STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 1389

By: Daniels and Jett of the Senate

and

Caldwell (Chad) of the House

COMMITTEE SUBSTITUTE

An Act relating to income tax credit; amending Section 2, Chapter 278, O.S.L. 2023, as last amended by Section 2, Chapter 295, O.S.L. 2025 (70 O.S. Supp. 2025, Section 28-101), which relates to the Oklahoma Parental Choice Tax Credit Act; modifying annual limit for certain fiscal years; updating statutory language; 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, as last amended by Section 2, Chapter 295, O.S.L. 2025 (70 O.S. Supp. 2025, Section 28-101), is amended to read as follows:

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

1. “Accrediting association” means a recognized legal entity that meets the accreditation requirements set by the State Board of Education, another accrediting association approved by the State Board of Education, or a legal entity that accredits education organizations in multiple states, whose purpose is to verify that an education program meets or exceeds predetermined criteria, and monitor the education organization during the time it is accredited by completing regular reevaluations and on-site inspections of the education program;

2. “Commission” means the Oklahoma Tax Commission;

3. “Curriculum” means a complete course of study for a particular content area or grade level;

4. “Department” means the State Department of Education;

5. “Education service provider” means a person, business, public school district, public charter school, magnet school, or organization that provides educational goods ~~and/or~~ or services to eligible students in this state;

6. “Eligible student” means a resident of this state who is eligible to enroll in a public school in this state. Eligible student shall include a student who is enrolled in and attends or is expected to enroll in a private school in this state accredited by the State Board of Education or another accrediting association or a student who is educated pursuant to the other means of education

exception provided for in subsection A of Section 10-105 of this title;

7. “Qualified expense” for the purpose of claiming the credit authorized by paragraph 1 of subsection C of this section means tuition and fees at a private school in this state accredited by the State Board of Education or another accrediting association. Such private school shall comply with the provisions of subsection L of this section. Provided, the amount of tuition and fees considered a qualified expense pursuant to this paragraph shall not include tuition and fees paid with any scholarship or tuition and fees discounted or otherwise reduced by the school;

8. “Qualified expense” for the purpose of claiming the credit authorized by paragraph 2 of subsection C of this section means the following expenditures:

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

b. academic tutoring services provided by an individual or a private academic tutoring facility,

c. textbooks, curriculum, or other instructional materials including, but not limited to, supplemental materials or associated online instruction required by an education service provider, and

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

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

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

C. For the tax year 2024 and subsequent tax years, and fiscal year 2026 and subsequent fiscal years, there shall be allowed against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes a credit for any Oklahoma taxpayer who incurs a qualified expense on behalf of an eligible student, to be administered subject to the following amounts:

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

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

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

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

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

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

2. For tax year 2024 and subsequent tax years, the maximum credit amount shall be One Thousand Dollars ($1,000.00) in qualified expenses per eligible student in each tax year if the eligible student is educated pursuant to the other means of education exception provided for in subsection A of Section 10-105 of this title. To claim the credit, the taxpayer shall submit to the Commission receipts for qualified expenses as defined by paragraph 8 of subsection A of this section;

3. If the eligible student attends a private school in this state, accredited by the State Board of Education or another accrediting association, that exclusively serves students experiencing homelessness, the credit amount shall be Seven Thousand Five Hundred Dollars ($7,500.00) or the amount of the cost to

educate the eligible student at the private school, whichever is less;

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

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

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

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

a. delinquent tax liability,

b. accrued penalty or interest from the failure to file a report or return,

c. accrued penalty or interest from the failure to pay a state tax within the statutory period allowed for its payment,

d. tax liability of the taxpayer from any prior tax year, or

e. any debt, unpaid fine, final judgment, or claim filed with the Commission by a qualified entity as defined in Section 205.2 of Title 68 of the Oklahoma Statutes.

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

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

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

d. For fiscal year 2027 and subsequent fiscal years, the total amount of credits authorized by paragraph 1 of subsection C of this section shall not exceed Two Hundred Seventy-five Million Dollars ($275,000,000.00).

2. For tax year 2026 and subsequent tax years, the total amount of credits authorized by paragraph 2 of subsection C of this section shall not exceed Five Million Dollars ($5,000,000.00). The Oklahoma Tax Commission shall annually calculate and publish a percentage by which the credits authorized by this section shall be reduced so the total amount of credits used to offset tax does not exceed the annual limit. The formula to be used for the percentage adjustment shall be Five Million Dollars ($5,000,000.00) divided by the amount of credit claimed in the second preceding tax year. In the event the total tax credits authorized by this section exceed the annual limit in any tax year, the ~~Tax~~ Commission shall permit any excess

but shall factor such excess into the percentage adjustment formula for subsequent tax years.

