

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. 1

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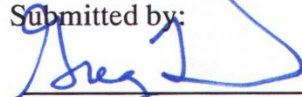
COMMITTEE AMENDMENT

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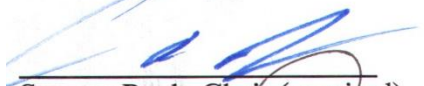
(Date)

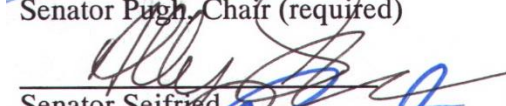
I move to amend House Bill No. 1934, by substituting the attached floor substitute (Request #2177) for the title, enacting clause, and entire body of the measure.

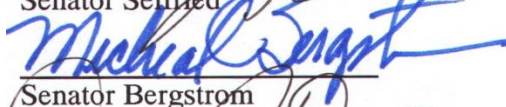
Submitted by:

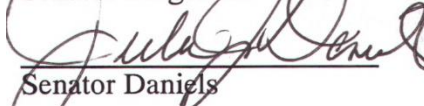
  
\_\_\_\_\_  
Senator Treat

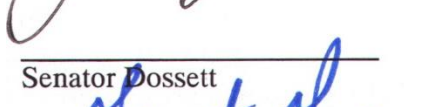
I hereby grant permission for the floor substitute to be adopted.

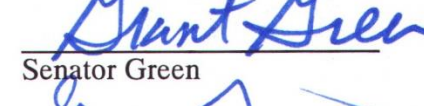
  
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Senator Pugh, Chair (required)

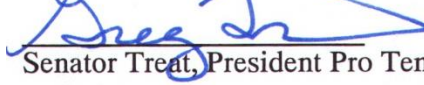
  
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Senator Seifried

  
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Senator Bergstrom

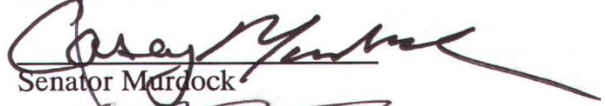
  
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Senator Daniels

  
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Senator Dossett

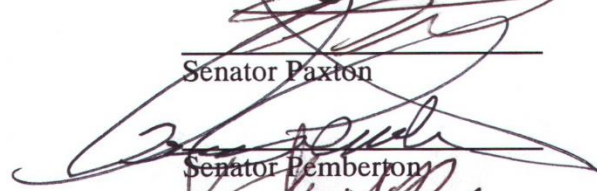
  
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Senator Green

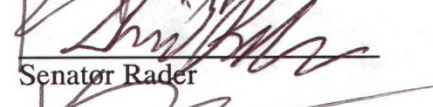
  
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Senator Treat, President Pro Tempore

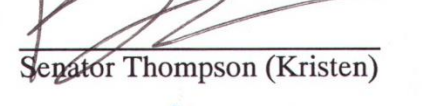
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Senator Hicks


  
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Senator Murdock

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Senator Paxton

  
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Senator Pemberton

  
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Senator Rader

  
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Senator Thompson (Kristen)

  
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Senator McCortney, Majority Floor Leader

Note: Education committee majority requires seven (7) members' signatures.

Treat-EB-FS-HB1934  
4/27/2023 12:12 PM

(Floor Amendments Only) Date and Time Filed: 4-27-23 2:12pm fd

Untimely       Amendment Cycle Extended       Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 FLOOR SUBSTITUTE  
4 FOR ENGROSSED

