

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 HOUSE BILL 3388

 By: McCall

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8 AS INTRODUCED

9 An Act relating to schools; amending Section 2,
10 Chapter 278, O.S.L. 2023 (70 O.S. Supp. 2023,
11 Section 28-101), which relates to the Oklahoma
12 Parental Choice Tax Credit Act; modifying definition;
13 modifying procedures for application process;
14 providing dates for installments; and declaring an
15 emergency.

16
17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. AMENDATORY Section 2, Chapter 278, O.S.L.
19 2023 (70 O.S. Supp. 2023, Section 28-101), is amended to read as
20 follows:

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

23 1. "Commission" means the Oklahoma Tax Commission;
24

- 1 2. "Curriculum" means a complete course of study for a
2 particular content area or grade level;
- 3 3. "Department" means the State Department of Education;
- 4 4. "Education service provider" means a person, business,
5 public school district, public charter school, magnet school, or
6 organization that provides educational goods and/or services to
7 eligible students;
- 8 5. "Eligible student" means a resident of this state who is
9 eligible to enroll in a public school in this state. Eligible
10 student shall include a student who is enrolled in and attends or is
11 expected to enroll in a private school accredited by the State Board
12 of Education or another accrediting association or a student who is
13 educated pursuant to the other means of education exception provided
14 for in subsection A of Section 10-105 of Title 70 of the Oklahoma
15 Statutes;
- 16 6. "Qualified expense" for the purpose of claiming the credit
17 authorized by subparagraph a of paragraph 1 of subsection C of this
18 section means tuition and fees at a private school accredited by the
19 State Board of Education or another accrediting association;
- 20 7. "Qualified expense" for the purpose of claiming the credit
21 authorized by subparagraph b of paragraph 1 of subsection C of this
22 section means the following expenditures:
- 23 a. tuition and fees for nonpublic online learning
24 programs,

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

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

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

19 C. For the tax year 2024 and subsequent tax years, there shall
20 be allowed against the tax imposed by Section 2355 of Title 68 of
21 the Oklahoma Statutes a credit for any Oklahoma taxpayer who incurs
22 a qualified expense on behalf of an eligible student, to be
23 administered subject to the following amounts for each tax year:
24

1 1. If the eligible student attends a private school accredited
2 by the State Board of Education or another accrediting association,
3 the maximum credit amount shall be:

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

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

19 (3) Six Thousand Five Hundred Dollars (\$6,500.00) or
20 the amount of tuition and fees for the private
21 school, whichever is less, if the eligible
22 student is a member of a household in which the
23 total adjusted gross income during the second
24 preceding tax year is more than One Hundred Fifty

1 Thousand Dollars (\$150,000.00) but does not
2 exceed Two Hundred Twenty-five Thousand Dollars
3 (\$225,000.00),

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

12 (5) Five Thousand Dollars (\$5,000.00) or the amount
13 of tuition and fees for the private school,
14 whichever is less, if the eligible student is a
15 member of a household in which the total adjusted
16 gross income during the second preceding tax year
17 is more than Two Hundred Fifty Thousand Dollars
18 (\$250,000.00), and

19 b. One Thousand Dollars (\$1,000.00) in qualified expenses
20 per eligible student in each tax year if the eligible
21 student is educated pursuant to the other means of
22 education exception provided for in subsection A of
23 Section 10-105 of Title 70 of the Oklahoma Statutes.
24 To claim the credit, the taxpayer shall submit to the

1 Commission receipts for qualified expenses as defined
2 by paragraph 7 of subsection A of this section;

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

6 3. If the credit exceeds the tax imposed by Section 2355 of
7 Title 68 of the Oklahoma Statutes, the excess amount shall be
8 refunded to the taxpayer.

9 D. 1. a. For tax year 2024, the total amount of credits
10 authorized by subparagraph a of paragraph 1 of
11 subsection C of this section shall not exceed One
12 Hundred Fifty Million Dollars (\$150,000,000.00).

13 b. For tax year 2025, the total amount of credits
14 authorized by subparagraph a of paragraph 1 of
15 subsection C of this section shall not exceed Two
16 Hundred Million Dollars (\$200,000,000.00).