3. If a taxpayer, on behalf of an eligible student in the program, chooses not to participate, is no longer eligible to participate, or chooses to forgo participation in the program for any reason, the credit authorized by paragraph 1 of subsection C of this section but not used and not reallocated pursuant to paragraph 3 of subsection H of this section shall be added to the subsequent fiscal year limitation as provided in paragraph 1 of this subsection.

E. The Commission shall prescribe applications for the purposes of claiming the credits authorized by the Oklahoma Parental Choice Tax Credit Act and a deadline by which applications shall be submitted. A taxpayer claiming the credit authorized by paragraph 1 of subsection C of this section shall submit an application prescribed by the Commission to receive the credit based on the enrollment verification form submitted pursuant to this subsection, but in no event shall a payment exceed the amount of the credit authorized by paragraph 1 of subsection C of this section. If an eligible taxpayer provides documentation on the application that he or she is a recipient of income-based government benefits including the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), or the Oklahoma Medicaid Program commonly known as SoonerCare, the eligible taxpayer shall not be required to provide additional income verification. The Department of Human Services and the Oklahoma Health Care Authority shall, upon request by the Oklahoma Tax Commission, verify whether an applicant receives income-based government benefits. The taxpayer shall provide authorization for the Oklahoma Tax Commission to disclose application data to the Department of Human Services ~~and/or~~ or the Oklahoma Health Care Authority, and for the Department of Human Services ~~and/or~~ or the Oklahoma Health Care Authority to provide confirmation of benefits to the Oklahoma Tax Commission for purposes of verifying that the taxpayer is a current recipient of SNAP, TANF, or Oklahoma Medicaid Program benefits; provided, the information shall not be used for any other purpose. A taxpayer claiming the credit authorized by paragraph 1 of subsection C of this section shall submit to the Commission an enrollment verification form from the private school in which the eligible student is enrolled or is expected to enroll with the tuition and fees to be charged the taxpayer for the applicable school year. In reviewing applications submitted by eligible taxpayers to determine whether they qualify for a credit authorized by paragraph 1 of subsection C of this section, the Commission shall give first preference in making payments to taxpayers who qualify pursuant to subparagraphs a and b of paragraph 1 of subsection C of this section. The Commission shall give second preference in making payments to taxpayers who qualify and have received the credit in the prior year. For credits issued in the 2026-2027 school year and subsequent school years, the application period shall be open March 15 through June 15 prior to the beginning of each school year. For any eligible student whose parents or legal guardians have a combined adjusted gross income that does not exceed One Hundred Fifty Thousand Dollars ($150,000.00) or qualified and received credit in the prior year, applications shall be submitted to the Commission within the first sixty (60) days of the opening of the application period to receive priority consideration. For students enrolled in the full school year, the full credit amount authorized for the school year shall be paid no later than August 30.

F. Taxpayers claiming the credit shall:

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

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

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

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

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

a. enrolls in a public school, including an open-enrollment charter school,

b. enrolls in a nonaccredited private school,

c. graduates from high school, or

d. is no longer utilizing credits authorized by paragraph 1 of subsection C of this section for any reason.

G. Eligible students may accept a scholarship from the Lindsey Nicole Henry Scholarships for Students with Disabilities Program created by Section 13-101.2 of this title while participating in the Oklahoma Parental Choice Tax Credit Program.

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

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

3. The Commission shall be authorized to reallocate credits for the current application year to the next eligible taxpayer in line when a taxpayer, on behalf of an eligible student in the program, chooses not to participate, is no longer eligible to participate, or chooses to forgo participation in the program for any reason no later than September 1 following the opening of the application period of each year.

4. The Commission shall provide notification of approval status to applicants within thirty (30) days of closure of the application window. Notice to applicants with an eligible student, whose parents or legal guardians have a combined adjusted gross income of more than One Hundred Fifty Thousand Dollars ($150,000.00), shall be sent within thirty (30) days or no later than thirty (30) days after the last day of the priority consideration period.

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

J. The Commission shall make available on its website to be updated monthly:

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

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

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

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

K. 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.

L. No later than June 15 of each year, each participating private school shall electronically provide information to confirm student enrollment and tuition information for the fall and spring semesters of the preceding school year and any other information requested by the Oklahoma Tax Commission. Failure to provide this information may result in denial of private school participation in subsequent school years.

M. An eligible and participating private school as of April 15, 2025, shall have until March 1, 2027, to meet the accreditation requirements of this section.

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

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