

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 1934

By: McCall of the House

4 and

Treat of the Senate

5
6
7 An Act relating to parental rights; amending 25 O.S.
8 2021, Section 2003, which relates to parental
9 involvement; providing that school provide plan for
parent participation in certain areas; and providing
an effective date.

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12 AUTHOR: Add the following Senate Coauthors: Stanley, Thompson
13 (Kristen), Bullard, Haste, Green, Seifried, Standridge,
14 Coleman, Prieto, Daniels, Bergstrom, Rader, Garvin,
Newhouse, Rogers, and Woods

14

15 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
16 entire bill and insert

16

17 "An Act relating to students; creating the Oklahoma
18 Parental Choice Tax Credit Act; providing short
19 title; providing legislative intent; defining terms;
20 creating the Oklahoma Parental Choice Tax Credit
21 Program; providing purpose; creating income tax
22 credit for certain taxpayers beginning in certain tax
23 year; prescribing maximum credit amounts based on
24 certain income levels; directing taxpayer claiming
certain credit to retain certain receipts and submit
them upon certain request; prescribing maximum amount
of credits for certain tax years; authorizing the
Oklahoma Tax Commission to prescribe certain
applications and certain deadline; providing for
advancement of certain credit in installments;
providing procedures for claiming credit; directing

1 the Commission to give first preference in making
2 installments to certain taxpayers; authorizing dual
3 participation in certain program; authorizing the
4 Commission to conduct or contract for certain audit;
5 authorizing prorated recapture of credits under
6 certain circumstances; directing certain credit
7 amount to be reduced if certain event occurs;
8 requiring the posting of certain credit amounts;
9 requiring the State Department of Education to
10 provide certain notice; directing implementation of
11 certain system; requiring coordination of a process
12 to verify student enrollment status; providing for
13 promulgation of rules; providing immunity from
14 liability for certain actions; allowing certain
15 parents to intervene in certain legal proceeding;
16 prohibiting severability of act provisions; providing
17 for codification; providing an effective date; and
18 declaring an emergency.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 28-100 of Title 70, unless there
22 is created a duplication in numbering, reads as follows:

23 A. This act shall be known and may be cited as the "Oklahoma
24 Parental Choice Tax Credit Act".

B. It is the intent of the Legislature that parents, legal
guardians, custodians, and others with legal authority over children
in this state be able to choose educational services that meet the
needs of their individual children. The Legislature affirms that
parents and legal guardians are best suited to make choices to help
children in this state reach their full potential and achieve a
brighter future.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 28-101 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 A. As used in the Oklahoma Parental Choice Tax Credit Act:

5 1. "Commission" means the Oklahoma Tax Commission;

6 2. "Curriculum" means a complete course of study for a
7 particular content area or grade level;

8 3. "Department" means the State Department of Education;

9 4. "Education service provider" means a person, business,
10 public school district, public charter school, magnet school, or
11 organization that provides educational goods and/or services to
12 eligible students;

13 5. "Eligible student" means a resident of this state who is
14 eligible to enroll in a public school in this state. Eligible
15 student shall include a student who is enrolled in and attends a
16 private school accredited by the State Board of Education or another
17 accrediting association or a student who is educated pursuant to the
18 other means of education exception provided for in subsection A of
19 Section 10-105 of Title 70 of the Oklahoma Statutes;

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

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

- 4 a. tuition and fees for nonpublic online learning
5 programs,
- 6 b. academic tutoring services provided by an individual
7 or a private academic tutoring facility,
- 8 c. textbooks, curriculum, or other instructional
9 materials including, but not limited to, supplemental
10 materials or associated online instruction required by
11 an education service provider, and
- 12 d. fees for nationally standardized assessments
13 including, but not limited to, assessments used to
14 determine college admission and advanced placement
15 examinations as well as tuition and fees for tutoring
16 or preparatory courses for the assessments; and

