

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1647

By: Treat

AS INTRODUCED

An Act relating to students; creating the Oklahoma Empowerment Act; providing short title; providing legislative intent; providing definitions; creating the Oklahoma Empowerment Account Program; providing for administration; providing method of application; directing publication of application; requiring procedures to approve applications within certain time period; providing for contents of parent agreement; providing certain construction; requiring renewal of Oklahoma Empowerment Accounts on annual basis; allowing closure of accounts under certain circumstances; requiring notification within certain time period of certain student re-enrolling in certain school; providing for suspension of deposits into account; providing for remittance of unused funds; providing for calculation of State Aid amount; requiring transfer of certain calculated amount on a monthly basis; prohibiting certain provider from sharing, refunding, or rebating an amount with a parent or certain student; prohibiting personal deposits into certain account; prohibiting certain funds from being considered income; providing for accrual of account funds; requiring certain agency to maintain list of certain providers; requiring certain agency to provide certain information to certain parents; requiring notice to be provided to parents of certain children; allowing certain agency to contract with certain firm or organization; allowing withholding of certain percentage of funds to administer program; requiring the establishment of certain payment system; requiring implementation of certain system to share information about education service providers; providing for partial payment to an education service provider; authorizing certain auditing; providing for the removal of certain parent

1 or student from eligibility under certain  
2 circumstances; providing for appeal; allowing  
3 referral for certain investigation; allowing for  
4 payments to cease to certain providers under certain  
5 circumstances; providing for appeal; allowing  
6 acceptance of gifts and grants for certain purposes;  
7 providing for promulgation of rules; providing  
8 process for approving education service providers;  
9 directing provision of certain student records in  
10 accordance with certain act; providing certain  
11 construction; creating the Oklahoma Empowerment  
12 Account Revolving Fund; specifying sources of fund;  
13 providing for expenditures; providing purpose of  
14 fund; providing for establishment of burden in  
15 certain legal proceeding; providing immunity from  
16 liability for certain actions; allowing certain  
17 parents to intervene in certain legal proceeding;  
18 providing for severability; providing for  
19 codification; providing an effective date; and  
20 declaring an emergency.

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

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

A. This act shall be known and may be cited as the "Oklahoma  
Empowerment Act".

B. It is the intent of the Legislature that parents, legal  
guardians, and others with legal authority over children in this  
state be able to seek educational services that meet the needs of  
their individual children by directing education dollars to follow  
each child. The Legislature affirms that parents and legal

1 guardians are best suited to make decisions to help children in this  
2 state reach their full potential and achieve a brighter future.

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

6 A. As used in the Oklahoma Empowerment Act:

7 1. "Agency" means the Office of the State Treasurer;

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

10 3. "Oklahoma Empowerment Account" means the account in which  
11 funds are deposited by the Agency to pay for qualifying education  
12 expenses for an empowerment student;

13 4. "Education service provider" means a person, business, or  
14 organization that receives payments from an Oklahoma Empowerment  
15 Account to provide educational goods and/or services to empowerment  
16 students;

17 5. "Eligible student" means a resident of this state who is  
18 eligible to enroll in a public school in this state;

19 6. "Empowerment student" means an eligible student approved for  
20 participation in the Oklahoma Empowerment Account Program;

21 7. "Parent" means a biological or adoptive parent, legal  
22 guardian, custodian, or other person with legal authority to act on  
23 behalf of an eligible student; and  
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1 8. "Qualified expense" means the following services provided by  
2 an education service provider:

- 3 a. tuition and/or fees at a private school accredited or  
4 in the process of obtaining accreditation by the  
5 Oklahoma Private School Accrediting Council,
- 6 b. tuition and/or fees for non-public online learning  
7 programs,
- 8 c. tutoring services provided by an individual or a  
9 tutoring facility,
- 10 d. services contracted for and provided by a public  
11 school district, public charter school, or magnet  
12 school including but not limited to classes and  
13 extracurricular activities and programs,
- 14 e. textbooks, curriculum, or other instructional  
15 materials including but not limited to supplemental  
16 materials or associated online instruction required by  
17 an education service provider,
- 18 f. computer hardware or other technological devices,  
19 educational software, and applications that are used  
20 to meet an empowerment student's curriculum needs,
- 21 g. tuition and/or fees for a curriculum or program, along  
22 with related instruments, supplies, accessories, and  
23 materials, that provides instruction in drama, music,  
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1 speech and debate, agriculture, or other similar  
2 activities,

