

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2775 _____
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

Amendment submitted by: Charles McCall _____

Adopted: _____

Reading Clerk

1 STATE OF OKLAHOMA

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

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2775

By: McCall and McBride

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8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to students; making appropriations to
10 the State Board of Education; specifying
11 appropriation amounts; providing a pay increase for
12 all active classroom teachers; directing certain
13 appropriation to be distributed based on average
14 daily membership; establishing maximum distribution
15 amount; providing allowable expenditures for
16 appropriated funds; including certain schools in
17 funding eligibility; including appropriations in per-
18 pupil expenditure calculations; creating the Oklahoma
19 Parental Choice Tax Credit Act; providing short
20 title; providing legislative intent; defining terms;
21 establishing the Oklahoma Parental Choice Tax Credit
22 Program; providing for purpose of program; creating
23 income tax credit for certain taxpayers; prescribing
24 maximum credit amount; directing taxpayer to retain
certain receipts; authorizing Tax Commission to
prescribe forms; permitting advancement of certain
credit; listing procedures for taxpayers claiming
credit; authorizing dual participation in certain
programs; authorizing prorated recapture of credits;
suspending credits if certain funding levels are not
met; reducing credit amount if certain event occurs;
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

1 severability of act provisions; creating the Oklahoma
2 Student Fund; making the fund a continuing fund;
3 stating source of funds; providing for budgeting and
4 expenditure of monies; stating purpose; requiring
5 expenditures to be made upon warrants; providing for
6 noncodification; providing for codification;
7 providing an effective date; and declaring an
8 emergency.

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

10 SECTION 1. There is hereby appropriated to the State Board of
11 Education from any monies not otherwise appropriated from the
12 General Revenue Fund of the State Treasury for the fiscal year
13 ending June 30, 2024, the sum of One Hundred Fifty Million Dollars
14 (\$150,000,000.00) for the financial support of public schools. A
15 portion of these monies and monies appropriated in Section 3 of this
16 act shall be used to increase salaries of all public school district
17 active classroom teachers, as defined in Section 17-101 of Title 70
18 of the Oklahoma Statutes, in the amount of Two Thousand Five Hundred
19 Dollars (\$2,500.00) per active classroom teacher for the 2023-2024
20 school year. If a person employed as an active classroom teacher by
21 a school district during the 2022-2023 school year was receiving a
22 salary greater than the step level indicated by the state or local
23 Minimum Salary Schedule for the 2022-2023 school year, the person
24 shall receive a salary increase in the amount of Two Thousand Five
Hundred Dollars (\$2,500.00) greater than his or her salary for the

1 2022-2023 school year, provided the person remains employed by the
2 same district and the hours or duties of the person are not reduced.

3 SECTION 2. There is hereby appropriated to the State Board of
4 Education from any monies not otherwise appropriated from the
5 Oklahoma Student Fund of the State Treasury created in Section 9 of
6 this act for the fiscal year ending June 30, 2024, the sum of Fifty
7 Million Dollars (\$50,000,000.00) to be distributed in a proportional
8 manner the same as redbud school grants provided for in subsection B
9 of Section 3-104 of Title 70 of the Oklahoma Statutes.

10 SECTION 3. There is hereby appropriated to the State Board of
11 Education from any monies not otherwise appropriated from the
12 Oklahoma Student Fund of the State Treasury created in Section 9 of
13 this act for the fiscal year ending June 30, 2024, the sum of Three
14 Hundred Million Dollars (\$300,000,000.00) to be distributed to
15 public school districts in the state based on the average daily
16 membership of the preceding school year for the school district to
17 be utilized as provided in this section, but in no event shall any
18 district receive more than Two Million Dollars (\$2,000,000.00). The
19 appropriated monies may only be used for the following expenditures:

20 1. Teacher and support staff salaries, not including salaries
21 of administrators;

22 2. Programs and facilities related to instruction in science,
23 technology, engineering, and mathematics;

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1 3. Textbooks, curriculum, or other instructional materials
2 including, but not limited to, supplemental materials or associated
3 online instruction applications or materials;

4 4. Computer hardware or other technological devices,
5 educational software, and applications that are used to meet
6 curriculum needs and bolster academic outcomes of students;

7 5. Increasing classroom capacity and additional institutional
8 space for academic instruction if the school is at full academic
9 capacity;

10 6. Instruments, supplies, accessories, and materials that
11 provide instruction in drama, music, speech and debate, agriculture,
12 or other similar activities;

13 7. Fees for nationally standardized assessments including, but
14 not limited to, assessments used to determine college admission and
15 advanced placement examinations as well as tuition and fees for
16 tutoring, remediation, or preparatory courses for the assessments;

17 8. Summer education programs and specialized after-school
18 education programs; provided, however, that such expense shall not
19 include before-school or after-school child care;

20 9. Student support services, including only health,
21 psychological, guidance, therapy, and attendance services; and

22 10. Tuition and fees for concurrent enrollment at an
23 institution within The Oklahoma State System of Higher Education
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1 only for amounts that are not paid by the Oklahoma State Regents for
2 Higher Education.

3 SECTION 4. NEW LAW A new section of law not to be
4 codified in the Oklahoma Statutes reads as follows:

5 A. For the purposes of funds appropriated pursuant to Sections
6 1, 2, and 3 of this act, the Oklahoma School for the Blind and the
7 Oklahoma School for the Deaf shall be considered public schools and
8 public school districts that are eligible to receive the funds
9 appropriated in Sections 1, 2, and 3 of this act.