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

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

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

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

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

16 (2) Seven Thousand Dollars (\$7,000.00) or the amount
17 of tuition and fees for the private school,
18 whichever is less, if the eligible student is a
19 member of a household in which the total adjusted
20 gross income during the second preceding tax year
21 is more than Seventy-five Thousand Dollars
22 (\$75,000.00) but does not exceed One Hundred
23 Fifty Thousand Dollars (\$150,000.00),
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1 (3) Six Thousand Five Hundred Dollars (\$6,500.00) or
2 the amount of tuition and fees for the private
3 school, whichever is less, if the eligible
4 student is a member of a household in which the
5 total adjusted gross income during the second
6 preceding tax year is more than One Hundred Fifty
7 Thousand Dollars (\$150,000.00) but does not
8 exceed Two Hundred Twenty-five Thousand Dollars
9 (\$225,000.00),

10 (4) Six Thousand Dollars (\$6,000.00) or the amount of
11 tuition and fees for the private school,
12 whichever is less, if the eligible student is a
13 member of a household in which the total adjusted
14 gross income during the second preceding tax year
15 is more than Two Hundred Twenty-five Thousand
16 Dollars (\$225,000.00) but does not exceed Two
17 Hundred Fifty Thousand Dollars (\$250,000.00), or

18 (5) Five Thousand Dollars (\$5,000.00) or the amount
19 of tuition and fees for the private school,
20 whichever is less, if the eligible student is a
21 member of a household in which the total adjusted
22 gross income during the second preceding tax year
23 is more than Two Hundred Fifty Thousand Dollars
24 (\$250,000.00), and

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

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

12 3. If the credit exceeds the tax imposed by Section 2355 of
13 Title 68 of the Oklahoma Statutes, the excess amount shall be
14 refunded to the taxpayer.

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

19 b. For tax year 2025, the total amount of credits
20 authorized by subparagraph a of paragraph 1 of
21 subsection C of this section shall not exceed Two
22 Hundred Million Dollars (\$200,000,000.00).

23 c. For tax year 2026, and subsequent tax years, the total
24 amount of credits authorized by subparagraph a of

1 paragraph 1 of subsection C of this section shall not
2 exceed Two Hundred Fifty Million Dollars
3 (\$250,000,000.00).

4 2. For tax year 2025, and subsequent tax years, the total
5 amount of credits authorized by subparagraph b of paragraph 1 of
6 subsection C of this section shall not exceed Five Million Dollars
7 (\$5,000,000.00).

8 E. The Commission shall prescribe applications for the purposes
9 of claiming the credits authorized by the Oklahoma Parental Choice
10 Tax Credit Act and a deadline by which applications shall be
11 submitted. A taxpayer claiming the credit authorized by
12 subparagraph a of paragraph 1 of subsection C of this section shall
13 submit an application prescribed by the Commission to receive the
14 credit in two installments, each of which shall be half of the
15 expected amount of tuition and fees for the private school based on
16 the affidavit submitted pursuant to this subsection, but in no event
17 shall an installment payment exceed half the amount of the credit
18 authorized by subparagraph a of paragraph 1 of subsection C of this
19 section. A taxpayer claiming the credit authorized by subparagraph
20 a of paragraph 1 of subsection C of this section shall submit to the
21 Commission an affidavit from the private school in which the
22 eligible student is enrolled or is expected to enroll with the
23 tuition and fees to be charged the taxpayer for the applicable
24 school year. In reviewing applications submitted by eligible

1 taxpayers to determine whether they qualify for a credit authorized
2 by subparagraph a of paragraph 1 of subsection C of this section,
3 the Commission shall give first preference in making installments to
4 taxpayers who qualify pursuant to divisions (1) and (2) of
5 subparagraph a of paragraph 1 of subsection C of this section. The
6 Commission shall make the installments based on the expected amount
7 of tuition and fee amounts on the affidavit submitted pursuant to
8 this subsection.

