

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 685

By: Paxton

AS INTRODUCED

An Act relating to income tax credit; amending Section 2, Chapter 278, O.S.L. 2023, as amended by Section 3, Chapter 277, O.S.L. 2024 (70 O.S. Supp. 2024, Section 28-101), which relates to the Oklahoma Parental Choice Tax Credit Act; modifying tax years for which certain annual credit limit is enforced; prescribing procedure for enforcement of annual limit; 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, as amended by Section 3, Chapter 277, O.S.L. 2024 (70 O.S. Supp. 2024, 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 in this state;

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 in this state accredited by
7 the State Board of Education or another accrediting association or a
8 student who is educated pursuant to the other means of education
9 exception provided for in subsection A of Section 10-105 of this
10 title;

11 6. "Qualified expense" for the purpose of claiming the credit
12 authorized by paragraph 1 of subsection C of this section means
13 tuition and fees at a private school in this state accredited by the
14 State Board of Education or another accrediting association.
15 Provided, the amount of tuition and fees considered a qualified
16 expense pursuant to this paragraph shall not include tuition and
17 fees paid with any scholarship or tuition and fees discounted or
18 otherwise reduced by the school;

19 7. "Qualified expense" for the purpose of claiming the credit
20 authorized by paragraph 2 of subsection C of this section means the
21 following expenditures:

- 22 a. tuition and fees for nonpublic learning programs,
23 online or in person,
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- 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, and fiscal
20 year 2026 and subsequent fiscal years, there shall be allowed
21 against the tax imposed by Section 2355 of Title 68 of the Oklahoma
22 Statutes a credit for any Oklahoma taxpayer who incurs a qualified
23 expense on behalf of an eligible student, to be administered subject
24 to the following amounts:

1 1. If the eligible student attends a private school in this
2 state accredited by the State Board of Education or another
3 accrediting association, the annual maximum credit amount for tax
4 year 2024, fiscal year 2026, and each subsequent fiscal year shall
5 be:

6 a. Seven Thousand Five Hundred Dollars (\$7,500.00) or the
7 amount of tuition and fees for the private school,
8 whichever is less, if the combined adjusted gross
9 income of the parents or legal guardians of the
10 eligible student during the second preceding tax year
11 does not exceed Seventy-five Thousand Dollars
12 (\$75,000.00),

13 b. Seven Thousand Dollars (\$7,000.00) or the amount of
14 tuition and fees for the private school, whichever is
15 less, if the combined adjusted gross income of the
16 parents or legal guardians of the eligible student
17 during the second preceding tax year is more than
18 Seventy-five Thousand Dollars (\$75,000.00) but does
19 not exceed One Hundred Fifty Thousand Dollars
20 (\$150,000.00),

21 c. Six Thousand Five Hundred Dollars (\$6,500.00) or the
22 amount of tuition and fees for the private school,
23 whichever is less, if the combined adjusted gross
24 income of the parents or legal guardians of the
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1 eligible student during the second preceding tax year
2 is more than One Hundred Fifty Thousand Dollars
3 (\$150,000.00) but does not exceed Two Hundred Twenty-
4 five Thousand Dollars (\$225,000.00),

5 d. Six Thousand Dollars (\$6,000.00) or the amount of
6 tuition and fees for the private school, whichever is
7 less, if the combined adjusted gross income of the
8 parents or legal guardians of the eligible student
9 during the second preceding tax year is more than Two
10 Hundred Twenty-five Thousand Dollars (\$225,000.00) but
11 does not exceed Two Hundred Fifty Thousand Dollars
12 (\$250,000.00), or

13 e. Five Thousand Dollars (\$5,000.00) or the amount of
14 tuition and fees for the private school, whichever is
15 less, if the combined adjusted gross income of the
16 parents or legal guardians of the eligible student
17 during the second preceding tax year is more than Two
18 Hundred Fifty Thousand Dollars (\$250,000.00);