10 B. The funds appropriated pursuant to Sections 1, 2, and 3 of
11 this act shall be included in any calculation of per-pupil
12 expenditure as defined in Section 1-124 of Title 70 of the Oklahoma
13 Statutes.

14 SECTION 5. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 28-100 of Title 70, unless there
16 is created a duplication in numbering, reads as follows:

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

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

3 SECTION 6. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 28-101 of Title 70, unless there
5 is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

22 6. "Qualified expense" means the following services:
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- 1 a. tuition and fees at a private school accredited by the
2 State Board of Education or another accrediting
3 association,
- 4 b. tuition and fees for nonpublic online learning
5 programs,
- 6 c. tutoring services provided by an individual or a
7 private tutoring facility,
- 8 d. services contracted for and provided by a public
9 school district, public charter school, or magnet
10 school including, but not limited to, classes and
11 extracurricular activities and programs,
- 12 e. textbooks, curriculum, or other instructional
13 materials including, but not limited to, supplemental
14 materials or associated online instruction required by
15 an education service provider,
- 16 f. fees for nationally standardized assessments
17 including, but not limited to, assessments used to
18 determine college admission and advanced placement
19 examinations as well as tuition and fees for tutoring
20 or preparatory courses for the assessments, and
- 21 g. tuition and fees for concurrent enrollment at an
22 institution within The Oklahoma State System of Higher
23 Education; and
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1 7. "Taxpayer" means a biological or adoptive parent,
2 grandparent, aunt, uncle, legal guardian, custodian, or other person
3 with legal authority to act on behalf of an eligible student.

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

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

13 1. The maximum credit amount shall be:

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

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

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

17 E. Taxpayers claiming the credit shall:

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

21 2. Ensure no other person is claiming a credit for the eligible
22 student;

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

18 H. Beginning July 1, 2024, and beginning on each succeeding
19 July 1 if the amount of money appropriated to the State Board of
20 Education for the financial support of public schools for the fiscal
21 year which begins July 1, 2024, is less than the amount of money
22 appropriated to the State Board of Education for the financial
23 support of public schools for the fiscal year ending June 30, 2024,
24 including funds appropriated pursuant to Sections 1, 2, and 3 of

1 this act, the tax credits otherwise authorized in subsection C of
2 this section shall be suspended until the amount of money
3 appropriated to the State Board of Education for the financial
4 support of public schools is greater than or equal to the amount
5 appropriated for the fiscal year ending June 30, 2024.

6 I. In the event of a failure of revenue pursuant to the
7 Oklahoma State Finance Act, the tax credits otherwise authorized in
8 subsection C of this section shall be reduced proportionately to the
9 reduction in the amount of money appropriated to the State Board of
10 Education for the financial support of public schools for the fiscal
11 year in which the failure of revenue occurs.

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

15 SECTION 7. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 28-102 of Title 70, unless there
17 is created a duplication in numbering, reads as follows:

18 A. The State Department of Education shall provide parents,
19 legal guardians, custodians, or other persons with legal authority
20 of eligible students with disabilities notice that participation in
21 the Oklahoma Parental Choice Tax Credit Program shall have the same
22 effect as a parental revocation of consent pursuant to 20 U.S.C.,
23 Sections 1414(a)(1)(D) and 1414(C) of the Individuals with
24 Disabilities Education Act (IDEA) and an explanation of the rights

1 parents, legal guardians, custodians, or other persons with legal
2 authority of eligible students with disabilities have under IDEA and
3 any applicable state laws and regulations.

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

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

12 D. The Commission and Department may promulgate rules to
13 implement the provisions of the Oklahoma Parental Choice Tax Credit
14 Act.

15 SECTION 8. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 28-103 of Title 70, unless there
17 is created a duplication in numbering, reads as follows:

18 A. No liability shall arise on the part of the Oklahoma Tax
19 Commission, State Department of Education, State Board of Education,
20 the state, a public school district, a public charter school, a
21 public virtual charter school, or a magnet school based on the award
22 of or use of a tax credit pursuant to the Oklahoma Parental Choice
23 Tax Credit Act.

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

10 C. The provisions of the Oklahoma Parental Choice Tax Credit
11 Act shall not be severable, and if any provision of the Oklahoma
12 Parental Choice Tax Credit Act or the application thereof to any
13 person or circumstances is held invalid, such invalidity shall
14 invalidate the other provisions or applications of this act.

15 SECTION 9. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 28-104 of Title 70, unless there
17 is created a duplication in numbering, reads as follows:

18 There is hereby created in the State Treasury a revolving fund
19 for the State Board of Education to be designated the "Oklahoma
20 Student Fund". The fund shall be a continuing fund, not subject to
21 fiscal year limitations, and shall consist of all monies designated
22 for deposit to the fund by law. All monies accruing to the credit
23 of the fund are hereby appropriated and may be budgeted and expended
24 by the State Board of Education for the purpose of funding public

1 school districts as provided in Sections 2 and 3 of this act.
2 Expenditures from the fund shall be made upon warrants issued by the
3 State Treasurer against claims filed as prescribed by law with the
4 Director of the Office of Management and Enterprise Services for
5 approval and payment.

6 SECTION 10. This act shall become effective July 1, 2023.

7 SECTION 11. It being immediately necessary for the preservation
8 of the public peace, health or safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

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