

1 **SENATE FLOOR VERSION**

2 April 12, 2022

3 ENGROSSED HOUSE  
4 BILL NO. 3643

By: Dills, Hardin (David),  
Provenzano, Johns, and  
Waldron of the House

5 and

6 Pemberton of the Senate  
7

8  
9 An Act relating to schools; amending 70 O.S. 2021,  
10 Section 3-145.3, which relates to duties of the  
11 Statewide Virtual Charter School Board; requiring  
12 compliance with the Oklahoma Charter Schools Act;  
13 modifying limitation on fee for administrative  
14 expenses and support; deleting duplicative language;  
15 subjecting virtual charter schools to the same  
16 compliance requirements as charter schools; updating  
17 statutory language; establishing certain requirements  
18 for virtual charter school governing boards;  
19 prescribing duties for certain personnel; requiring  
20 State Department of Education and sponsor to publish  
21 certain contracts on their websites; subjecting  
22 certain board members to instruction and continuing  
23 education requirements; prohibiting certain conflicts  
24 of interest and pecuniary gain; disallowing certain  
appointments or selections of members; designating  
certain funds as public funds; prohibiting transfer  
or conversion of state funds to private funds;  
clarifying provision; requiring payments from charter  
schools to comply with certain provisions; directing  
organization to provide certain documents; subjecting  
certain funds to audit, transparency, oversight and  
financial reporting; requiring certain funds to  
remain public funds; prescribing assignment of grade  
for participation in certain extracurricular or  
educational activities; declaring certain property to  
remain public property of the charter school;  
mandating an operating agreement review of certain  
charter schools; establishing procedures for review;  
requiring written agreement for certain expenditures;

1 mandating criminal history record checks for certain  
2 personnel; prescribing process and payment of checks;  
3 prohibiting certain activities by management  
4 organizations; amending 70 O.S. 2021, Section 5-200,  
5 which relates to management organizations; adding  
6 definition for charter management organization;  
7 requiring amounts paid to certain organizations be  
8 pursuant to contract terms; mandating disclosure  
9 pursuant to certain guidelines; prohibiting  
10 commingling of certain school funds; amending 70 O.S.  
11 2021, Section 18-118, which relates to State Aid  
12 audits; requiring return of state monies which are  
13 illegally apportioned, disbursed, or expended by  
14 certain organizations; specifying when state funds  
15 shall be withheld; requiring suits to recover  
16 illegally apportioned state monies; providing for  
17 codification; providing an effective date; and  
18 declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 2021, Section 3-145.3, is  
amended to read as follows:

Section 3-145.3 A. Subject to the requirements of the Oklahoma  
Charter Schools Act, the Statewide Virtual Charter School Board  
shall:

1. Provide oversight of the operations of statewide virtual  
charter schools in this state;

2. Establish a procedure for accepting, approving and  
disapproving statewide virtual charter school applications and a  
process for renewal or revocation of approved charter school  
contracts which minimally meet the procedures set forth in the  
Oklahoma Charter Schools Act;

1           3. Make publicly available a list of supplemental online  
2 courses which have been reviewed and certified by the Statewide  
3 Virtual Charter School Board to ensure that the courses are high  
4 quality options and are aligned with the subject matter standards  
5 adopted by the State Board of Education pursuant to Section 11-103.6  
6 of this title. The Statewide Virtual Charter School Board shall  
7 give special emphasis on listing supplemental online courses in  
8 science, technology, engineering and math (STEM), foreign language  
9 and advanced placement courses. School districts shall not be  
10 limited to selecting supplemental online courses that have been  
11 reviewed and certified by the Statewide Virtual Charter School Board  
12 and listed as provided for in this paragraph; and

13           4. In conjunction with the Office of Management and Enterprise  
14 Services, negotiate and enter into contracts with supplemental  
15 online course providers to offer a state rate price to school  
16 districts for supplemental online courses that have been reviewed  
17 and certified by the Statewide Virtual Charter School Board and  
18 listed as provided for in paragraph 3 of this subsection.

