

1 ENGROSSED HOUSE  
2 BILL NO. 3388

By: McCall of the House

and

Treat of the Senate

3  
4  
5  
6  
7 An Act relating to schools; amending Section 2,  
8 Chapter 278, O.S.L. 2023 (70 O.S. Supp. 2023,  
9 Section 28-101), which relates to the Oklahoma  
10 Parental Choice Tax Credit Act; modifying  
11 definitions; establishing credit amount for private  
12 schools serving certain student populations;  
13 prohibiting offset of credit for certain liabilities;  
14 modifying application of caps from a tax year to a  
15 fiscal year; providing for carryover of certain  
16 unused credits; exempting certain eligible taxpayers  
17 from providing additional income verification;  
18 modifying timing and procedures for application  
19 process; requiring authorization of certain credits;  
20 providing dates for installments; modifying priority  
21 of tax credit recipients in certain cases; directing  
22 taxpayers to provide notice related to a change in  
23 enrollment status; providing for reallocation of  
24 certain credits; excluding credits from taxable  
income; prohibiting issuance of Form 1099s; and  
declaring an emergency.

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

SECTION 1. AMENDATORY Section 2, Chapter 278, O.S.L.  
2023 (70 O.S. Supp. 2023, Section 28-101), is amended to read as  
follows:

1 Section 28-101. A. As used in the Oklahoma Parental Choice Tax  
2 Credit Act:

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

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

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

7 4. "Education service provider" means a person, business,  
8 public school district, public charter school, magnet school, or  
9 organization that provides educational goods and/or services to  
10 eligible students;

11 5. "Eligible student" means a resident of this state who is  
12 eligible to enroll in a public school in this state. Eligible  
13 student shall include a student who is enrolled in and attends or is  
14 expected to enroll in a private school accredited by the State Board  
15 of Education or another accrediting association or a student who is  
16 educated pursuant to the other means of education exception provided  
17 for in subsection A of Section 10-105 of ~~Title 70 of the Oklahoma~~  
18 ~~Statutes~~ this title;

19 6. "Qualified expense" for the purpose of claiming the credit  
20 authorized by subparagraph a of paragraph 1 of subsection C of this  
21 section means tuition and fees at a private school accredited by the  
22 State Board of Education or another accrediting association;

23

24

1       7. "Qualified expense" for the purpose of claiming the credit  
2 authorized by subparagraph b of paragraph 1 of subsection C of this  
3 section means the following expenditures:

- 4           a. tuition and fees for nonpublic online or in-person  
5           learning programs,
- 6           b. academic tutoring services provided by an individual  
7           or a private academic tutoring facility,
- 8           c. textbooks, curriculum, or other instructional  
9           materials including, but not limited to, supplemental  
10          materials or associated online instruction required by  
11          an education service provider, and
- 12          d. fees for nationally standardized assessments  
13          including, but not limited to, assessments used to  
14          determine college admission and advanced placement  
15          examinations as well as tuition and fees for tutoring  
16          or preparatory courses for the assessments; and

17       8. "Taxpayer" means a biological or adoptive parent,  
18 grandparent, aunt, uncle, legal guardian, custodian, or other person  
19 with legal authority to act on behalf of an eligible student.

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

1 C. For the tax year 2024 and subsequent tax years, there shall  
2 be allowed against the tax imposed by Section 2355 of Title 68 of  
3 the Oklahoma Statutes a credit for any Oklahoma taxpayer who incurs  
4 a qualified expense on behalf of an eligible student, to be  
5 administered subject to the following amounts for each tax year:

6 1. If the eligible student attends a private school in  
7 Oklahoma, accredited by the State Board of Education or another  
8 accrediting association, the maximum credit amount shall be:

9 a. (1) Seven Thousand Five Hundred Dollars (\$7,500.00)  
10 or the amount of tuition and fees for the private  
11 school, whichever is less, if the eligible  
12 student is a member of a household in which the  
13 total adjusted gross income during the second  
14 preceding tax year does not exceed Seventy-five  
15 Thousand Dollars (\$75,000.00),

16 (2) Seven Thousand Dollars (\$7,000.00) or the amount  
17 of tuition and fees for the private school,  
18 whichever is less, if the eligible student is a  
19 member of a household in which the total adjusted  
20 gross income during the second preceding tax year  
21 is more than Seventy-five Thousand Dollars  
22 (\$75,000.00) but does not exceed One Hundred  
23 Fifty Thousand Dollars (\$150,000.00),  
24