3 h. school uniforms,

4 i. fees for nationally standardized assessments including  
5 but not limited to assessments used to determine  
6 college admission and Advanced Placement examinations  
7 as well as tuition and/or fees for tutoring or  
8 preparatory courses for the assessments,

9 j. tuition and/or fees for summer education programs and  
10 specialized after-school education programs; provided,  
11 however, that such expense does not include before-  
12 school or after-school childcare,

13 k. tuition, fees, instructional materials, and assessment  
14 fees for a curriculum or program offered by a  
15 technology center school,

16 l. educational services and therapies including but not  
17 limited to occupational, behavioral, physical, speech-  
18 language, and audiology therapies,

19 m. tuition and fees for concurrent enrollment at an  
20 institution within The Oklahoma State System of Higher  
21 Education,

22 n. fees for transportation paid to a fee-for-service  
23 provider for the student to travel to and from an  
24 education service provider, or

1           o.    any other qualified expense approved by the Agency.

2           B.    There is hereby created the Oklahoma Empowerment Account  
3 Program to be administered by the Agency to provide an Oklahoma  
4 Empowerment Account for qualified expenses to support the education  
5 of empowerment students in this state.

6           C.    1.   To apply for an Oklahoma Empowerment Account, a parent  
7 of an eligible student shall submit an application to the Agency on  
8 a form prescribed by the Agency and published on its website. The  
9 application may be submitted online or by mail.

10           2.    The Agency shall establish procedures for approving  
11 applications within ten (10) business days. There shall be no  
12 deadline for submission of applications. Applications shall be  
13 approved if the parent signs an agreement to do all of the  
14 following:

15           a.    use the Oklahoma Empowerment Account only for  
16                qualified expenses to provide an education for an  
17                eligible student in at least the subjects of reading,  
18                English language arts, mathematics, science, and  
19                social studies,

20           b.    not enroll the eligible student in a public school  
21                district, public charter school, or magnet school  
22                after acceptance of an Oklahoma Empowerment Account,  
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1 c. comply with rules and requirements of the Oklahoma  
2 Empowerment Account Program established by the Agency,  
3 and

4 d. not accept a scholarship from the Lindsey Nicole Henry  
5 Scholarships for Students with Disabilities Program  
6 created by Section 13-101.2 of Title 70 of the  
7 Oklahoma Statutes while participating in the Oklahoma  
8 Empowerment Account Program.

9 D. Nothing in this act shall be construed to require that an  
10 empowerment student be enrolled full time or part time in a private  
11 school or a nonpublic online school.

12 E. The Agency shall renew Oklahoma Empowerment Accounts on an  
13 annual basis. An account may be closed if:

14 1. The parent of an empowerment student notifies the Agency of  
15 the student re-enrolling in a public school, as provided for by  
16 subsection F of this section;

17 2. The Agency closes the account due to intentional misuse as  
18 provided for in Section 3 of this act; or

19 3. The empowerment student graduates from high school or  
20 reaches the age of twenty-one (21), whichever comes first.

21 F. The parent of an empowerment student shall notify the Agency  
22 within five (5) days of the student re-enrolling in a public school  
23 district, public charter school, or magnet school. Upon receipt of  
24 the notification required by this subsection, the Agency shall

1 suspend deposits into the student's Oklahoma Empowerment Account.  
2 Any unused funds remaining in the Oklahoma Empowerment Account at  
3 the end of the applicable calendar year shall be remitted to the  
4 General Revenue Fund.