5 HOUSE BILL NO. 1934

By: McCall of the House

and

Treat of the Senate

6  
7  
8  
9 FLOOR SUBSTITUTE

10 An Act relating to students; creating the Oklahoma  
11 Parental Choice Tax Credit Act; providing short  
12 title; providing legislative intent; defining terms;  
13 creating the Oklahoma Parental Choice Tax Credit  
14 Program; providing purpose; creating income tax  
15 credit for certain taxpayers beginning in certain tax  
16 year; prescribing maximum credit amounts based on  
17 certain income levels; directing taxpayer claiming  
18 certain credit to retain certain receipts and submit  
19 them upon certain request; prescribing maximum amount  
20 of credits for certain tax years; authorizing the  
21 Oklahoma Tax Commission to prescribe certain  
22 applications and certain deadline; providing for  
23 advancement of certain credit in installments;  
24 providing procedures for claiming credit; directing  
the Commission to give first preference in making  
installments to certain taxpayers; authorizing dual  
participation in certain program; authorizing the  
Commission to conduct or contract for certain audit;  
authorizing prorated recapture of credits under  
certain circumstances; directing certain credit  
amount to be reduced if certain event occurs;  
requiring the posting of certain credit amounts;  
requiring the State Department of Education to  
provide certain notice; directing implementation of  
certain system; requiring coordination of a process  
to verify student enrollment status; providing for  
promulgation of rules; providing immunity from  
liability for certain actions; allowing certain

1 parents to intervene in certain legal proceeding;  
2 prohibiting severability of act provisions; providing  
3 for codification; providing an effective date; and  
4 declaring an emergency.

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

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

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

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

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

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

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

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

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

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

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

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

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

20 a. tuition and fees for nonpublic online learning  
21 programs,

22 b. academic tutoring services provided by an individual  
23 or a private academic tutoring facility,  
24

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

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

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

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

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

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

- 1 a. (1) Seven Thousand Five Hundred Dollars (\$7,500.00)  
2 or 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 does not exceed Seventy-five  
7 Thousand Dollars (\$75,000.00),
- 8 (2) Seven Thousand Dollars (\$7,000.00) or the amount  
9 of tuition and fees for the private school,  
10 whichever is less, if the eligible student is a  
11 member of a household in which the total adjusted  
12 gross income during the second preceding tax year  
13 is more than Seventy-five Thousand Dollars  
14 (\$75,000.00) but does not exceed One Hundred  
15 Fifty Thousand Dollars (\$150,000.00),
- 16 (3) Six Thousand Five Hundred Dollars (\$6,500.00) or  
17 the amount of tuition and fees for the private  
18 school, whichever is less, if the eligible  
19 student is a member of a household in which the  
20 total adjusted gross income during the second  
21 preceding tax year is more than One Hundred Fifty  
22 Thousand Dollars (\$150,000.00) but does not  
23 exceed Two Hundred Twenty-five Thousand Dollars  
24 (\$225,000.00),

1 (4) Six Thousand Dollars (\$6,000.00) or the amount of  
2 tuition and fees for the private school,  
3 whichever is less, if the eligible student is a  
4 member of a household in which the total adjusted  
5 gross income during the second preceding tax year  
6 is more than Two Hundred Twenty-five Thousand  
7 Dollars (\$225,000.00) but does not exceed Two  
8 Hundred Fifty Thousand Dollars (\$250,000.00), or

9 (5) Five Thousand Dollars (\$5,000.00) or the amount  
10 of tuition and fees for the private school,  
11 whichever is less, if the eligible student is a  
12 member of a household in which the total adjusted  
13 gross income during the second preceding tax year  
14 is more than Two Hundred Fifty Thousand Dollars  
15 (\$250,000.00), and

16 b. One Thousand Dollars (\$1,000.00) in qualified expenses  
17 per eligible student in each tax year if the eligible  
18 student is educated pursuant to the other means of  
19 education exception provided for in subsection A of  
20 Section 10-105 of Title 70 of the Oklahoma Statutes.  
21 To claim the credit, the taxpayer shall submit to the  
22 Commission receipts for qualified expenses as defined  
23 by paragraph 7 of subsection A of this section;  
24

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

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

7        D. 1. a. For tax year 2025, the total amount of credits  
8                authorized by subparagraph a of paragraph 1 of  
9                subsection C of this section shall not exceed One  
10                Hundred Fifty Million Dollars (\$150,000,000.00).

11                b. For tax year 2026, the total amount of credits  
12                authorized by subparagraph a of paragraph 1 of  
13                subsection C of this section shall not exceed Two  
14                Hundred Million Dollars (\$200,000,000.00).

15                c. For tax year 2027, and subsequent tax years, the total  
16                amount of credits authorized by subparagraph a of  
17                paragraph 1 of subsection C of this section shall not  
18                exceed Two Hundred Fifty Million Dollars  
19                (\$250,000,000.00).