1 (3) Six Thousand Five Hundred Dollars (\$6,500.00) or  
2 the amount of tuition and fees for the private  
3 school, whichever is less, if the eligible  
4 student is a member of a household in which the  
5 total adjusted gross income during the second  
6 preceding tax year is more than One Hundred Fifty  
7 Thousand Dollars (\$150,000.00) but does not  
8 exceed Two Hundred Twenty-five Thousand Dollars  
9 (\$225,000.00),

10 (4) Six Thousand Dollars (\$6,000.00) or the amount of  
11 tuition and fees for the private school,  
12 whichever is less, if the eligible student is a  
13 member of a household in which the total adjusted  
14 gross income during the second preceding tax year  
15 is more than Two Hundred Twenty-five Thousand  
16 Dollars (\$225,000.00) but does not exceed Two  
17 Hundred Fifty Thousand Dollars (\$250,000.00), or

18 (5) Five Thousand Dollars (\$5,000.00) or the amount  
19 of tuition and fees for the private school,  
20 whichever is less, if the eligible student is a  
21 member of a household in which the total adjusted  
22 gross income during the second preceding tax year  
23 is more than Two Hundred Fifty Thousand Dollars  
24 (\$250,000.00), and

1           b. One Thousand Dollars (\$1,000.00) in qualified expenses  
2           per eligible student in each tax year if the eligible  
3           student is educated pursuant to the other means of  
4           education exception provided for in subsection A of  
5           Section 10-105 of ~~Title 70 of the Oklahoma Statutes~~  
6           this title. To claim the credit, the taxpayer shall  
7           submit to the Commission receipts for qualified  
8           expenses as defined by paragraph 7 of subsection A of  
9           this section;

10          2. If the eligible student attends a private school in  
11 Oklahoma, accredited by the State Board of Education or another  
12 accrediting association, that exclusively serves students  
13 experiencing homelessness, the credit amount shall be Seven Thousand  
14 Five Hundred Dollars (\$7,500.00) or the amount of the cost to  
15 educate the eligible student at the private school, whichever is  
16 less;

17          3. If the eligible student attends a private school in  
18 Oklahoma, accredited by the State Board of Education or another  
19 accrediting association, that primarily serves financially  
20 disadvantaged students, the credit amount shall be the maximum  
21 credit amount authorized by subparagraph a of paragraph 1 of this  
22 subsection or the amount of the cost to educate the eligible student  
23 at the private school, whichever is less. The cost to educate the  
24 eligible student shall be equal to the average cost to educate all

1 students attending the private school, which shall be calculated by  
2 dividing the private school's total expenditures in the previous  
3 year by the total enrollment in the previous school year. A private  
4 school shall be deemed to be primarily serving financially  
5 disadvantaged students if the private school's admissions are based  
6 on enrolling students whose gross family income is two hundred fifty  
7 percent (250%) of the federal poverty threshold or below;

8 4. The taxpayer shall retain all receipts of qualified expenses  
9 as proof of the amounts paid each tax year the credit is claimed and  
10 shall submit them to the Commission upon request; ~~and~~

11 ~~3.~~ 5. If the credit exceeds the tax imposed by Section 2355 of  
12 Title 68 of the Oklahoma Statutes, the excess amount shall be  
13 refunded to the taxpayer; and

14 6. Credits claimed by a taxpayer pursuant to the provisions of  
15 this section shall not be used to offset or pay the following:

- 16 a. delinquent tax liability,
- 17 b. accrued penalty or interest from the failure to file a  
18 report or return,
- 19 c. accrued penalty or interest from the failure to pay a  
20 state tax within the statutory period allowed for its  
21 payment,
- 22 d. liability of the taxpayer from any prior tax year, or

1           e. any debt, unpaid fine, final judgement, or claim filed  
2           with the Commission by a qualified entity as defined  
3           in Section 205.2 of Title 68 of the Oklahoma Statutes.

4           D. 1. a. For ~~tax~~ fiscal year 2024, the total amount of credits  
5           authorized by subparagraph a of paragraph 1 of  
6           subsection C of this section shall not exceed One  
7           Hundred Fifty Million Dollars (\$150,000,000.00). Any  
8           unused credits from fiscal year 2024 shall be carried  
9           over to fiscal year 2025.