5 G. 1. For each eligible student approved to participate in the  
6 Oklahoma Empowerment Account Program, the Agency shall notify the  
7 State Department of Education and request calculation of the amount  
8 of State Aid for which the student is eligible. Within ten (10)  
9 business days of receiving the request, the State Department of  
10 Education shall notify the Agency of the calculated amount, which  
11 shall include the total State Aid factors for the applicable school  
12 year multiplied by the grade weight generated by the student for the  
13 applicable school year.

14 2. The State Department of Education on a monthly basis shall  
15 transfer to the Agency for deposit into the Oklahoma Empowerment  
16 Account Revolving Fund created pursuant to Section 5 of this act an  
17 amount equal to one-twelfth (1/12) of the total amount necessary to  
18 fund all Oklahoma Empowerment Accounts requested for the applicable  
19 school year.

20 3. Prior to the monthly deposit required by this subsection,  
21 the Agency shall notify the State Department of Education if changes  
22 to the number of participating empowerment students will result in a  
23 modification of the monthly deposit amount.



1 H. A provider of qualified expenses shall not share, refund, or  
2 rebate any amount of an Oklahoma Empowerment Account with the parent  
3 or empowerment student. A refund or rebate for goods or services  
4 purchased with an Oklahoma Empowerment Account shall be credited to  
5 the Oklahoma Empowerment Account.

6 I. Parents shall be prohibited from making personal deposits  
7 into an Oklahoma Empowerment Account.

8 J. Monies received pursuant to the Oklahoma Empowerment Account  
9 Program shall not constitute taxable income to the parent or  
10 empowerment student.

11 K. Funds deposited into an Oklahoma Empowerment Account shall  
12 accrue from month to month and from year to year unless the account  
13 is closed pursuant to the provisions of subsection E of this  
14 section.

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

18 A. To implement the provisions of the Oklahoma Empowerment Act,  
19 the Agency shall maintain and make publicly available on its website  
20 an updated list of education service providers.

21 B. The Agency shall provide parents of empowerment students a  
22 written explanation of qualified expenses for which an Oklahoma  
23 Empowerment Account may be used, the responsibilities of parents,  
24 the duties of the Agency, and the role of any private financial

1 management firm or other private organization with which the Agency  
2 may contract to administer the Oklahoma Empowerment Act.

3 C. The Agency shall provide parents of empowerment students  
4 with disabilities notice that participation in the Oklahoma  
5 Empowerment Account Program shall have the same effect as a parental  
6 revocation of consent pursuant to 20 U.S.C., Sections 1414(a)(1)(D)  
7 and 1414(C) of the Individuals with Disabilities Education Act  
8 (IDEA) and an explanation of the rights parents of empowerment  
9 students with disabilities have under IDEA and any applicable state  
10 laws and regulations.

11 D. The Agency may contract with a private financial management  
12 firm or other private organization to administer in full or in part  
13 the Oklahoma Empowerment Account Program.

14 E. The Agency may withhold funding from deposits made pursuant  
15 to subsection G of Section 2 of this act to administer the Oklahoma  
16 Empowerment Account Program in an amount not to exceed five percent  
17 (5%) annually for the first two years after the effective date of  
18 this act and three percent (3%) annually thereafter.

19 F. The Agency shall establish a commercially viable, cost-  
20 effective, and parent-friendly payment system for services from  
21 Oklahoma Empowerment Accounts to education service providers by  
22 electronic or online funds transfer.

23 1. The payment system established pursuant to this subsection  
24 shall provide maximum flexibility for parents by facilitating direct

1 payments to education service providers whenever possible, provide a  
2 parent-friendly system for requests for pre-approval of qualified  
3 expenses, and timely reimbursement for qualified expenses.

4 2. The Agency may contract with private institutions to develop  
5 the payment system.

6 G. The Agency shall implement a commercially viable, cost-  
7 effective, and parent-friendly system for parents to publicly rate,  
8 review, and share information about education service providers.

9 H. If an education service provider requires partial payment of  
10 tuition or fees to reserve a place for an empowerment student prior  
11 to the start of the school year, the partial payment may be paid by  
12 the Agency prior to the start of the school year in which the  
13 Oklahoma Empowerment Account is opened and deducted in equal amounts  
14 from monthly deposits into Oklahoma Empowerment Accounts. If the  
15 parent of an empowerment student chooses not to use the education  
16 service provider, the partial reservation payment shall be remitted  
17 to the Agency within fifteen (15) business days of notification of  
18 the decision and credited to the empowerment student's Oklahoma  
19 Empowerment Account.

