

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1280

By: Loveless

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6 AS INTRODUCED

7 An Act relating to income tax; establishing the
8 Parental Choice Tax Credit Act; providing short
9 title; defining terms; allowing non-refundable credit
10 against income tax liability for certain qualifying
11 educational expenses; setting amount of credit by
12 taxpayer type; limiting maximum amount of credit
13 which may be claimed for each child; authorizing use
14 of certain estimate; limiting maximum credit for
15 joint filers; authorizing carryover of unused credit
16 under specified circumstances; prohibiting use of
17 amounts as itemized deductions under specified
18 circumstances; for certain specified taxpayer types,
19 limiting amount of credit allowed per child for
20 specified years; authorizing Oklahoma Tax Commission
21 to require certain documentation; requiring Tax
22 Commission to promulgate rules and requiring certain
23 content thereof; prohibiting certain requirements;
24 clarifying application of eligibility for purposes of
this act; construing application; requiring certain
annual determination and report; providing for
codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2357.404 of Title 68, unless
there is created a duplication in numbering, reads as follows:

1 A. This act shall be known and may be cited as the "Parental
2 Choice Tax Credit Act".

3 B. As used in this section:

4 1. "Academic instruction" means instruction in reading,
5 writing, mathematics, science, history (including art and music
6 history), geography, social studies (including government and
7 citizenship), literature, philosophy, and foreign languages;

8 2. "Average per-pupil public expenditure" means the total
9 expenditure for Oklahoma in the table entitled "Total and current
10 expenditures per pupil in fall enrollment in public elementary and
11 secondary education, by function and state or jurisdiction" in the
12 most current issue of the Digest of Education Statistics, available
13 at <http://nces.ed.gov>.

14 3. "Low-income," or "low-income household" means that the total
15 adjusted gross income of all taxpayers in the household does not
16 exceed one hundred eighty-five percent (185%) of the federal poverty
17 level.

18 4. "Qualifying educational expenses" means either:

19 a. expenses incurred in connection with enrollment or
20 attendance at a qualified school, other than
21 instruction provided by other means, including:

22 (1) tuition and fees,

23 (2) books, supplies and equipment,

24 (3) academic tutoring, and

1 (4) special needs services for a special needs
2 beneficiary, or

3 b. expenses required or provided by a qualified school in
4 connection with attendance or enrollment at the
5 school, including:

6 (1) room and board,

7 (2) uniforms,

8 (3) transportation,

9 (4) supplementary items and services, including
10 extended day programs, and

11 (5) the purchase of computer technology, equipment or
12 internet access and related services if it is to
13 be used by the student and the student's family
14 during any of the years the student is in
15 elementary or secondary school; provided, this
16 shall not include expenses for computer software
17 designed for sports, games or hobbies unless the
18 software is predominantly educational in nature,
19 or

20 c. fees and costs associated with the provision of
21 instruction by other means in pre-kindergarten through
22 grade twelve directed by the parent or guardian,
23 including:
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1 (1) tutoring fees charged by an individual teacher or
2 a correspondence school for academic instruction,
3 including remedial assistance, and
4 (2) the cost of computer equipment,
5 including related software and services, textbooks, workbooks,
6 curricula and other written materials used primarily for academic
7 instruction;

8 5. "Qualified school" means either:

9 a. a public elementary or secondary school pursuant to
10 Title 70 of the Oklahoma Statutes, or

11 b. a private educational program that can be used to
12 satisfy the compulsory school attendance requirements
13 of Title 70 of the Oklahoma Statutes.

14 C. For tax years beginning on or after January 1, 2017, a
15 taxpayer shall be allowed a non-refundable credit against the tax
16 imposed pursuant to Section 2355 of Title 68 of the Oklahoma
17 Statutes for the qualifying educational expenses incurred during the
18 tax year on behalf of each child who:

19 1. is eligible to be enrolled in a public school in this state
20 pursuant to Title 70 of the Oklahoma statutes;

21 2. qualifies as the individual's dependent for federal tax
22 purposes; and
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1 3. does not attend a public school during the semester or other
2 school year portion for which such qualified educational expenses
3 were incurred.

4 The credit shall be equal to eighty percent (80%) of qualifying
5 educational expenses incurred; provided, taxpayers who are members
6 of low-income households shall be allowed to claim the credit for up
7 to one hundred percent (100%) of such expenses.

