STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 1280 By: Loveless

AS INTRODUCED

An Act relating to income tax; establishing the Parental Choice Tax Credit Act; providing short title; defining terms; allowing non-refundable credit against income tax liability for certain qualifying educational expenses; setting amount of credit by taxpayer type; limiting maximum amount of credit which may be claimed for each child; authorizing use of certain estimate; limiting maximum credit for joint filers; authorizing carryover of unused credit under specified circumstances; prohibiting use of amounts as itemized deductions under specified circumstances; for certain specified taxpayer types, limiting amount of credit allowed per child for specified years; authorizing Oklahoma Tax Commission to require certain documentation; requiring Tax Commission to promulgate rules and requiring certain content thereof; prohibiting certain requirements; 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:

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

B. As used in this section:

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

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

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

4. "Qualifying educational expenses" means either:

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

(1) tuition and fees,

(2) books, supplies and equipment,

(3) academic tutoring, and

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

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

(1) room and board,

(2) uniforms,

(3) transportation,

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

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

c. fees and costs associated with the provision of instruction by other means in pre-kindergarten through grade twelve directed by the parent or guardian, including:

(1) tutoring fees charged by an individual teacher or a correspondence school for academic instruction, including remedial assistance, and

(2) the cost of computer equipment,

including related software and services, textbooks, workbooks, curricula and other written materials used primarily for academic instruction;

5. "Qualified school" means either:

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

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

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

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

2. qualifies as the individual's dependent for federal tax purposes; and

3. does not attend a public school during the semester or other school year portion for which such qualified educational expenses were incurred.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

J. The Oklahoma Tax Commission shall promulgate rules and develop tax forms, directions and worksheets as necessary to effectuate the intent of this act. The rules shall:

1. Modify the state tax forms, directions and worksheets to provide a convenient way for taxpayers to claim a credit pursuant to this section; and

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

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

K. Eligibility of a school or other educational program to be considered a "qualified school" under this section shall not be subject to a school's compliance with any state law or regulation not applicable to all private schools in this state, with the

exception of the financial documentation requirements authorized by subsection J of this section.

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

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

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

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

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