

# OKLAHOMA TAX COMMISSION

## REVENUE IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT FIRST REGULAR SESSION, FIFTY-NINTH OKLAHOMA LEGISLATURE

**DATE OF IMPACT STATEMENT:** May 26, 2023

**BILL NUMBER:** HB 1934 **STATUS AND DATE OF BILL:** Enrolled 5/2/23

**AUTHORS:** House: McCall Senate: Treat, Stanley, Thompson (Kristen), Bullard, Haste, Green, Seifried, Standridge, Coleman, Prieto, Daniels, Bergstrom, Rader, Garvin, Newhouse, Rogers, Woods and Stewart

**TAX TYPE (S):** Income Tax **SUBJECT:** Credit

**PROPOSAL:** New Law

Enrolled HB 1934 creates the Oklahoma Parental Choice Tax Credit Act and the Oklahoma Parental Choice Tax Credit Program. For tax year 2024 and subsequent tax years, the Program provides a new, refundable income tax credit for an Oklahoma taxpayer who incurs a qualified expense on behalf of an eligible student.

**EFFECTIVE DATE:** August 25, 2023

### REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 24: Unknown decrease in income tax revenue.

FY 25: Unknown decrease in income tax revenue.

### ADMINISTRATIVE IMPACT:

Insert dollar amount (plus or minus) of the expected change in OTC administrative costs due to this proposed legislation.

FY 24: \$1,043,000 in administrative costs to the OTC.

FY 25: \$706,000 in administrative costs to the OTC.

May 26, 2023

DATE

*Rick Miller*

DIVISION DIRECTOR

bf

DATE

HUAN GONG, ECONOMIST

5/26/2023

DATE

*Joseph P Gappa*

FOR THE COMMISSION

***The revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.***

## **ATTACHMENT TO REVENUE IMPACT – HB 1934 [Enrolled] Prepared 5/26/23**

Enrolled HB 1934 creates the Oklahoma Parental Choice Tax Credit Act and the Oklahoma Parental Choice Tax Credit Program.

For tax year 2024 and subsequent tax years, the Program provides a new, refundable income tax credit for an Oklahoma taxpayer<sup>1</sup> who incurs a qualified expense on behalf of an eligible student, to be administered subject to the following amounts:<sup>2</sup>

- If the eligible student attends a private school accredited by the State Board of Education or another accrediting association,<sup>3</sup> the maximum credit is:
  - \$7,500 or the amount of tuition and fees for the private school, whichever is less, if the eligible student is a member of a household in which the total adjusted gross income (AGI) during the second preceding tax year<sup>4</sup> does not exceed \$75,000.
  - \$7,000 or the amount of tuition and fees for the private school, whichever is less, if the eligible student is a member of a household in which the total AGI during the second preceding tax year<sup>4</sup> is more than \$75,000 but does not exceed \$150,000.
  - \$6,500 or the amount of tuition and fees for the private school, whichever is less, if the eligible student is a member of a household in which the total AGI during the second preceding tax year<sup>4</sup> is more than \$150,000 but does not exceed \$225,000.
  - \$6,000 or the amount of tuition and fees for the private school, whichever is less, if the eligible student is a member of a household in which the total AGI during the second preceding tax year<sup>4</sup> is more than \$225,000 but does not exceed \$250,000.
  - \$5,000 or the amount of tuition and fees for the private school, whichever is less, if the eligible student is a member of a household in which the total AGI during the second preceding tax year<sup>4</sup> is more than \$250,000.
- \$1,000 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 70 O.S. § 10-105.

The total amount of credits for private school expenses are limited to:

- \$150 million for tax year 2024.
- \$200 million for tax year 2025.
- \$250 million for tax years 2026 and subsequent years.

The total amount of credits for homeschool expenses are limited to \$5 million for

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<sup>1</sup> "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.

<sup>2</sup> It appears that the credit may be claimed by both a part-year resident and a nonresident.

<sup>3</sup> No definition is provided for "another accrediting agency."

<sup>4</sup> It is unclear whether a claim should be approved if no Oklahoma income tax return was filed for the second preceding tax year, resulting in an unknown federal or state AGI.

tax years 2025 and subsequent tax years. Credits are unlimited for tax year 2024.

Taxpayers claiming the credit must:

- Only claim the credit for qualified expenses to provide an education for an eligible student.
- Ensure no other person is claiming a credit for the eligible student.<sup>5</sup>
- 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 school, or magnet school.<sup>5</sup>
- Comply with rules and requirements established by the Oklahoma Tax Commission (OTC) for administration of the Program.
- Retain all receipts of qualified expenses as proof of the amounts paid each year the credit is claimed and submit the receipts to the OTC upon request.

A taxpayer claiming the credit for private school expenses must submit to the OTC an affidavit 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.

The OTC must prescribe applications to claim the credits and a deadline by which applications must be submitted. A taxpayer claiming the credit for private school expenses must submit an application prescribed by the OTC to receive the credit in two installments, each of which will be half of the expected amount of tuition and fees for the private school based on the private school affidavit submitted, but in no event will an installment payment exceed half the amount of the credit.

In reviewing applications submitted by eligible taxpayers to determine whether they qualify for the credit for private school expenses, the OTC will give first preference in making installments to taxpayers who qualify to claim the credit for an eligible student who is a member of a household in which the total AGI during the second preceding tax year<sup>4</sup> does not exceed \$150,000. The OTC will make the installments based on the expected amount of tuition and fee amounts on the private school affidavit.