19           B. Except as otherwise provided by law, each statewide virtual  
20 charter school which has been approved and sponsored by the Board  
21 shall be subject to and comply with the requirements of the Oklahoma  
22 Charter Schools Act. Each statewide virtual charter school which  
23 has been approved and sponsored by the Board or any virtual charter  
24 school for which the Board has assumed sponsorship of as provided

1 for in Section 3-145.5 of this title shall be considered a statewide  
2 virtual charter school and, except as provided in subsection H of  
3 this section, the geographic boundaries of each statewide virtual  
4 charter school shall be the borders of the state.

5 C. Each statewide virtual charter school approved by the  
6 Statewide Virtual Charter School Board shall be eligible to receive  
7 federal funds generated by students enrolled in the charter school  
8 for the applicable year. Each statewide virtual charter school  
9 shall be considered a separate local education agency for purposes  
10 of reporting and accountability.

11 D. As calculated as provided for in Section 3-142 of this  
12 title, a statewide virtual charter school shall receive the State  
13 Aid allocation and any other state-appropriated revenue generated by  
14 students enrolled in the virtual charter school for the applicable  
15 year, less up to ~~five percent (5%)~~ three percent (3%) of the State  
16 Aid allocation, which may be retained by the Statewide Virtual  
17 Charter School Board for administrative expenses and to support the  
18 mission of the Board. A statewide virtual charter school shall be  
19 eligible for any other funding any other charter school is eligible  
20 for as provided for in Section 3-142 of this title. ~~Each statewide~~  
21 ~~virtual charter school shall be considered a separate local~~  
22 ~~education agency for purposes of reporting and accountability.~~

23 E. A virtual charter school shall be subject to the same  
24 reporting requirements, financial audits, audit procedures, and

1 audit requirements as a school district and compliance requirements  
2 provided in Section 3-136 of this title. The State Department of  
3 Education or State Auditor and Inspector may conduct financial,  
4 program or compliance audits. A virtual charter school shall use  
5 the Oklahoma Cost Accounting System (OCAS) to report financial  
6 transactions to the State Department of Education.

7 F. A virtual charter school governing ~~body~~ board shall be  
8 responsible for the policies that govern the operational decisions  
9 of the virtual charter school. The governing ~~body~~ board of a  
10 virtual charter school shall be subject to the same conflict of  
11 interest requirements as a member of a local school board including,  
12 but not limited to, Sections 5-113 and 5-124 of this title. Members  
13 appointed to the governing ~~body~~ board of a virtual charter school  
14 ~~after July 1, 2019,~~ shall be subject to the same instruction and  
15 continuing education requirements as a member of a local school  
16 board and pursuant to Section 5-110 of this title, complete twelve  
17 (12) hours of instruction within fifteen (15) months of appointment  
18 to the governing ~~body~~ board, and pursuant to Section 5-110.1 of this  
19 title, attend continuing education. Members appointed to the  
20 governing board of a virtual charter school prior to July 1, 2019,  
21 shall comply with the requirements of this subsection and, within  
22 fifteen (15) months of the effective date of this act, shall  
23 complete twelve (12) hours of instruction pursuant to Section 5-110  
24 of this title.

1 G. Students enrolled full-time in a statewide virtual charter  
2 school sponsored by the Statewide Virtual Charter School Board shall  
3 not be authorized to participate in any activities administered by  
4 the Oklahoma Secondary Schools Activities Association. However, the  
5 students may participate in intramural activities sponsored by a  
6 statewide virtual charter school, an online provider for the charter  
7 school or any other outside organization.

