

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1935

By: McCall

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9                                   COMMITTEE SUBSTITUTE

10           An Act relating to students; creating the Oklahoma  
11           Parental Choice Tax Credit Act; providing short  
12           title; providing legislative intent; defining terms;  
13           establishing the Oklahoma Parental Choice Tax Credit  
14           Program; providing for purpose of program; creating  
15           income tax credit for certain taxpayers; prescribing  
16           maximum credit amount; directing taxpayer to retain  
17           certain receipts; authorizing Tax Commission to  
18           prescribe forms; permitting advancement of certain  
19           credit; listing procedures for taxpayers claiming  
20           credit; authorizing dual participation in certain  
21           programs; authorizing prorated recapture of credits;  
22           suspending credits if certain funding levels are not  
23           met; reducing credit amount if certain event occurs;  
24           providing for confidentiality of certain records;  
          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; including  
          certain schools in funding eligibility; including  
          appropriations in per-pupil expenditure calculations;

1 providing for conditional enactment; providing for  
2 noncodification; providing for codification;  
3 providing an effective date; and declaring an  
4 emergency.

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

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

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

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

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

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

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

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

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

2 4. "Education service provider" means a person, business,  
3 public school district, public charter school, magnet school,  
4 institution within The Oklahoma State System of Higher Education, or  
5 organization that provides educational goods and/or services to  
6 eligible students;

7 5. "Eligible student" means a resident of this state who is  
8 eligible to enroll in a public school in this state. Eligible  
9 student shall include a student who is enrolled in and attends a  
10 private school in the state or a student who is educated pursuant to  
11 the other means of education exception provided for in subsection A  
12 of Section 10-105 of Title 70 of the Oklahoma Statutes;

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

- 14 a. tuition and fees at a private school accredited by the  
15 State Board of Education or another accrediting  
16 association,  
17 b. tuition and fees for nonpublic online learning  
18 programs,  
19 c. tutoring services provided by an individual or a  
20 private tutoring facility,  
21 d. services contracted for and provided by a public  
22 school district, public charter school, or magnet  
23 school including, but not limited to, classes and  
24 extracurricular activities and programs,

- 1 e. textbooks, curriculum, or other instructional  
2 materials including, but not limited to, supplemental  
3 materials or associated online instruction required by  
4 an education service provider,
- 5 f. fees for nationally standardized assessments  
6 including, but not limited to, assessments used to  
7 determine college admission and advanced placement  
8 examinations as well as tuition and fees for tutoring  
9 or preparatory courses for the assessments, and
- 10 g. tuition and fees for concurrent enrollment at an  
11 institution within The Oklahoma State System of Higher  
12 Education; and

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

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

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

1 1. The maximum credit amount shall be:

2 a. Five Thousand Dollars (\$5,000.00) in qualified expenses  
3 per eligible student in each tax year if the eligible  
4 student attends a private school accredited by the  
5 State Board of Education or another accrediting  
6 association, and

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

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

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

19 D. The Commission may prescribe forms for purposes of claiming  
20 the credits authorized by the Oklahoma Parental Choice Tax Credit  
21 Act. The Commission shall create a form for the purpose of allowing  
22 taxpayers to request that the credit amount provided in subparagraph  
23 a of paragraph 1 of subsection C of this section be advanced to the  
24 taxpayer in two installments of not more than Two Thousand Five

1 Hundred Dollars (\$2,500.00) per semester for a maximum credit of  
2 Five Thousand Dollars (\$5,000.00) per tax year. Eligible taxpayers  
3 who submit the form and qualify for an advance shall be approved and  
4 paid within sixty (60) days of submitting the prescribed form.

5 E. Taxpayers claiming the credit shall:

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

9 2. Ensure no other person is claiming a credit for the eligible  
10 student;

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

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

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

22 G. The Commission shall be authorized to recapture the credits  
23 otherwise authorized by the provisions of this act on a prorated  
24 basis if it finds that the taxpayer has claimed an eligible student

1 who no longer attends a private school or has enrolled in a public  
2 school in the state or that the credit does not meet the  
3 requirements of the Oklahoma Parental Choice Tax Credit Act.

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

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

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

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

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

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

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



1 D. The Commission and Department may promulgate rules to  
2 implement the provisions of the Oklahoma Parental Choice Tax Credit  
3 Act.

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

7 A. No liability shall arise on the part of the Oklahoma Tax  
8 Commission, State Department of Education, State Board of Education,  
9 the state, a public school district, a public charter school, a  
10 public virtual charter school, or a magnet school based on the award  
11 of or use of a tax credit pursuant to the Oklahoma Parental Choice  
12 Tax Credit Act.

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

22 C. The provisions of the Oklahoma Parental Choice Tax Credit  
23 Act shall not be severable, and if any provision of the Oklahoma  
24 Parental Choice Tax Credit Act or the application thereof to any

1 person or circumstances is held invalid, such invalidity shall  
2 invalidate the other provisions or applications of this act.

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

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

19 SECTION 6. NEW LAW A new section of law not to be  
20 codified in the Oklahoma Statutes reads as follows:

21 A. For the purposes of funds appropriated pursuant to Sections  
22 1, 2, and 3 of Enrolled House Bill No. 2775 enacted by the 1st  
23 Session of the 59th Oklahoma Legislature, the Oklahoma School for  
24 the Blind and the Oklahoma School for the Deaf shall be considered

1 public schools and public school districts that are eligible to  
2 receive the funds appropriated in Sections 1, 2, and 3 of Enrolled  
3 House Bill No. 2775 enacted by the 1st Session of the 59th Oklahoma  
4 Legislature.

5 B. The 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 shall be included in any calculation of per-  
8 pupil expenditure as defined in Section 1-124 of Title 70 of the  
9 Oklahoma Statutes.

10 SECTION 7. The provisions of this act shall be contingent upon  
11 the enactment of Enrolled House Bill No. 2775 of the 1st Session of  
12 the 59th Oklahoma Legislature.

13 SECTION 8. This act shall become effective July 1, 2023.

14 SECTION 9. It being immediately necessary for the preservation  
15 of the public peace, health or safety, an emergency is hereby  
16 declared to exist, by reason whereof this act shall take effect and  
17 be in full force from and after its passage and approval.

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19 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
20 02/20/2023 - DO PASS, As Amended.

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