

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3388

By: McCall

AS INTRODUCED

An Act relating to schools; amending Section 2, Chapter 278, O.S.L. 2023 (70 O.S. Supp. 2023, Section 28-101), which relates to the Oklahoma Parental Choice Tax Credit Act; modifying definition; modifying procedures for application process; providing dates for installments; 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:

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

1. "Commission" means the Oklahoma Tax Commission;
2. "Curriculum" means a complete course of study for a particular content area or grade level;
3. "Department" means the State Department of Education;
4. "Education service provider" means a person, business, public school district, public charter school, magnet school, or

1 organization that provides educational goods and/or services to
2 eligible students;

3 5. "Eligible student" means a resident of this state who is
4 eligible to enroll in a public school in this state. Eligible
5 student shall include a student who is enrolled in and attends or is
6 expected to enroll in a private school accredited by the State Board
7 of Education or another accrediting association or a student who is
8 educated pursuant to the other means of education exception provided
9 for in subsection A of Section 10-105 of Title 70 of the Oklahoma
10 Statutes;

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

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

- 18 a. tuition and fees for nonpublic online learning
19 programs,
- 20 b. academic tutoring services provided by an individual
21 or a private academic tutoring facility,
- 22 c. textbooks, curriculum, or other instructional
23 materials including, but not limited to, supplemental
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1 materials or associated online instruction required by
2 an education service provider, and

- 3 d. fees for nationally standardized assessments
4 including, but not limited to, assessments used to
5 determine college admission and advanced placement
6 examinations as well as tuition and fees for tutoring
7 or preparatory courses for the assessments; and

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

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

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

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

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

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

14 (3) Six Thousand Five Hundred Dollars (\$6,500.00) or
15 the amount of tuition and fees for the private
16 school, whichever is less, if the eligible
17 student is a member of a household in which the
18 total adjusted gross income during the second
19 preceding tax year is more than One Hundred Fifty
20 Thousand Dollars (\$150,000.00) but does not
21 exceed Two Hundred Twenty-five Thousand Dollars
22 (\$225,000.00),

23 (4) Six Thousand Dollars (\$6,000.00) or the amount of
24 tuition and fees for the private school,
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1 whichever is less, if the eligible student is a
2 member of a household in which the total adjusted
3 gross income during the second preceding tax year
4 is more than Two Hundred Twenty-five Thousand
5 Dollars (\$225,000.00) but does not exceed Two
6 Hundred Fifty Thousand Dollars (\$250,000.00), or
7 (5) Five Thousand Dollars (\$5,000.00) or the amount
8 of tuition and fees for the private school,
9 whichever is less, if the eligible student is a
10 member of a household in which the total adjusted
11 gross income during the second preceding tax year
12 is more than Two Hundred Fifty Thousand Dollars
13 (\$250,000.00), and

14 b. One Thousand Dollars (\$1,000.00) in qualified expenses
15 per eligible student in each tax year if the eligible
16 student is educated pursuant to the other means of
17 education exception provided for in subsection A of
18 Section 10-105 of Title 70 of the Oklahoma Statutes.
19 To claim the credit, the taxpayer shall submit to the
20 Commission receipts for qualified expenses as defined
21 by paragraph 7 of subsection A of this section;

22 2. The taxpayer shall retain all receipts of qualified expenses
23 as proof of the amounts paid each tax year the credit is claimed and
24 shall submit them to the Commission upon request; and
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1 3. If the credit exceeds the tax imposed by Section 2355 of
2 Title 68 of the Oklahoma Statutes, the excess amount shall be
3 refunded to the taxpayer.

4 D. 1. a. For tax 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).

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

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

17 2. For tax year 2025, and subsequent tax years, the total
18 amount of credits authorized by subparagraph b of paragraph 1 of
19 subsection C of this section shall not exceed Five Million Dollars
20 (\$5,000,000.00).

21 E. The Commission shall prescribe applications for the purposes
22 of claiming the credits authorized by the Oklahoma Parental Choice
23 Tax Credit Act and a deadline by which applications shall be
24 submitted. The application process shall be administered based on
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1 the school year. The first application aligned to the school year
2 shall open on May 1, 2024, for 2024-2025 school year. Beginning in
3 the 2025-2026 school year and subsequent years, the application
4 shall open on March 15. A taxpayer claiming the credit authorized
5 by subparagraph a of paragraph 1 of subsection C of this section
6 shall submit an application prescribed by the Commission to receive
7 the credit in two installments, one per school semester to be paid
8 no later than August 30 and January 15, each of which shall be half
9 of the expected amount of tuition and fees for the private school
10 based on the affidavit submitted pursuant to this subsection, but in
11 no event shall an installment payment exceed half the amount of the
12 credit authorized by subparagraph a of paragraph 1 of subsection C
13 of this section. A taxpayer claiming the credit authorized by
14 subparagraph a of paragraph 1 of subsection C of this section shall
15 submit to the Commission an affidavit from the private school in
16 which the eligible student is enrolled or is expected to enroll with
17 the tuition and fees to be charged the taxpayer for the applicable
18 school year. In reviewing applications submitted by eligible
19 taxpayers to determine whether they qualify for a credit authorized
20 by subparagraph a of paragraph 1 of subsection C of this section,
21 the Commission shall give first preference in making installments to
22 taxpayers who qualify pursuant to divisions (1) and (2) of
23 subparagraph a of paragraph 1 of subsection C of this section. The
24 Commission shall make the installments based on the expected amount

1 of tuition and fee amounts on the affidavit submitted pursuant to
2 this subsection.

3 F. Taxpayers claiming the credit shall:

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

7 2. Ensure no other person is claiming a credit for the eligible
8 student;

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

12 4. Comply with rules and requirements established by the
13 Commission for administration of the Oklahoma Parental Choice Tax
14 Credit Program.

15 G. Eligible students may accept a scholarship from the Lindsey
16 Nicole Henry Scholarships for Students with Disabilities Program
17 created by Section 13-101.2 of Title 70 of the Oklahoma Statutes
18 while participating in the Oklahoma Parental Choice Tax Credit
19 Program.

20 H. 1. The Commission shall have the authority to conduct an
21 audit or contract for the auditing of receipts for qualified
22 expenses submitted pursuant to subparagraph b of paragraph 1 of
23 subsection C of this section.

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

8 I. In the event of a failure of revenue pursuant to the
9 Oklahoma State Finance Act, the tax credits otherwise authorized in
10 subsection C of this section shall be reduced proportionately to the
11 reduction in the amount of money appropriated to the State Board of
12 Education for the financial support of public schools for the fiscal
13 year in which the failure of revenue occurs.

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

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

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