8 D. For each child for which this credit is claimed, the maximum
9 allowable credit amount for each taxable year, including carry-over
10 credits allowed by Subsection F of this section, shall be the
11 greater of:

12 1. Fifty percent (50%) of the average per-pupil public
13 expenditure for the fiscal year ending prior to the start of the tax
14 year during which the credit is claimed; or

15 2. Two Thousand Five Hundred Dollars (\$2,500.00).

16 E. For two taxpayers filing a joint return, the maximum
17 allowable credit per taxpayer shall be equal to fifty percent (50%)
18 of the maximum allowable credit per child pursuant to subsection D
19 of this section.

20 F. Any credit claimed, but not used, may be carried over to
21 each of the two (2) subsequent taxable years.

22 G. No amounts claimed under this section shall be itemized as
23 deductions for the same tax year when computing Oklahoma taxable
24 income.

1 H. The tax credit allowed per eligible child shall be limited
2 for taxpayers who are not members of low-income households as
3 follows:

4 1. For tax year 2017, a maximum credit of ten percent (10%) of
5 the average per-pupil public expenditure for FY 2016;

6 2. For tax year 2018, a maximum credit of twenty percent (20%)
7 of the average per-pupil public expenditure for FY 2017;

8 3. For tax year 2019, a maximum credit of thirty percent (30%)
9 of the average per-pupil public expenditure for FY 2018;

10 4. For tax year 2020, a maximum credit of forty percent (40%)
11 of the average per-pupil public expenditure for FY 2019; and

12 5. For tax year 2021, and all subsequent tax years, a maximum
13 credit of eighty percent (80%) of the average per-pupil public
14 expenditure for the fiscal year which ends on June 30 of the tax
15 year for which the credit is being claimed.

16 I. The Oklahoma Tax Commission is authorized to require the
17 taxpayer to submit with the tax return copies of such receipts or
18 similar financial documentation as may be necessary to confirm the
19 taxpayer's statement of the allowable credit.

20 J. The Oklahoma Tax Commission shall promulgate rules and
21 develop tax forms, directions and worksheets as necessary to
22 effectuate the intent of this act. The rules shall:
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1 1. Modify the state tax forms, directions and worksheets to
2 provide a convenient way for taxpayers to claim a credit pursuant to
3 this section; and

4 2. Provide a format for a standardized receipt to be issued by
5 qualified schools at the conclusion of a student's period of
6 instruction for which qualifying expenses have been incurred, and
7 including the date of the receipt, the dates of the student's
8 enrollment for which expenses have been incurred, the name of the
9 person paying the expense, the total expenses, the portion of the
10 amount paid toward qualifying educational expenses, the name of the
11 qualified school and the printed name and signature of the agent
12 issuing the receipt on behalf of the qualified school.

13 Regardless of what documentation the Oklahoma Tax Commission may
14 require for purposes of allowing credit for payments of qualifying
15 expenses, no school or other organization shall be required to
16 provide such documentation or otherwise act to facilitate taxpayers'
17 access to credits pursuant to this section, except that schools may
18 be required to fulfill a prior promise to a taxpayer to provide such
19 information.

20 K. Eligibility of a school or other educational program to be
21 considered a "qualified school" under this section shall not be
22 subject to a school's compliance with any state law or regulation
23 not applicable to all private schools in this state, with the
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1 exception of the financial documentation requirements authorized by
2 subsection J of this section.

3 L. Nothing in this section shall be construed to result in any
4 additional regulation of public or private schools or taxpayers'
5 decisions about the education of their dependent children, except to
6 the minimal extent necessary to provide for the efficient
7 administration of the tax credits.

8 M. The Oklahoma Tax Commission shall determine annually by
9 credit type the total amount of credits claimed under this section
10 on all state income tax returns and shall report the same to the
11 Cabinet Secretary of Finance, Administration and Information
12 Technology and the Secretary of Education and Workforce Development.

13 N. Within sixty (60) days prior to the start of each
14 legislative session, the Secretary of Finance, Administration and
15 Information Technology and the Secretary of Education and Workforce
16 Development shall present a report to the Chairman of the Senate
17 Finance Committee and the Chairman of the House Appropriations
18 Committee projecting the total dollar amount of credits expected to
19 be claimed pursuant to this section on returns for the current tax
20 year and the following tax year, as of the date of the report.

21 SECTION 2. This act shall become effective January 1, 2017.

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