20 I. The Agency shall have the authority to conduct an audit or  
21 contract for the auditing of Oklahoma Empowerment Accounts and shall  
22 conduct random audits of ten percent (10%) of Oklahoma Empowerment  
23 Accounts on an annual basis.

1 J. The Agency shall have the authority to remove any parent or  
2 empowerment student from eligibility for an Oklahoma Empowerment  
3 Account in the event of intentional and substantial misuse of  
4 Oklahoma Empowerment Account funds.

5 1. The Agency shall create procedures to ensure a fair process  
6 to determine whether an intentional and substantial misuse of  
7 Oklahoma Empowerment Account funds has occurred. If an empowerment  
8 student is determined to be free from personal misconduct, he or she  
9 shall be eligible for an Oklahoma Empowerment Account in the future  
10 if placed with a new guardian or other person with legal authority  
11 to act on behalf of the student.

12 2. The Agency shall have the authority to refer suspected cases  
13 of intentional and substantial misuse of Oklahoma Empowerment  
14 Account funds to the Attorney General for investigation if evidence  
15 of fraudulent use of funds is obtained.

16 3. A parent or empowerment student may appeal the Agency's  
17 decision to remove the parent or student from eligibility for an  
18 Oklahoma Empowerment Account pursuant to the Administrative  
19 Procedures Act.

20 K. The Agency may cease payments to an education service  
21 provider from Oklahoma Empowerment Accounts if the Agency determines  
22 the education service provider has:

23 1. Intentionally and substantially misrepresented information  
24 or failed to refund any overpayments in a timely manner; or

1           2. Routinely failed to provide students with promised  
2 educational goods or services.

3           L. The Agency shall create procedures to ensure a fair process  
4 to determine whether an education service provider should be  
5 prohibited from receiving payments from Oklahoma Empowerment  
6 Accounts.

7           1. If the Agency prohibits an education service provider from  
8 receiving payments pursuant to this subsection, the Agency shall  
9 notify parents and empowerment students of its decision within ten  
10 (10) days.

11           2. Education service providers may appeal the Agency's decision  
12 to prohibit them from receiving Oklahoma Empowerment Account  
13 payments pursuant to the Administrative Procedures Act.

14           M. The Agency may accept gifts and grants from any source to  
15 support administration of the Oklahoma Empowerment Account Program,  
16 to inform the public about the Oklahoma Empowerment Account Program,  
17 and to fund additional Oklahoma Empowerment Accounts.

18           N. The Agency may promulgate rules to implement the provisions  
19 of this act, which shall include but not be limited to:

20           1. Establishing or contracting for the establishment of an  
21 online anonymous fraud reporting service;

22           2. Establishing an anonymous telephone hotline for fraud  
23 reporting;

24  
25

1           3. Requiring a surety bond for education service providers  
2 receiving more than One Hundred Thousand Dollars (\$100,000.00) in  
3 Oklahoma Empowerment Account funds; and

4           4. Refunding payments from education service providers to  
5 Oklahoma Empowerment Accounts.

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

9           A. The Agency may approve education service providers on its  
10 own, at the request of parents, or at the request of a prospective  
11 education service provider.

12          B. A prospective education service provider seeking to  
13 participate in the Oklahoma Empowerment Account Program shall:

14           1. Submit notice to the Agency that it wishes to participate  
15 and receive Oklahoma Empowerment Account funds; and

16           2. Agree not to refund, rebate, or share Oklahoma Empowerment  
17 Account funds with parents or empowerment students in any manner,  
18 except that funds may be remitted or refunded to an Oklahoma  
19 Empowerment Account.