10           b. For ~~tax~~ fiscal year 2025, the total amount of credits  
11           authorized by subparagraph a of paragraph 1 of  
12           subsection C of this section shall not exceed Two  
13           Hundred Million Dollars (\$200,000,000.00), except for  
14           unused credits carried over from fiscal year 2024  
15           pursuant to subparagraph a of this paragraph.

16           c. For ~~tax~~ fiscal year 2026, and subsequent ~~tax~~ fiscal  
17           years, the total amount of credits authorized by  
18           subparagraph a of paragraph 1 of subsection C of this  
19           section shall not exceed Two Hundred Fifty Million  
20           Dollars (\$250,000,000.00).

21           d. Credits authorized by subparagraph a of paragraph 1 of  
22           subsection C of this section shall be applied to the  
23           fiscal year in which the installment payment provided  
24           in subsection E of this section is made.



1        2. For ~~tax~~ fiscal year 2025, and subsequent ~~tax~~ fiscal years,  
2 the total amount of credits authorized by subparagraph b of  
3 paragraph 1 of subsection C of this section shall not exceed Five  
4 Million Dollars (\$5,000,000.00).

5        E. 1. The Commission shall prescribe applications for the  
6 purposes of claiming the credits authorized by the Oklahoma Parental  
7 Choice Tax Credit Act and a deadline by which applications shall be  
8 submitted. A taxpayer claiming the credit authorized by  
9 subparagraph a of paragraph 1 of subsection C of this section shall  
10 submit an application prescribed by the Commission to receive the  
11 credit. If an eligible taxpayer provides documentation on the  
12 application that he or she is a recipient of income-based government  
13 benefits including the Supplemental Nutrition Assistance Program  
14 (SNAP), Temporary Assistance for Needy Families (TANF), or  
15 SoonerCare, the eligible taxpayer shall not be required to provide  
16 additional income verification.

17        2. To ensure educational continuity for students, the  
18 application process shall be administered based on the school year.  
19 The first application aligned to the school year shall open on May  
20 1, 2024, for the 2024-2025 school year. Prior to authorizing any  
21 credits for the 2024-2025 school year to taxpayers who did not  
22 receive an allocation of credits for the fall semester of 2024, the  
23 Commission shall first automatically authorize the same amount of  
24 credits to taxpayers who were authorized credits prior to May 1,

1 2024, for the fall semester of 2024. Beginning in the 2025-2026  
2 school year and subsequent years, the application period shall open  
3 on January 15 prior to the beginning of each school year. For any  
4 eligible student who is a member of a household in which the total  
5 federal adjusted gross income does not exceed One Hundred Fifty  
6 Thousand Dollars (\$150,000.00), applications shall be submitted to  
7 the Commission within the first sixty (60) days of the opening of  
8 the application period to receive priority consideration. Any  
9 taxpayer who receives an allocation of tax credits shall also have  
10 priority consideration in any subsequent period; provided, that an  
11 application is submitted within the first sixty (60) days of the  
12 application period. For students enrolled in the full school year,  
13 the credit shall be paid in two installments, one per school  
14 semester, to be paid no later than August 30 and January 15, each of  
15 which shall be half of the total expected amount of tuition and fees  
16 for the private school based on the ~~affidavit~~ enrollment  
17 verification form submitted pursuant to this subsection, but in no  
18 event shall an installment payment exceed half the amount of the  
19 credit authorized by subparagraph a of paragraph 1 of subsection C  
20 of this section.

21 3. For students enrolled in less than the full school year, the  
22 credit shall be prorated by semester and issued no later than thirty  
23 (30) days after the application is approved or during the first  
24 thirty (30) days of the semester in which the student is enrolled,

1 whichever is later. The prorated installment payment shall not be  
2 less than fifty percent (50%) of the total expected amount of  
3 tuition and fees for the private school based on the enrollment  
4 verification form submitted pursuant to this subsection, but in no  
5 event shall an installment payment exceed the amount of the credit  
6 authorized by subparagraph a of paragraph 1 of subsection C of this  
7 section.

8 4. A taxpayer claiming the credit authorized by subparagraph a  
9 of paragraph 1 of subsection C of this section shall submit to the  
10 Commission an ~~affidavit~~ enrollment verification form from the  
11 private school in which the eligible student is enrolled or is  
12 expected to enroll with the tuition and fees to be charged the  
13 taxpayer for the applicable school year. The Commission shall make  
14 installment payments based on the expected tuition and fee amounts  
15 provided on the enrollment verification form and submitted pursuant  
16 to this subsection.