The OTC is authorized to conduct an audit or contract for auditing of receipts for qualified expenses. The OTC is further authorized to recapture the credits on a prorated basis if an audit 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 Oklahoma.<sup>5</sup>

The OTC must coordinate with the State Department of Education to develop a process to review student enrollment information in order to verify that an eligible student who is claimed by a taxpayer receiving a tax credit is not enrolled in an Oklahoma public school.<sup>6</sup>

The following definitions are provided:

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<sup>5</sup> See Administrative Concerns section for further discussion.

<sup>6</sup> A memorandum of understanding may be required to share information with the State Department of Education.

- “Curriculum” means a complete course of study for a particular content area or grade level;
- “Education service provider” means a person, business, public school district, public charter school, magnet school, or organization that provides educational goods and/or services to eligible students;
- “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 a private school 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 70 O.S. § 10-105;
- “Qualified expense” for the purpose of claiming the credit for private school expenses means tuition and fees at a private school accredit by the State Board of Education or another accrediting association;
- “Qualified expense” for the purpose of claiming the credit for homeschool expenses means the following expenditures:
  - Tuition and fees for nonpublic online learning programs,
  - Academic tutoring services provided by an individual or a private academic tutoring facility,
  - Textbooks curriculum, or other instructional materials including, but not limited to, supplemental materials or associated online instruction required by an education service provider, and
  - 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;
- “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.<sup>5</sup>

Eligible students may accept a scholarship from the Lindsey Nicole Henry Scholarships for Students with Disabilities Program created by 70 O.S. § 13-101.2 while participating in the Program.

In the event of a failure of revenue pursuant to the Oklahoma State Finance Act, the tax credits will 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 revenue failure occurs. The OTC must make the amount of credits claimed each tax year available on its website.

According to the Private School Review, there are 207 private schools in Oklahoma serving 37,688 students for the 2023 school year.<sup>7</sup> The average private tuition is \$6,576 for elementary schools and \$7,620 for high schools. Potential estimated claims for private school expenses are expected to total approximately \$276 million for tax year 2024,<sup>8</sup> which is in excess of the proposed \$150 million

<sup>7</sup><https://www.privateschoolreview.com/oklahoma#:~:text=For%20the%202023%20school%20year,the%20national%20average%20of%2010%25>.

<sup>8</sup> No potential growth was factored into homeschool or private school enrollment estimates that could occur as a result of the proposal. In addition, this analysis does not factor any potential decrease in income tax revenue related to increased contributions to Oklahoma College Savings Plan or OklahomaDream 529 accounts.

cap for tax year 2024. Potential estimated claims of approximately \$276 million are also expected for tax year 2025, which is in excess of the proposed \$200 million cap for tax year 2025.<sup>9</sup>

Information published by the United States Census Bureau further indicates that an additional 33,096 qualifying students learned on their own using materials that were not provided by their school during the period December 9 – 19, 2022.<sup>10</sup> For this analysis, it is assumed that the maximum \$1,000 qualified expenses credit will be claimed for each eligible student educated pursuant to other means of education. Estimated credits for homeschool expenses are expected to total approximately \$33.1 million for tax year 2024. Estimated claims for homeschool expenses are expected to total approximately \$33.1 million for tax year 2025, which is in excess of the proposed \$5 million cap for tax year 2025 and subsequent tax years.<sup>9</sup>

The actual decrease in income tax revenue for FY 2024 and 2025 as a result of the proposal is unknown.

### **Administrative Concerns**

Under the proposal, the OTC must create a form allowing taxpayers to request that the credit for qualified private school expenses be advanced to the taxpayer in two installments of not more than half of the total amount authorized per semester for a maximum credit of the total amount authorized per tax year or the amount of tuition and fees for the private school, whichever is less. It is assumed that a form must be submitted for each student for each semester to claim an advance credit, resulting in an estimated 75,000 additional forms that must be processed each tax year. It is unclear how the OTC should administer advance credits claimed by multiple taxpayers for the same student, such as credits claimed by divorced parents who each pay a portion of qualified expenses.

Verifying taxpayer compliance with the requirements to claim the proposed credits presents further administrative challenges. The OTC may be required to review all public school student enrollment information to determine that a student who is claimed by a taxpayer receiving the credit is not enrolled in a public school. Information is not available to verify homeschool enrollment, and it is unclear whether a student who is enrolled in a public school for only a portion of the school year is eligible for the proposed credits.

### **Administrative Impact**

Due to the expected volume of advance payment requests recurring each semester, the OTC anticipates a significant increase in administrative expense to develop and maintain information processing systems and to verify student eligibility. Additional costs are expected to recapture advance payments claimed for students not enrolled in a private school, and advance payments to taxpayers who owe an income tax liability at year-end. Total estimated costs are \$1,043,000 for FY 2024 and \$706,000 for FY 2025.

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<sup>9</sup> It is unclear how the OTC should administer the proposed credit caps.

<sup>10</sup> See Table 3. Learning Formats in the Last 7 Days for Children in Public or Private School, by Select Characteristics at <https://www.census.gov/data/tables/2023/demo/hhp/hhp52.html>.