

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3911

By: Caldwell (Chad)

AS INTRODUCED

An Act relating to revenue and taxation; amending Section 2, Chapter 278, O.S.L. 2023 (70 O.S. Supp. 2023, Section 28-101), which relates to tax credits for certain school related expenditures; modifying definitions; providing tax credit amount based upon certain housing status; modifying cap amounts; modifying procedures related to application process; providing for installments; providing for priority of allocations; providing for reallocation; providing for exemption from income tax; 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;

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

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

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

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

20 a. tuition and fees for nonpublic ~~online~~ learning
21 programs, online or in person,

22 b. academic tutoring services provided by an individual
23 or a private academic tutoring facility,
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1 c. textbooks, curriculum, or other instructional
2 materials including, but not limited to, supplemental
3 materials or associated online instruction required by
4 an education service provider, and

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

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

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

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

22 1. If the eligible student attends a private school accredited
23 by the State Board of Education or another accrediting association,
24 the maximum credit amount shall be:
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- 1 a. (1) Seven Thousand Five Hundred Dollars (\$7,500.00)
2 or 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 does not exceed Seventy-five
7 Thousand Dollars (\$75,000.00),
- 8 (2) Seven Thousand Dollars (\$7,000.00) or the amount
9 of tuition and fees for the private school,
10 whichever is less, if the eligible student is a
11 member of a household in which the total adjusted
12 gross income during the second preceding tax year
13 is more than Seventy-five Thousand Dollars
14 (\$75,000.00) but does not exceed One Hundred
15 Fifty Thousand Dollars (\$150,000.00),
- 16 (3) Six Thousand Five Hundred Dollars (\$6,500.00) or
17 the amount of tuition and fees for the private
18 school, whichever is less, if the eligible
19 student is a member of a household in which the
20 total adjusted gross income during the second
21 preceding tax year is more than One Hundred Fifty
22 Thousand Dollars (\$150,000.00) but does not
23 exceed Two Hundred Twenty-five Thousand Dollars
24 (\$225,000.00),
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1 (4) Six Thousand Dollars (\$6,000.00) or the amount of
2 tuition and fees for the private school,
3 whichever is less, if the eligible student is a
4 member of a household in which the total adjusted
5 gross income during the second preceding tax year
6 is more than Two Hundred Twenty-five Thousand
7 Dollars (\$225,000.00) but does not exceed Two
8 Hundred Fifty Thousand Dollars (\$250,000.00), or

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

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

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1 ~~exceed Two Hundred Fifty Million Dollars~~

2 ~~(\$250,000,000.00).~~

3 ~~2. For tax year 2025, and subsequent tax years, the total~~
4 ~~amount of credits authorized by subparagraph b of paragraph 1 of~~
5 ~~subsection C of this section shall not exceed Five Million Dollars~~
6 ~~(\$5,000,000.00).~~

7 E. The Commission shall prescribe applications for the purposes
8 of claiming the credits authorized by the Oklahoma Parental Choice
9 Tax Credit Act and a deadline by which applications shall be
10 submitted. To ensure educational continuity for students, the
11 application process shall be administered based on the school year.
12 The first application aligned to the school year shall open on May
13 1, 2024, for school year 2024-2025. In school year 2025-2026 and
14 subsequent years, the application shall open on March 15. For any
15 eligible student who is a member of a household in which the total
16 federal adjusted gross income does not exceed One Hundred Fifty
17 Thousand Dollars (\$150,000.00), applications shall be submitted to
18 the Tax Commission within the first sixty (60) days of the
19 application period to receive priority consideration. Any taxpayer
20 who receives an allocation of tax credits shall also have priority
21 consideration in any subsequent cycle provided that an application
22 is submitted within the first sixty (60) days of the application
23 period. A taxpayer claiming the credit authorized by subparagraph a
24 of paragraph 1 of subsection C of this section shall submit an

1 application prescribed by the Commission to receive the credit in
2 two installments, one per school semester to be paid no later than
3 August 30 and January 15, each of which shall be half of the
4 expected amount of tuition and fees for the private school based on
5 the ~~affidavit~~ enrollment verification form submitted pursuant to
6 this subsection, but in no event shall an installment payment exceed
7 half the amount of the credit authorized by subparagraph a of
8 paragraph 1 of subsection C of this section. A taxpayer claiming
9 the credit authorized by subparagraph a of paragraph 1 of subsection
10 C of this section shall submit to the Commission an ~~affidavit~~
11 enrollment application form from the private school in which the
12 eligible student is enrolled or is expected to enroll with the
13 tuition and fees to be charged the taxpayer for the applicable
14 school year. The Commission shall make the installments based on
15 the expected amount of tuition and fee amounts on the enrollment
16 verification form submitted pursuant to this subsection.

17 E. 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 credits are available 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; or

6 3. Third, are siblings of eligible students of taxpayers who
7 received the credit in the prior year.

8 F. 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 not 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. graduates from high school, or
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1 c. is no longer participating in the program for any
2 reason.

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

8 H. ~~1.~~ The Commission shall ~~have the authority to:~~

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

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

19 3. Reallocate credits within thirty (30) days of receipt of
20 notice from a taxpayer pursuant to paragraph 5 of subsection F of
21 this section to the next eligible taxpayer in line when a taxpayer,
22 on behalf of an eligible student in the program, chooses not to
23 participate, is no longer eligible to participate, or chooses to
24 forgo participation in the program for any reason.

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

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

10 K. Credits received under this act do not constitute taxable
11 income to a taxpayer who received the credit on behalf of a child
12 participating in the program. The Commission shall not issue any
13 Form 1099s to taxpayers.

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

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