9 F. Taxpayers claiming the credit shall:

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

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

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

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

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

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

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

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

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

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1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 28-102 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The State Department of Education shall provide parents,
5 legal guardians, custodians, or other persons with legal authority
6 of eligible students with disabilities notice that participation in
7 the Oklahoma Parental Choice Tax Credit Program shall have the same
8 effect as a parental revocation of consent pursuant to 20 U.S.C.,
9 Sections 1414(a)(1)(D) and 1414(C) of the Individuals with
10 Disabilities Education Act (IDEA) and an explanation of the rights
11 parents, legal guardians, custodians, or other persons with legal
12 authority of eligible students with disabilities have under IDEA and
13 any applicable state laws and regulations.

14 B. The Department shall implement a commercially viable, cost-
15 effective, and user-friendly system for users to publicly rate,
16 review, and share information about education service providers.

17 C. The Oklahoma Tax Commission shall coordinate with the State
18 Department of Education to develop a process to review student
19 enrollment information in order to verify that an eligible student
20 who is claimed by a taxpayer receiving a tax credit is not enrolled
21 in a public school in the state.

22 D. The Commission may promulgate rules to implement the
23 provisions of the Oklahoma Parental Choice Tax Credit Act. The
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1 State Board of Education may promulgate rules to implement the
2 provisions of this section.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 28-103 of Title 70, unless there
5 is created a duplication in numbering, reads as follows:

6 A. No liability shall arise on the part of the Oklahoma Tax
7 Commission, State Department of Education, State Board of Education,
8 the state, a public school district, a public charter school, a
9 public virtual charter school, or a magnet school based on the award
10 of or use of a tax credit pursuant to the Oklahoma Parental Choice
11 Tax Credit Act.

12 B. If any part of the Oklahoma Parental Choice Tax Credit Act
13 is challenged in a state court as violating either the Oklahoma
14 Constitution or United States Constitution, taxpayers shall be
15 permitted to intervene for the purposes of defending the Oklahoma
16 Parental Choice Tax Credit Program's constitutionality. However,
17 for the purposes of judicial administration, a court may require
18 that all taxpayers file a joint brief so long as they are not
19 required to join any brief filed on behalf of any named state
20 defendant.

21 C. The provisions of the Oklahoma Parental Choice Tax Credit
22 Act shall not be severable, and if any provision of the Oklahoma
23 Parental Choice Tax Credit Act or the application thereof to any
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1 person or circumstances is held invalid, such invalidity shall
2 invalidate the other provisions or applications of this act.

3 SECTION 5. This act shall become effective July 1, 2023.

4 SECTION 6. It being immediately necessary for the preservation
5 of the public peace, health, or safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval."

8 Passed the Senate the 27th day of April, 2023.

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Presiding Officer of the Senate

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12 Passed the House of Representatives the ____ day of _____,
13 2023.

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Presiding Officer of the House
of Representatives

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1 ENGROSSED HOUSE
2 BILL NO. 1934

By: McCall of the House
and
Treat of the Senate

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7 An Act relating to parental rights; amending 25 O.S.
8 2021, Section 2003, which relates to parental
9 involvement; providing that school provide plan for
parent participation in certain areas; and providing
an effective date.

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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 7. AMENDATORY 25 O.S. 2021, Section 2003, is
14 amended to read as follows:

15 Section 2003. A. The board of education of a school district,
16 in consultation with parents, teachers and administrators, shall
17 develop and adopt a policy to promote the involvement of parents and
18 guardians of children enrolled in the schools within the school
19 district, including:

20 1. A plan for parent participation in the schools which is
21 designed to improve parent and teacher cooperation in such areas as
22 homework, attendance, curriculum transparency, content
23 appropriateness, and discipline;

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1 2. Procedures by which parents may learn about the course of
2 study for their children and review learning materials, including
3 the source of any supplemental educational materials;

4 3. Procedures by which parents who object to any learning
5 material or activity on the basis that it is harmful may withdraw
6 their children from the activity or from the class or program in
7 which the material is used. Objection to a learning material or
8 activity on the basis that it is harmful includes objection to a
9 material or activity because it questions beliefs or practices in
10 sex, morality or religion;