20        2. For tax year 2025, and subsequent tax years, the total  
21 amount of credits authorized by subparagraph b of paragraph 1 of  
22 subsection C of this section shall not exceed Five Million Dollars  
23 (\$5,000,000.00).



1 E. The Commission shall prescribe applications for the purposes  
2 of claiming the credits authorized by the Oklahoma Parental Choice  
3 Tax Credit Act and a deadline by which applications shall be  
4 submitted. A taxpayer claiming the credit authorized by  
5 subparagraph a of paragraph 1 of subsection C of this section shall  
6 submit an application prescribed by the Commission to receive the  
7 credit in two installments, each of which shall be half of the  
8 expected amount of tuition and fees for the private school based on  
9 the affidavit submitted pursuant to this subsection, but in no event  
10 shall an installment payment exceed half the amount of the credit  
11 authorized by subparagraph a of paragraph 1 of subsection C of this  
12 section. A taxpayer claiming the credit authorized by subparagraph  
13 a of paragraph 1 of subsection C of this section shall submit to the  
14 Commission an affidavit from the private school in which the  
15 eligible student is enrolled or is expected to enroll with the  
16 tuition and fees to be charged the taxpayer for the applicable  
17 school year. In reviewing applications submitted by eligible  
18 taxpayers to determine whether they qualify for a credit authorized  
19 by subparagraph a of paragraph 1 of subsection C of this section,  
20 the Commission shall give first preference in making installments to  
21 taxpayers who qualify pursuant to divisions (1) and (2) of  
22 subparagraph a of paragraph 1 of subsection C of this section. The  
23 Commission shall make the installments based on the expected amount  
24

1 of tuition and fee amounts on the affidavit submitted pursuant to  
2 this subsection.

3 F. Taxpayers claiming the credit shall:

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

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

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

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

15 G. Eligible students may accept a scholarship from the Lindsey  
16 Nicole Henry Scholarships for Students with Disabilities Program  
17 created by Section 13-101.2 of Title 70 of the Oklahoma Statutes  
18 while participating in the Oklahoma Parental Choice Tax Credit  
19 Program.

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

24

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

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

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

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

20           A. The State Department of Education shall provide parents,  
21 legal guardians, custodians, or other persons with legal authority  
22 of eligible students with disabilities notice that participation in  
23 the Oklahoma Parental Choice Tax Credit Program shall have the same  
24 effect as a parental revocation of consent pursuant to 20 U.S.C.,

1 Sections 1414(a)(1)(D) and 1414(C) of the Individuals with  
2 Disabilities Education Act (IDEA) and an explanation of the rights  
3 parents, legal guardians, custodians, or other persons with legal  
4 authority of eligible students with disabilities have under IDEA and  
5 any applicable state laws and regulations.

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

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

14 D. The Commission may promulgate rules to implement the  
15 provisions of the Oklahoma Parental Choice Tax Credit Act. The  
16 State Board of Education may promulgate rules to implement the  
17 provisions of this section.

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

21 A. No liability shall arise on the part of the Oklahoma Tax  
22 Commission, State Department of Education, State Board of Education,  
23 the state, a public school district, a public charter school, a  
24 public virtual charter school, or a magnet school based on the award

1 of or use of a tax credit pursuant to the Oklahoma Parental Choice  
2 Tax Credit Act.

3 B. If any part of the Oklahoma Parental Choice Tax Credit Act  
4 is challenged in a state court as violating either the Oklahoma  
5 Constitution or United States Constitution, taxpayers shall be  
6 permitted to intervene for the purposes of defending the Oklahoma  
7 Parental Choice Tax Credit Program's constitutionality. However,  
8 for the purposes of judicial administration, a court may require  
9 that all taxpayers file a joint brief so long as they are not  
10 required to join any brief filed on behalf of any named state  
11 defendant.

12 C. The provisions of the Oklahoma Parental Choice Tax Credit  
13 Act shall not be severable, and if any provision of the Oklahoma  
14 Parental Choice Tax Credit Act or the application thereof to any  
15 person or circumstances is held invalid, such invalidity shall  
16 invalidate the other provisions or applications of this act.

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

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

22

23 59-1-2177 EB 4/27/2023 2:23:43 PM

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