Title 70 of the Oklahoma Statutes.

20 To claim the credit, the taxpayer shall submit to the
21 Commission receipts for qualified expenses as defined
22 by paragraph 7 of subsection A of this section;

23

24

1 2. The taxpayer shall retain all receipts of qualified expenses
2 as proof of the amounts paid each tax year the credit is claimed and
3 shall submit them to the Commission upon request; and

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

7 D. The Commission may prescribe forms for purposes of claiming
8 the credits authorized by the Oklahoma Parental Choice Tax Credit
9 Act. The Commission shall create a form for the purpose of allowing
10 taxpayers to request that the credit amount provided in subparagraph
11 a of paragraph 1 of subsection C of this section be advanced to the
12 taxpayer in two installments of not more than Three Thousand Seven
13 Hundred Fifty Dollars (\$3,750.00) per semester for a maximum credit
14 of Seven Thousand Five Hundred Dollars (\$7,500.00) per tax year or
15 the amount of tuition and fees for the private school, whichever is
16 less. Eligible taxpayers who submit the form and qualify for an
17 advance shall be approved and paid within sixty (60) days of
18 submitting the prescribed form.

19 E. Taxpayers claiming the credit shall:

20 1. Only claim the credit for qualified expenses as defined in
21 paragraphs 6 and 7 of subsection A of this section to provide an
22 education for an eligible student;

23 2. Ensure no other person is claiming a credit for the eligible
24 student;

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

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

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

12 G. 1. The Commission shall have the authority to conduct an
13 audit or contract for the auditing of receipts for qualified
14 expenses submitted pursuant to subparagraph b of paragraph 1 of
15 subsection C of this section.

16 2. The Commission shall be authorized to recapture the credits
17 otherwise authorized by the provisions of this act on a prorated
18 basis if an audit conducted pursuant to this subsection shows that
19 the credit was claimed for expenditures that were not qualified
20 expenses or it finds that the taxpayer has claimed an eligible
21 student who no longer attends a private school or has enrolled in a
22 public school in the state.

23 H. In the event of a failure of revenue pursuant to the
24 Oklahoma State Finance Act, the tax credits otherwise authorized in

1 subsection C of this section shall be reduced proportionately to the
2 reduction in the amount of money appropriated to the State Board of
3 Education for the financial support of public schools for the fiscal
4 year in which the failure of revenue occurs.

5 I. The Commission shall make available on its website the
6 amount of credits claimed each tax year pursuant to subparagraphs a
7 and b of paragraph 1 of subsection C of this section.

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

11 A. The State Department of Education shall provide parents,
12 legal guardians, custodians, or other persons with legal authority
13 of eligible students with disabilities notice that participation in
14 the Oklahoma Parental Choice Tax Credit Program shall have the same
15 effect as a parental revocation of consent pursuant to 20 U.S.C.,
16 Sections 1414(a)(1)(D) and 1414(C) of the Individuals with
17 Disabilities Education Act (IDEA) and an explanation of the rights
18 parents, legal guardians, custodians, or other persons with legal
19 authority of eligible students with disabilities have under IDEA and
20 any applicable state laws and regulations.

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

24

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

6 D. The Commission may promulgate rules to implement the
7 provisions of the Oklahoma Parental Choice Tax Credit Act. The
8 State Board of Education may promulgate rules to implement the
9 provisions of this section.

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

13 A. No liability shall arise on the part of the Oklahoma Tax
14 Commission, State Department of Education, State Board of Education,
15 the state, a public school district, a public charter school, a
16 public virtual charter school, or a magnet school based on the award
17 of or use of a tax credit pursuant to the Oklahoma Parental Choice
18 Tax Credit Act.

19 B. If any part of the Oklahoma Parental Choice Tax Credit Act
20 is challenged in a state court as violating either the Oklahoma
21 Constitution or United States Constitution, taxpayers shall be
22 permitted to intervene for the purposes of defending the Oklahoma
23 Parental Choice Tax Credit Program's constitutionality. However,
24 for the purposes of judicial administration, a court may require

1 that all taxpayers file a joint brief so long as they are not
2 required to join any brief filed on behalf of any named state
3 defendant.

4 C. The provisions of the Oklahoma Parental Choice Tax Credit
5 Act shall not be severable, and if any provision of the Oklahoma
6 Parental Choice Tax Credit Act or the application thereof to any
7 person or circumstances is held invalid, such invalidity shall
8 invalidate the other provisions or applications of this act.

9 SECTION 5. The provisions of this act shall not become
10 effective as law unless Enrolled House Bill No. 2775 of the 1st
11 Session of the 59th Oklahoma Legislature becomes effective as law.

12 SECTION 6. It being immediately necessary for the preservation
13 of the public peace, health, or safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

16 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
17 March 27, 2023 - DO PASS AS AMENDED BY CS

18
19
20
21
22
23
24