11 4. If a school district offers any sex education curricula
12 pursuant to Section 11-105.1 of Title 70 of the Oklahoma Statutes or
13 pursuant to any rules adopted by the State Board of Education,
14 procedures to opt out of a school district from providing sex
15 education instruction to a child if the child's parent provides
16 written objection to the child's participation in the sex education
17 curricula;

18 5. Procedures by which parents will be notified in advance of
19 and given the opportunity to withdraw their children from any
20 instruction or presentations regarding sexuality in courses other
21 than formal sex education curricula pursuant to Section 11-105.1 of
22 Title 70 of the Oklahoma Statutes;

23 6. Procedures by which parents may learn about the nature and
24 purpose of clubs and activities that are part of the school

1 curriculum, as well as extracurricular clubs and activities that
2 have been approved by the school; and

3 7. Procedures by which parents may learn about parental rights
4 and responsibilities under the laws of this state, including the
5 following:

- 6 a. the right to opt out of a sex education curriculum if
7 one is provided by the school district,
- 8 b. open enrollment rights,
- 9 c. the right to opt out of assignments pursuant to this
10 section,
- 11 d. the right to be exempt from the immunization laws of
12 the state pursuant to Section 1210.192 of Title 70 of
13 the Oklahoma Statutes,
- 14 e. the promotion requirements prescribed in Section
15 1210.508E of Title 70 of the Oklahoma Statutes,
- 16 f. the minimum course of study and competency
17 requirements for graduation from high school
18 prescribed in Section 11-103.6 of Title 70 of the
19 Oklahoma Statutes,
- 20 g. the right to opt out of instruction on the acquired
21 immune deficiency syndrome pursuant to Section 11-
22 103.3 of Title 70 of the Oklahoma Statutes,
- 23 h. the right to review test results,

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- 1 i. the right to participate in gifted programs pursuant
2 to Sections 1210.301 through 1210.308 of Title 70 of
3 the Oklahoma Statutes,
- 4 j. the right to inspect instructional materials used in
5 connection with any research or experimentation
6 program or project pursuant to Section 11-106 of Title
7 70 of the Oklahoma Statutes,
- 8 k. the right to receive a school report card,
- 9 l. the attendance requirements prescribed in Section 10-
10 106 of Title 70 of the Oklahoma Statutes,
- 11 m. the right to public review of courses of study and
12 textbooks,
- 13 n. the right to be excused from school attendance for
14 religious purposes,
- 15 o. policies related to parental involvement pursuant to
16 this section,
- 17 p. the right to participate in parent-teacher
18 associations and organizations that are sanctioned by
19 the board of education of a school district, and
- 20 q. the right to opt out of any data collection instrument
21 at the district level that would capture data for
22 inclusion in the state longitudinal student data
23 system except what is necessary and essential for
24 establishing a student's public school record.

1 B. The board of education of a school district may adopt a
2 policy to provide to parents the information required by this
3 section in an electronic form.

4 C. A parent shall submit a written request for information
5 pursuant to this section during regular business hours to either the
6 school principal at the school site or the superintendent of the
7 school district at the office of the school district. Within ten
8 (10) days of receiving the request for information, the school
9 principal or the superintendent of the school district shall either
10 deliver the requested information to the parent or submit to the
11 parent a written explanation of the reasons for the denial of the
12 requested information. If the request for information is denied or
13 the parent does not receive the requested information within fifteen
14 (15) days after submitting the request for information, the parent
15 may submit a written request for the information to the board of
16 education of a school district, which shall formally consider the
17 request at the next scheduled public meeting of the board if the
18 request can be properly noticed on the agenda. If the request
19 cannot be properly noticed on the agenda, the board of education of
20 a school district shall formally consider the request at the next
21 subsequent public meeting of the board.

22 SECTION 8. This act shall become effective November 1, 2023.
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1 Passed the House of Representatives the 21st day of March, 2023.

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3 _____
4 Presiding Officer of the House
5 of Representatives

6 Passed the Senate the ____ day of _____, 2023.

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9 Presiding Officer of the Senate