



# MEMO

Tax Policy Division

**To:** Rick Miller, Director *RAM*  
**From:** Bettina Fryhover - Tax Policy Analyst  
**Cc:** Lisa Haws, Tax Policy Analyst  
**Date:** 02/15/2023  
**Re:** Revenue Impact - Proposed Committee Substitute for SB 971

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The Proposed Committee Substitute for introduced SB 971 proposes to enact a new income tax credit for educational choice expenses incurred during the tax year for taxpayers with a child who is eligible to be enrolled in a public school in Oklahoma, qualifies as the taxpayer's dependent for federal tax purposes, and is enrolled in a private school, or private educational program that can be used to satisfy the state's compulsory school attendance requirements that is not affiliated with the student's resident district, as determined by 70 O.S. §§ 1-113.

In addition, a new income tax credit is proposed for qualifying educational expenses incurred during the tax year for any taxpayer that has a child who qualifies as the taxpayer's dependent for federal tax purposes, is eligible to be enrolled in a public school in Oklahoma, and is a student being educated by other means, as provided in 70 O.S. §§ 10-105. The proposed credit for qualifying educational expenses is refundable to a taxpayer who qualifies for the Oklahoma Earned Income Tax Credit pursuant to 68 O.S. § 2357.43.

Effective for tax year 2024 and subsequent tax years, the maximum credit allowable for each taxable year is \$3,500 for each qualifying dependent. Amounts claimed may not be itemized as deductions for the same tax year when computing Oklahoma taxable income.

The following definitions are provided:

- "Academic instruction" means instruction in reading, writing, mathematics, science, history, art, music, geography, civics, economics, literature, philosophy, religion, foreign languages, and related subjects;
- "Educational choice expenses" means tuition and fees for enrollment of the child in a school or a private educational program not affiliated with the public school district in which the taxpayer's primary residence is located; and
- "Qualifying educational expenses" include:
  - Costs associated with activities at a school including the cost of fees, clothing, and equipment required to participate in athletic teams, musical groups, clubs,

or similar school activities for a student being educated by other means, as provided in subsection A of Section 10-105 of Title 70 of the Oklahoma Statutes, in prekindergarten through grade twelve directed by the parent or guardian, and

- Costs associated with the provision of instruction by other means in prekindergarten through grade twelve directed by the parent or guardian including the cost of computer equipment, software, online instruction, cooperative educational programs, textbooks, workbooks, curricula, and other written materials used primarily for academic instruction.

The Oklahoma Tax Commission (OTC) will promulgate rules and develop tax forms, directions, and worksheets, as necessary, to effectuate the provisions of the proposal. The rules will modify the state tax forms, directions, and worksheets to provide a reasonably convenient way for the taxpayers to claim the proposed credits. The OTC may require a taxpayer to submit with the tax return copies of such receipts or similar financial documentation as may be necessary to confirm the taxpayer's statement of the allowable credit; however, the OTC will not require any school or organization to provide documentation or otherwise act to verify claims for the proposed credits.

The Oklahoma Department of Education's Oklahoma Public Schools Fast Facts 2021-22 indicate 698,696 qualifying students enrolled in public schools.<sup>1</sup>

According to the Private School Review, there are 207 private schools in Oklahoma serving 37,688 students for the 2023 school year.<sup>2</sup> The average private tuition is \$6,576 for elementary schools and \$7,620 for high schools. The number of families with one or more qualifying students enrolled in a private school is unknown; however, it is expected that each family would be eligible to claim the full annual credit amount of \$3,500 per student.

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>3</sup> For this analysis, qualifying educational expenses incurred by a family are assumed to be approximately \$500 per homeschooled student per year.

IRS Tax Statistics for Oklahoma for tax year 2020 indicate the child and other dependent tax credit was claimed on 456,070 returns.<sup>4</sup> Using the available information, estimated credit amounts for qualifying educational expenses were calculated as follows:

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<sup>1</sup> See [https://sde.ok.gov/sites/default/files/documents/files/Fast%20Facts%202021-22\\_Sept.pdf](https://sde.ok.gov/sites/default/files/documents/files/Fast%20Facts%202021-22_Sept.pdf).

<sup>2</sup> See <https://www.privateschoolreview.com/oklahoma#:~:text=For%20the%202023%20school%20year,the%20national%20average%20of%2010%25>.

<sup>3</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>.

<sup>4</sup> See Tax Year 2020: Historic Table 2 for Oklahoma at <https://www.irs.gov/statistics/soi-tax-stats-historic-table-2>.

Institution	Students	% of Total Students	Estimated Number of Returns	Estimated Number of Students Per Return	Estimated Credit Per Return	Estimated Credit Amount
Public School	698,696	91%	414,116			
Private School	37,688	5%	22,338	1.69	\$ 5,905.19	\$ 131,908,000.00
Homeschool	33,096	4%	19,616	1.69	\$ 843.60	\$ 16,548,000.00
Totals	<u>769,480</u>		<u>456,070</u>			<u>\$ 148,456,000.00</u>

Based on these estimates, the potential revenue impact of the proposal is a decrease in income tax revenue of approximately \$148.5 million for FY 25 when the 2024 returns are filed. In addition, an estimated decrease of \$44.5 million in withheld income tax may be expected for FY 24.