17 c. For tax year 2026, and subsequent tax years, the total
18 amount of credits authorized by subparagraph a of
19 paragraph 1 of subsection C of this section shall not
20 exceed Two Hundred Fifty Million Dollars
21 (\$250,000,000.00).

22 2. For tax year 2025, and subsequent tax years, the total
23 amount of credits authorized by subparagraph b of paragraph 1 of
24

1 subsection C of this section shall not exceed Five Million Dollars
2 (\$5,000,000.00).

3 E. The Commission shall prescribe applications for the purposes
4 of claiming the credits authorized by the Oklahoma Parental Choice
5 Tax Credit Act and a deadline by which applications shall be
6 submitted. The application process shall be administered based on
7 the school year. The first application aligned to the school year
8 shall open on May 1, 2024, for 2024-2025 school year. Beginning in
9 the 2025-2026 school year and subsequent years, the application
10 shall open on March 15. A taxpayer claiming the credit authorized
11 by subparagraph a of paragraph 1 of subsection C of this section
12 shall submit an application prescribed by the Commission to receive
13 the credit in two installments, one per school semester to be paid
14 no later than August 30 and January 15, each of which shall be half
15 of the expected amount of tuition and fees for the private school
16 based on the affidavit submitted pursuant to this subsection, but in
17 no event shall an installment payment exceed half the amount of the
18 credit authorized by subparagraph a of paragraph 1 of subsection C
19 of this section. A taxpayer claiming the credit authorized by
20 subparagraph a of paragraph 1 of subsection C of this section shall
21 submit to the Commission an affidavit from the private school in
22 which the eligible student is enrolled or is expected to enroll with
23 the tuition and fees to be charged the taxpayer for the applicable
24 school year. In reviewing applications submitted by eligible

1 taxpayers to determine whether they qualify for a credit authorized
2 by subparagraph a of paragraph 1 of subsection C of this section,
3 the Commission shall give first preference in making installments to
4 taxpayers who qualify pursuant to divisions (1) and (2) of
5 subparagraph a of paragraph 1 of subsection C of this section. The
6 Commission shall make the installments based on the expected amount
7 of tuition and fee amounts on the affidavit submitted pursuant to
8 this subsection.

9 F. Taxpayers claiming the credit shall:

10 1. Only claim the credit for qualified expenses as defined in
11 paragraphs 6 and 7 of subsection A of this section to provide an
12 education for an eligible student;

13 2. Ensure no other person is claiming a credit for the eligible
14 student;

15 3. Not claim the credit for an eligible student who enrolls as
16 a full-time student in a public school district, public charter
17 school, public virtual charter school, or magnet school; and

18 4. Comply with rules and requirements established by the
19 Commission for administration of the Oklahoma Parental Choice Tax
20 Credit Program.

21 G. Eligible students may accept a scholarship from the Lindsey
22 Nicole Henry Scholarships for Students with Disabilities Program
23 created by Section 13-101.2 of Title 70 of the Oklahoma Statutes
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1 while participating in the Oklahoma Parental Choice Tax Credit
2 Program.

3 H. 1. The Commission shall have the authority to conduct an
4 audit or contract for the auditing of receipts for qualified
5 expenses submitted pursuant to subparagraph b of paragraph 1 of
6 subsection C of this section.

7 2. The Commission shall be authorized to recapture the credits
8 otherwise authorized by the provisions of this act on a prorated
9 basis if an audit conducted pursuant to this subsection shows that
10 the credit was claimed for expenditures that were not qualified
11 expenses or it finds that the taxpayer has claimed an eligible
12 student who no longer attends a private school or has enrolled in a
13 public school in the state.

14 I. In the event of a failure of revenue pursuant to the
15 Oklahoma State Finance Act, the tax credits otherwise authorized in
16 subsection C of this section shall be reduced proportionately to the
17 reduction in the amount of money appropriated to the State Board of
18 Education for the financial support of public schools for the fiscal
19 year in which the failure of revenue occurs.

20 J. The Commission shall make available on its website the
21 amount of credits claimed each tax year pursuant to subparagraphs a
22 and b of paragraph 1 of subsection C of this section.

23 SECTION 2. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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4 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/27/2024 - DO PASS.

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