



ROSENSTEIN, FIST & RINGOLD

RED BANNER UPDATE

Date: May 31, 2023

Re: HB 1934

Signed: May 25, 2023

Effective: August 24, 2023 (90 days sine die)

Topic: **Oklahoma Parental Choice Tax Credit Act**

Summary: This bill creates a new law (70 O.S. § 28-100, *et seq.*) known as the “Oklahoma Parental Choice Tax Credit Act” which provides an income tax credit to a taxpayer for qualified expenses to support the education of an eligible student attending an accredited private school or a student who is being provided with another means of education (*e.g.*, home schooling) pursuant to 70 O.S. § 10-105.

The tax credits for school tuition and fees range from \$5,000-7,500 depending on the total adjusted gross income of the student’s household. A \$1,000 credit is provided for an eligible student educated pursuant to the other means of education exception. In reviewing the applications for the tax credit, the OTC will give first preference to households with an adjusted gross income not exceeding \$150,000.

A taxpayer claiming the credit is required to claim the credit only for qualified expenses to provide an education for an eligible student, and to ensure no other person is claiming a credit for the eligible student. Taxpayers are prohibited from claiming the credit for an eligible student who enrolls as a full-time student in a public school district, public charter school, public virtual charter school, or magnet school.

Eligible students may also accept a scholarship from the Lindsey Nicole Henry Scholarships for Students with Disabilities Program while participating in the tax credit program. Further with regard to students with disabilities, the new act directs the OSDE to provide notice to parents, legal guardians, custodians and other persons with legal authority of an eligible student, that participation in the state’s tax credit program shall have the same effect as parental revocation of consent with regard to evaluation for special education services under the IDEA, thereby relieving the district in which the student resides from the obligation to



provide special education and related services to the student (20 U.S.C. §§ 1414(a)(1)(D) and 1414 (C)).

The new law specifies that the OTC will develop a process to review student enrollment information in order to verify that an eligible student for which a tax credit is claimed is not enrolled in a public school. The OTC is directed to promulgate rules to implement the Act, and the OSBE *may* also promulgate rules associated with implementation of the Act.

For more information on this Act, please visit the firm's website to view the signed Act.

Legal counsel does not anticipate creating a new policy or amending any existing policy in response to this legislation.