19 2. For tax year 2024 and subsequent tax years, the maximum
20 credit amount shall be One Thousand Dollars (\$1,000.00) in qualified
21 expenses per eligible student in each tax year if the eligible
22 student is educated pursuant to the other means of education
23 exception provided for in subsection A of Section 10-105 of this
24 title. To claim the credit, the taxpayer shall submit to the

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

3 3. If the eligible student attends a private school in this
4 state, accredited by the State Board of Education or another
5 accrediting association, that exclusively serves students
6 experiencing homelessness, the credit amount shall be Seven Thousand
7 Five Hundred Dollars (\$7,500.00) or the amount of the cost to
8 educate the eligible student at the private school, whichever is
9 less;

10 4. If the eligible student attends a private school in this
11 state, accredited by the State Board of Education or another
12 accrediting association, that primarily serves financially
13 disadvantaged students, the credit amount shall be the maximum
14 credit amount authorized by paragraph 1 of this subsection or the
15 amount of the cost to educate the eligible student at the private
16 school, whichever is less. The cost to educate the eligible student
17 shall be equal to the average cost to educate all students attending
18 the private school, which shall be calculated by dividing the
19 private school's total expenditures in the previous year by the
20 total enrollment in the previous school year. A private school
21 shall be deemed to be primarily serving financially disadvantaged
22 students if ninety percent (90%) of the private school's admissions
23 are based on enrolling students whose gross family income is two
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1 hundred fifty percent (250%) of the federal poverty threshold or
2 below;

3 5. 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;

6 6. 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; and

9 7. Credits claimed by a taxpayer pursuant to the provisions of
10 this section shall not be used to offset or pay the following:

- 11 a. delinquent tax liability,
- 12 b. accrued penalty or interest from the failure to file a
13 report or return,
- 14 c. accrued penalty or interest from the failure to pay a
15 state tax within the statutory period allowed for its
16 payment,
- 17 d. tax liability of the taxpayer from any prior tax year,
18 or
- 19 e. any debt, unpaid fine, final judgment, or claim filed
20 with the Commission by a qualified entity as defined
21 in Section 205.2 of Title 68 of the Oklahoma Statutes.

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

3 b. For the period of January 1, 2025, through June 30,
4 2025, the total amount of credits authorized by
5 paragraph 1 of subsection C of this section shall not
6 exceed One Hundred Million Dollars (\$100,000,000.00).
7 The Commission shall not require a taxpayer who
8 received a credit pursuant to paragraph 1 of
9 subsection C of this section in tax year 2024 to
10 reapply for a credit payable during the period
11 described in this subparagraph. The Commission shall
12 base the credit amount payable for the spring 2025 on
13 the fall 2024 installment disbursement payment amount.

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

18 2. For tax year ~~2025~~ 2026 and subsequent tax years, the total
19 amount of credits authorized by paragraph 2 of subsection C of this
20 section shall not exceed Five Million Dollars (\$5,000,000.00). The
21 Oklahoma Tax Commission shall annually calculate and publish a
22 percentage by which the credits authorized by this section shall be
23 reduced so the total amount of credits used to offset tax does not
24 exceed the annual limit. The formula to be used for the percentage

1 adjustment shall be Five Million Dollars (\$5,000,000.00) divided by
2 the amount of credit claimed in the second preceding tax year. In
3 the event the total tax credits authorized by this section exceed
4 the annual limit in any tax year, the Tax Commission shall permit
5 any excess but shall factor such excess into the percentage
6 adjustment formula for subsequent tax years.

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. A taxpayer claiming the credit authorized by paragraph 1
11 of subsection C of this section shall submit an application
12 prescribed by the Commission to receive the credit in two
13 installments, each of which shall be half of the expected amount of
14 tuition and fees for the private school based on the enrollment
15 verification form submitted pursuant to this subsection, but in no
16 event shall an installment payment exceed the amount of the credit
17 authorized by paragraph 1 of subsection C of this section. If an
18 eligible taxpayer provides documentation on the application that he
19 or she is a recipient of income-based government benefits including
20 the Supplemental Nutrition Assistance Program (SNAP), Temporary
21 Assistance for Needy Families (TANF), or SoonerCare, the eligible
22 taxpayer shall not be required to provide additional income
23 verification. A taxpayer claiming the credit authorized by
24 paragraph 1 of subsection C of this section shall submit to the