8 H. 1. Beginning with the 2021-2022 school year, a public  
9 school student who wishes to enroll in a virtual charter school  
10 shall be considered a transfer student from their resident school  
11 district. A virtual charter school shall pre-enroll any public  
12 school student whose parent expresses intent to enroll in the  
13 ~~district~~ virtual charter school. Upon pre-enrollment, the State  
14 Department of Education shall initiate a transfer on a form to be  
15 completed by the receiving virtual charter school. Upon approval of  
16 the receiving virtual charter school, the student may begin  
17 instructional activities. Upon notice that a public school student  
18 has transferred to a virtual charter school, the resident school  
19 district shall transmit the student's records within three (3)  
20 school days.

21 2. The State Department of Education shall notify the  
22 Legislature and Governor if it determines that the information  
23 technology infrastructure necessary to process the transfer of  
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1 students to a virtual charter school is inadequate and one (1)  
2 additional school year is needed for implementation.

3 3. A public school student may transfer to one statewide  
4 virtual charter school at any time during a school year. For  
5 purposes of this subsection, "school year" shall mean July 1 through  
6 the following June 30. After one statewide virtual charter school  
7 transfer during a school year, no public school student shall be  
8 permitted to transfer to any other statewide virtual charter school  
9 without the concurrence of both the resident school district and the  
10 receiving virtual charter school. A student shall have a grace  
11 period of fifteen (15) school days from the first day of enrollment  
12 in a statewide virtual charter school to withdraw without academic  
13 penalty and shall continue to have the option of one virtual charter  
14 school transfer without the concurrence of both districts during  
15 that same school year. A statewide virtual charter school student  
16 that has utilized the allowable one transfer pursuant to this  
17 subsection shall not be permitted to transfer to another district or  
18 other statewide virtual charter school without first notifying his  
19 or her resident district and initiating a new transfer. Upon  
20 cancellation of a transfer the virtual charter school shall transmit  
21 the student's records to the student's new school district within  
22 three (3) school days. Students enrolled in a statewide virtual  
23 charter school shall not be required to submit a virtual charter  
24 transfer for consecutive years of enrollment. Any student enrolled

1 in a statewide virtual charter school the year prior to the  
2 implementation of this section shall not be required to submit a  
3 transfer in order to remain enrolled.

4 4. For purposes of this subsection, "parent" shall mean the  
5 parent of the student or person having custody of the student as  
6 provided for in paragraph 1 of subsection A of Section 1-113 of this  
7 title.

8 I. 1. A student shall be eligible to enroll in a statewide  
9 virtual charter school if he or she is a student whose parent or  
10 legal guardian is transferred or is pending transfer to a military  
11 installation within this state while on active military duty  
12 pursuant to an official military order.

13 2. A statewide virtual charter school shall accept applications  
14 by electronic means for enrollment and course registration for  
15 students described in paragraph 1 of this subsection.

16 3. The parent or legal guardian of a student described in  
17 paragraph 1 of this subsection shall provide proof of residence in  
18 this state within ten (10) days after the published arrival date  
19 provided on official documentation. A parent or legal guardian may  
20 use the following addresses as proof of residence:

- 21 a. a temporary on-base billeting facility,
- 22 b. a purchased or leased home or apartment, or
- 23 c. federal government or public-private venture off-base  
24 military housing.

1 4. The provisions of paragraph 3 of subsection H shall apply to  
2 students described in paragraph 1 of this subsection.

3 5. For purposes of this subsection:

4 a. "active military duty" means full-time military duty  
5 status in the active uniformed service of the United  
6 States including members of the National Guard and  
7 Military Reserve on active duty orders, and

8 b. "military installation" means a base, camp, post,  
9 station, yard, center, homeport facility for any ship  
10 or other installation under the jurisdiction of the  
11 Department of Defense or the United States Coast  
12 Guard.

13 J. A virtual charter school shall not accept or deny a transfer  
14 based on ethnicity, national origin, gender, income level, disabling  
15 condition, proficiency in the English language, measure of  
16 achievement, aptitude or athletic ability.

