

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3269

By: Wolfley

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; directing Oklahoma Tax Commission to prorate certain credits; and providing an effective date.

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 a
6 private school accredited by the State Board of Education or another
7 accrediting association or a student who is educated pursuant to the
8 other means of education exception provided for in subsection A of
9 Section 10-105 of Title 70 of the Oklahoma Statutes;

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

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

- 17 a. tuition and fees for nonpublic online learning
18 programs,
- 19 b. academic tutoring services provided by an individual
20 or a private academic tutoring facility,
- 21 c. textbooks, curriculum, or other instructional
22 materials including, but not limited to, supplemental
23 materials or associated online instruction required by
24 an education service provider, and
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1 d. fees for nationally standardized assessments
2 including, but not limited to, assessments used to
3 determine college admission and advanced placement
4 examinations as well as tuition and fees for tutoring
5 or preparatory courses for the assessments; and

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

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

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

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

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

4 (2) Seven Thousand Dollars (\$7,000.00) or the amount
5 of 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 Seventy-five Thousand Dollars
10 (\$75,000.00) but does not exceed One Hundred
11 Fifty Thousand Dollars (\$150,000.00),

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

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

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

20 2. The taxpayer shall retain all receipts of qualified expenses
21 as proof of the amounts paid each tax year the credit is claimed and
22 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. A taxpayer claiming the credit authorized by
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1 subparagraph a of paragraph 1 of subsection C of this section shall
2 submit an application prescribed by the Commission to receive the
3 credit in two installments, each of which shall be half of the
4 expected amount of tuition and fees for the private school based on
5 the affidavit submitted pursuant to this subsection, but in no event
6 shall an installment payment exceed half the amount of the credit
7 authorized by subparagraph a of paragraph 1 of subsection C of this
8 section. A taxpayer claiming the credit authorized by subparagraph
9 a of paragraph 1 of subsection C of this section shall submit to the
10 Commission an affidavit from the private school in which the
11 eligible student is enrolled or is expected to enroll with the
12 tuition and fees to be charged the taxpayer for the applicable
13 school year. In reviewing applications submitted by eligible
14 taxpayers to determine whether they qualify for a credit authorized
15 by subparagraph a of paragraph 1 of subsection C of this section,
16 the Commission shall give first preference in making installments to
17 taxpayers who qualify pursuant to divisions (1) and (2) of
18 subparagraph a of paragraph 1 of subsection C of this section. The
19 Commission shall make the installments based on the expected amount
20 of tuition and fee amounts on the affidavit submitted pursuant to
21 this subsection. If the total amount of credits authorized by
22 subparagraph a of paragraph 1 of subsection C of this section
23 exceeds the limitations prescribed in paragraph 1 of subsection D of
24 this section in any tax year, the Commission shall prorate the
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1 amount of the credit for any eligible student who is a member of a
2 household in which the total adjusted gross income during the second
3 preceding tax year is more than One Hundred Fifty Thousand Dollars
4 (\$150,000.00).

5 F. Taxpayers claiming the credit shall:

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

9 2. Ensure no other person is claiming a credit for the eligible
10 student;

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

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

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

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

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

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

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

19 SECTION 2. This act shall become effective November 1, 2024.

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