1 Commission an enrollment verification form from the private school
2 in which the eligible student is enrolled or is expected to enroll
3 with the tuition and fees to be charged the taxpayer for the
4 applicable school year. In reviewing applications submitted by
5 eligible taxpayers to determine whether they qualify for a credit
6 authorized by paragraph 1 of subsection C of this section, the
7 Commission shall give first preference in making installments to
8 taxpayers who qualify pursuant to subparagraphs a and b of paragraph
9 1 of subsection C of this section. For credits issued in the 2025-
10 2026 school year and subsequent school years, the application period
11 shall open on February 15 prior to the beginning of each school
12 year. For any eligible student whose parents or legal guardians
13 have a combined adjusted gross income that does not exceed One
14 Hundred Fifty Thousand Dollars (\$150,000.00), applications shall be
15 submitted to the Commission within the first sixty (60) days of the
16 opening of the application period to receive priority consideration.
17 For students enrolled in the full school year, the credit shall be
18 paid in two installments, one per school semester, to be paid no
19 later than August 30 and January 15, each of which shall be half of
20 the total expected amount of tuition and fees on the enrollment
21 verification form submitted pursuant to this subsection.

22 F. In the event there are more applications submitted by
23 eligible taxpayers for a credit authorized by paragraph 1 of
24 subsection C of this section than available credits pursuant to

1 subsection D of this section, then the Commission shall give first
2 preference in authorizing credits for eligible students of taxpayers
3 who qualify pursuant to subparagraphs a and b of paragraph 1 of
4 subsection C of this section and have received the credit in the
5 prior year.

6 G. Taxpayers claiming the credit shall:

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

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

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

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

18 5. Notify the Commission not later than thirty (30) days after
19 the date on which the eligible student:

- 20 a. enrolls in a public school, including an open-
21 enrollment charter school,
22 b. enrolls in a nonaccredited private school,
23 c. graduates from high school, or
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1 d. is no longer utilizing credits authorized by paragraph
2 1 of subsection C of this section for any reason.

3 H. 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 this title while participating in the
6 Oklahoma Parental Choice Tax Credit Program.

7 I. 1. The Commission shall have the authority to conduct an
8 audit or contract for the auditing of receipts for qualified
9 expenses submitted pursuant to paragraph 2 of subsection C of this
10 section.

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

18 3. The Commission shall be authorized to reallocate credits to
19 the next eligible taxpayer in line when a taxpayer, on behalf of an
20 eligible student in the program, chooses not to participate, is no
21 longer eligible to participate, or chooses to forgo participation in
22 the program for any reason.

23 4. The Commission shall provide notification of approval status
24 to applicants within thirty (30) days of closure of the application

1 window. Notice to applicants with an eligible student, whose
2 parents or legal guardians have a combined adjusted gross income of
3 more than One Hundred Fifty Thousand Dollars (\$150,000.00), shall be
4 sent within thirty (30) days or no later than thirty (30) days after
5 the last day of the priority consideration period.

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

12 K. The Commission shall make available on its website to be
13 updated monthly:

14 1. The total amount of credits claimed each year pursuant to
15 paragraphs 1 through 4 of subsection C of this section;

16 2. The amount of credits claimed and number of students awarded
17 each fiscal year pursuant to paragraph 1 of subsection C of this
18 section disaggregated by income categories;

19 3. The total amount of credits claimed and number of students
20 awarded who attended a public school in the semester immediately
21 preceding the school year for which the application is made each
22 year; and

23 4. The total number of applications denied and total amount of
24 credits the denied applications represent for each fiscal year.

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L. Credits received pursuant to the Oklahoma Parental Choice Tax Credit Act shall not constitute taxable income to a taxpayer who received the credit on behalf of an eligible student.

SECTION 2. This act shall become effective November 1, 2025.

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