17 K. The decision of the Statewide Virtual Charter School Board  
18 to deny, nonrenew or terminate the charter contract of a statewide  
19 virtual charter school may be appealed to the State Board of  
20 Education within thirty (30) days of the decision by the Statewide  
21 Virtual Charter School Board. The State Board of Education shall  
22 act on the appeal within sixty (60) days of receipt of the request  
23 from the statewide virtual charter school applicant. The State  
24 Board of Education may reverse the decision of the Statewide Virtual

1 Charter School Board or may remand the matter back to the Statewide  
2 Virtual Charter School Board for further proceeding as directed.

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 3-145.9 of Title 70, unless  
5 there is created a duplication in numbering, reads as follows:

6 A. Beginning with the 2022-2023 school year, any governing  
7 board of a charter school which contracts with an educational  
8 management organization or charter management organization as  
9 defined in Section 5-200 of Title 70 of the Oklahoma Statutes shall:

10 1. Consist of a minimum of five (5) members, including one  
11 member who shall be a parent, grandparent, legal guardian, or  
12 learning coach of a student who attends the charter school. As used  
13 in this paragraph, "learning coach" means a designated person who  
14 has the primary responsibility of being actively involved in all  
15 school-related work and activities of a student. The bylaws of the  
16 charter school shall set specific terms of service for charter  
17 school governing board members;

18 2. Meet at least one (1) time per month;

19 3. Adopt a charter which shall ensure compliance with the same  
20 requirements and guidelines as provided in Section 3-136 of Title 70  
21 of the Oklahoma Statutes;

22 4. Appoint an encumbrance clerk as provided in Section 5-119 of  
23 Title 70 of the Oklahoma Statutes and a treasurer as provided in  
24 Section 5-114 of Title 70 of the Oklahoma Statutes. Upon

1 appointment, the encumbrance clerk and treasurer shall attend and  
2 complete at least eight (8) hours of instruction offered by an  
3 auditor approved by the State Auditor and Inspector. Each year, the  
4 encumbrance clerk and treasurer shall complete at least three (3)  
5 hours of continuing education offered by an auditor approved by the  
6 State Auditor and Inspector; and

7 5. Submit to the State Department of Education copies of any  
8 contract executed between the charter school governing board or  
9 charter school sponsor governing board and an educational management  
10 organization or charter management organization. The Department and  
11 the sponsor shall publish the contracts on their websites.

12 B. Beginning with the 2022-2023 school year, members of a  
13 charter school governing board which contracts with an educational  
14 management organization or charter management organization shall:

15 1. Not receive pecuniary gain, incidentally or otherwise, from  
16 the earnings of the educational management organization, charter  
17 management organization, or school; and

18 2. Not be appointed or selected by any person affiliated with  
19 the educational management organization or charter management  
20 organization.

21 SECTION 3. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 3-145.10 of Title 70, unless  
23 there is created a duplication in numbering, reads as follows:

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1           A. 1. State funds appropriated to any charter school which  
2 contracts with an educational management organization or charter  
3 management organization as defined in Section 5-200 of Title 70 of  
4 the Oklahoma Statutes, including the State Aid allocation and any  
5 other state-appropriated revenue pursuant to Section 3-142 of Title  
6 70 of the Oklahoma Statutes, shall remain public funds maintained in  
7 public accounts subject to audit, transparency, oversight, and  
8 financial reporting and shall not be transferred or converted in any  
9 way to private funds except for funds which are paid for charter  
10 school expenses and funds which are paid to the educational  
11 management organization or charter management organization from the  
12 charter school pursuant to the terms of the contract and in  
13 accordance with state law and Internal Revenue Service requirements.  
14 If there is any question or potential discrepancy regarding use of  
15 funds paid to the educational management organization or charter  
16 management organization by the State Department of Education,  
17 charter school governing board or charter school sponsor, the  
18 educational management organization or charter management  
19 organization shall provide invoices and financial documentation to  
20 the requesting entity proving the educational management  
21 organization or charter management organization is following the  
22 terms of the contract and is in compliance with the law.