20          C. A public school district, public charter school, or magnet  
21 school in which an empowerment student was enrolled shall provide a  
22 private school that is an education service provider and that has an  
23 empowerment student enrolled with a complete copy of the empowerment  
24 student's records within five (5) business days of receiving the

1 request for records. The provision of records pursuant to this  
2 subsection shall be in accordance with the provisions of the Family  
3 Educational Rights and Privacy Act of 1974 (FERPA).

4 D. Nothing in this act shall limit the independence or autonomy  
5 of an education service provider or make the actions of an education  
6 service provider the actions of state government. Education service  
7 providers shall be given maximum freedom to provide for the  
8 educational needs of empowerment students without governmental  
9 control.

10 1. An education service provider that accepts payment from an  
11 Oklahoma Empowerment Account pursuant to this act shall not be  
12 considered an agent of the state or federal government.

13 2. An education service provider shall not be required to alter  
14 its creed, practices, admissions policy, or curriculum to accept  
15 payments from an Oklahoma Empowerment Account.

16 E. Nothing in this act shall be construed to expand the  
17 regulatory authority of the state, its officers, or any public  
18 school to impose any additional regulation of education service  
19 providers beyond those necessary to enforce the requirements of the  
20 Oklahoma Empowerment Account Program.

21 SECTION 5. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 28-104 of Title 70, unless there  
23 is created a duplication in numbering, reads as follows:

1           There is hereby created in the State Treasury a revolving fund  
2 for the Office of the State Treasurer to be designated the "Oklahoma  
3 Empowerment Account Revolving Fund". The fund shall be a continuing  
4 fund, not subject to fiscal year limitations, and shall consist of  
5 all monies received by the Office of the State Treasurer from  
6 appropriations, gifts, grants, donations, and bequests. All monies  
7 accruing to the credit of the fund are hereby appropriated and may  
8 be budgeted and expended by the Office of the State Treasurer for  
9 the purpose of implementing the provisions of the Oklahoma  
10 Empowerment Act. Expenditures from the fund shall be made upon  
11 warrants issued by the State Treasurer against claims filed as  
12 prescribed by law with the Director of the Office of Management and  
13 Enterprise Services for approval and payment.

14           SECTION 6.           NEW LAW           A new section of law to be codified  
15 in the Oklahoma Statutes as Section 28-105 of Title 70, unless there  
16 is created a duplication in numbering, reads as follows:

17           A. In any legal proceeding challenging the application of the  
18 Oklahoma Empowerment Act to an education service provider, the state  
19 bears the burden of establishing both that its action is necessary  
20 and that it does not impose any undue burden on the education  
21 service provider.

22           B. No liability shall arise on the part of the Agency, the  
23 state, a public school district, a public charter school, or a  
24



1 magnet school based on the award of or use of an Oklahoma  
2 Empowerment Account pursuant to this act.

3 C. If any part of the Oklahoma Empowerment Act is challenged in  
4 a state court as violating either the state or federal  
5 constitutions, parents of eligible students and empowerment students  
6 shall be permitted to intervene for the purposes of defending the  
7 Oklahoma Empowerment Account Program's constitutionality. However,  
8 for the purposes of judicial administration, a court may require  
9 that all parents of eligible students and empowerment students file  
10 a joint brief so long as they are not required to join any brief  
11 filed on behalf of any named state defendant.

12 D. The provisions of the Oklahoma Empowerment Act shall be  
13 severable, and if any provision of the Oklahoma Empowerment Act or  
14 the application thereof to any person or circumstances is held  
15 invalid, such invalidity shall not affect the other provisions or  
16 applications of this Act, which can be given effect without the  
17 invalid provision or application.

18 SECTION 7. This act shall become effective July 1, 2022.

19 SECTION 8. It being immediately necessary for the preservation  
20 of the public peace, health or safety, an emergency is hereby  
21 declared to exist, by reason whereof this act shall take effect and  
22 be in full force from and after its passage and approval.

23  
24 58-2-2364 EB 11/9/2022 5:00:11 PMSTATE OF OKLAHOMA  
25

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

3 SENATE BILL NO. \_\_\_\_\_

By: Bergstrom

4  
5  
6 AS INTRODUCED

7 An Act relating to .

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

9  
10 59-1-239

11/9/2022 5:00:11 PM