17 F. In ~~reviewing~~ the event there are more applications submitted  
18 by eligible taxpayers ~~to determine whether they qualify~~ for a credit  
19 authorized by subparagraph a of paragraph 1 of subsection C of this  
20 section, than available credits pursuant to subsection D of this  
21 section, then the Commission shall give first preference in ~~making~~  
22 ~~installments~~ authorizing credits to eligible students of taxpayers  
23 who ~~qualify pursuant to divisions (1) and (2) of subparagraph a of~~  
24 ~~paragraph 1 of subsection C of this section.~~ The Commission shall

1 ~~make the installments based on the expected amount of tuition and~~  
2 ~~fee amounts on the affidavit submitted pursuant to this subsection:~~

- 3 1. First, received the credit the prior year;  
4 2. Second, qualify pursuant to divisions (1) and (2) of  
5 subparagraph a of paragraph 1 of subsection C of this section; and  
6 3. Third, are siblings of eligible students of taxpayers who  
7 received the credit in the prior year.

8 ~~F.~~ G. Taxpayers claiming the credit shall:

- 9 1. Only claim the credit for qualified expenses as defined in  
10 paragraphs 6 and 7 of subsection A of this section to provide an  
11 education for an eligible student;
- 12 2. Ensure no other person is claiming a credit for the eligible  
13 student;
- 14 3. Not claim the credit for an eligible student who enrolls as  
15 a full-time student in a public school district, public charter  
16 school, public virtual charter school, or magnet school; ~~and~~
- 17 4. Comply with rules and requirements established by the  
18 Commission for administration of the Oklahoma Parental Choice Tax  
19 Credit Program; and
- 20 5. Notify the Commission no later than the thirtieth day after  
21 the date on which the eligible student:
- 22 a. enrolls in a public school, including an open-  
23 enrollment charter school,
- 24 b. enrolls in a nonaccredited private school,

- 1           c. graduates from high school, or  
2           d. is no longer utilizing credits authorized by  
3           subparagraph a of paragraph 1 of subsection C of this  
4           section for any reason.

5           ~~G.~~ H. Eligible students may accept a scholarship from the  
6 Lindsey Nicole Henry Scholarships for Students with Disabilities  
7 Program created by Section 13-101.2 of ~~Title 70 of the Oklahoma~~  
8 ~~Statutes~~ this title while participating in the Oklahoma Parental  
9 Choice Tax Credit Program.

10           ~~H. 1.~~ I. The Commission shall ~~have:~~

11           1. Have the authority to conduct an audit or contract for the  
12 auditing of receipts for qualified expenses submitted pursuant to  
13 subparagraph b of paragraph 1 of subsection C of this section;  
14

15           ~~2. The Commission shall be~~ Be authorized to recapture the  
16 credits otherwise authorized by the provisions of this act on a  
17 prorated by semester basis if an audit conducted pursuant to this  
18 subsection shows that the credit was claimed for expenditures that  
19 were not qualified expenses or it finds that the taxpayer has  
20 claimed an eligible student who no longer attends a private school  
21 or has enrolled in a public school in the state; and

22           3. Reallocate credits within thirty (30) days of receipt of  
23 notice from a taxpayer pursuant to paragraph 5 of subsection G of  
24 this section to the next eligible taxpayer in line when a taxpayer,  
on behalf of an eligible student in the program, chooses not to

1 participate, is no longer eligible to participate, or chooses to  
2 forgo participation in the program for any reason.

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

9 ~~J.~~ K. The Commission shall make available on its website the  
10 amount of credits claimed each tax year pursuant to subparagraphs a  
11 and b of paragraph 1 of subsection C of this section.

12 L. Credits received pursuant to this act shall not constitute  
13 taxable income to a taxpayer who received the credit on behalf of an  
14 eligible student. The Commission shall not issue any Form 1099s to  
15 taxpayers.

16 SECTION 2. It being immediately necessary for the preservation  
17 of the public peace, health or safety, an emergency is hereby  
18 declared to exist, by reason whereof this act shall take effect and  
19 be in full force from and after its passage and approval.

20  
21  
22  
23  
24

1 Passed the House of Representatives the 13th day of March, 2024.

2  
3 \_\_\_\_\_  
4 Presiding Officer of the House  
5 of Representatives

6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2024.

7  
8 \_\_\_\_\_  
9 Presiding Officer of the Senate