23           2. Any state funds which are designated as student funds are  
24 appropriated for the benefit of the student, including

1 extracurricular and educational activity funds, and shall remain  
2 public funds maintained in public accounts subject to audit,  
3 transparency, oversight and financial reporting and expended in  
4 accordance with purchasing requirements provided in Section 5-135 of  
5 Title 70 of the Oklahoma Statutes. Students shall receive a grade  
6 for participation in extracurricular or educational activities as  
7 described in this subsection.

8       3. Any property purchased with public funds pursuant to this  
9 section may be assigned to employees or students of the charter  
10 school for charter school employment, extracurricular, or  
11 educational purposes, but shall remain public property of the  
12 charter school.

13       B. In the third year of the charter school contract term, an  
14 auditor selected from a list of auditors approved and maintained by  
15 the State Auditor and Inspector shall conduct an operating agreement  
16 review of each charter school which contracts with an educational  
17 management organization or charter management organization to verify  
18 the charter school and the educational management organization or  
19 charter management organization are following the terms of the  
20 contract and complying with state law, federal law, and Internal  
21 Revenue Service requirements. The auditor may request additional  
22 documentation from the charter school, educational management  
23 organization, or charter management organization to address any  
24 question or potential discrepancy. The charter school sponsor shall

1 pay for the expenses related to the review, oversee the review, and  
2 provide a full report of the review to the governing boards of the  
3 charter school and the charter school sponsor.

4 C. Every provider or entity that contracts with a charter  
5 school for expenditure of state funds pursuant to paragraph 2 of  
6 subsection A of this section shall:

7 1. Have an agreement in writing with the charter school which  
8 clearly states the goods or services being provided by the provider  
9 or entity pursuant to the contract and the costs thereof and that  
10 such goods, services, and employees of the provider or entity comply  
11 with federal and state laws; and

12 2. Have on file with the State Department of Education a  
13 current Oklahoma criminal history record check from the Oklahoma  
14 State Bureau of Investigation or equivalent criminal history record  
15 check from another state as well as a national criminal history  
16 record check as defined in Section 150.9 of Title 74 of the Oklahoma  
17 Statutes for every owner and employee of the provider or entity who  
18 will have contact with students pursuant to the contract. Upon  
19 receipt of the Oklahoma criminal history record check or equivalent  
20 criminal history record check from another state, the provider or  
21 entity may begin extracurricular or educational activities until  
22 receipt of the national criminal history record check. The provider  
23 or entity shall be responsible for the cost of the criminal history  
24 record checks. Results of the checks shall be included as a

1 requirement of the contract and reported to the governing board of  
2 the charter school.

3 D. An educational management organization or charter management  
4 organization shall not:

5 1. Manage or control the governing board of a charter school,  
6 including, but not limited to, setting meeting agendas, adopting  
7 charter school policies, or making budget decisions on behalf of the  
8 charter school;

9 2. Employ a charter school superintendent who is also an owner  
10 of the educational management organization or charter management  
11 organization, unless the ownership stake of the superintendent is  
12 less than ten percent (10%);

13 3. Employ legal counsel who also represents the charter school  
14 or charter school governing board which has an agreement with the  
15 educational management organization or charter management  
16 organization; and

17 4. Request public employees, including, but not limited to,  
18 teachers and other charter school employees to complete tasks or  
19 perform duties that the educational management organization or  
20 charter management organization has been contracted to fulfill.

21 SECTION 4. AMENDATORY 70 O.S. 2021, Section 5-200, is  
22 amended to read as follows:

23 Section 5-200. A. As used in this ~~section,~~ "educational title:  
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1        1. "Educational management organization" means a for-profit ~~or~~  
2 ~~nonprofit~~ organization that receives public funds to provide  
3 administration and management services for a charter school,  
4 statewide virtual charter school, or traditional public school; and

5        2. "Charter management organization" means a nonprofit  
6 organization that receives public funds to provide administration  
7 and management services for a charter school, statewide virtual  
8 charter school, or traditional public school.

9        B. A charter school that contracts with an educational  
10 management organization or charter management organization shall use  
11 the Oklahoma Cost Accounting System (OCAS) to report the total  
12 amount paid to an educational management organization or charter  
13 management organization pursuant to the terms of the contract as  
14 well as actual itemized expenditure information for the goods or  
15 services provided by the management organization as defined by OCAS  
16 expenditure codes, including the total compensation package of the  
17 superintendent including the base salary, insurance, retirement and  
18 other fringe benefits.

19        C. ~~Any~~ Pursuant to Internal Revenue Service guidelines, any  
20 owner of an educational management organization or charter  
21 management organization shall be required to disclose to the  
22 governing board of the school in a public meeting any ownership  
23 position in any business that contracts or proposes to contract with  
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1 the same public school that the educational management organization  
2 or charter management organization is managing.

3 D. An educational management organization or a charter  
4 management organization which contracts with more than one school  
5 district shall not commingle funds of the school districts.

6 E. Whenever any person shall enter into a contract with any  
7 school district or public charter school in the state to teach in  
8 such school district or public charter school the contract shall be  
9 binding on the teacher and on the board of education until the  
10 teacher legally has been discharged from the teaching position or  
11 released by the board of education from the contract. Except as  
12 provided in Section 5-106A of ~~Title 70 of the Oklahoma Statutes~~ this  
13 title, until such teacher has been thus discharged or released, the  
14 teacher shall not have authority to enter into a contract with any  
15 other board of education in Oklahoma for the same time covered by  
16 the original contract. If upon written complaint by the board of  
17 education in a district any teacher is reported to have failed to  
18 obey the terms of the contract previously made and to have entered  
19 into a contract with another board of education, including a public  
20 charter school board of education, without having been released from  
21 the former contract except as provided in Section 5-106A of ~~Title 70~~  
22 ~~of the Oklahoma Statutes~~ this title, the teacher, upon being found  
23 to be employed full-time for another public school, including a  
24 public charter school in the state, at a hearing held before the

1 State Board of Education, shall have such teacher's certificate  
2 suspended for the remainder of the term for which the contract was  
3 made.

4 SECTION 5. AMENDATORY 70 O.S. 2021, Section 18-118, is  
5 amended to read as follows:

6 Section 18-118. A. The State Auditor and Inspector shall  
7 approve auditors who shall audit the funds of the public school  
8 districts and the use made of the monies thereof, and shall make  
9 such other audits as may be required by the State Auditor and  
10 Inspector.

11 B. School districts and officers and employees thereof who  
12 divert any monies received by a district from the purpose for which  
13 the monies were apportioned to the district shall be jointly and  
14 severally liable for any such diversion.

15 C. If audits disclose that state monies have been illegally  
16 apportioned to, or illegally disbursed or expended by, a school  
17 district or any of its officers or employees or an educational  
18 management organization or charter management organization as  
19 defined in Section 5-200 of this title or any of its owners or  
20 employees, the State Board of Education shall make demand that the  
21 monies be returned to the State Treasurer by ~~such~~ the school  
22 district or educational management organization or charter  
23 management organization. If the monies are illegally apportioned to  
24 or disbursed or expended by a school district or any of its officers

1 or employees and the monies are not returned, the State Board of  
2 Education shall withhold the unreturned amount from subsequent  
3 allocations of state funds otherwise due the district.

4 D. The State Board of Education shall cause suit to be  
5 instituted to recover for the state any monies illegally  
6 apportioned, disbursed, or expended, if not otherwise recovered as  
7 provided herein.

8 SECTION 6. This act shall become effective July 1, 2022.

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

13 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION  
14 April 12, 2022 - DO PASS  
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