

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1647

By: Treat

4
5
6 AS INTRODUCED

7 An Act relating to students; creating the Oklahoma
8 Empowerment Act; providing short title; providing
9 legislative intent; providing definitions; creating
10 the Oklahoma Empowerment Account Program; providing
11 for administration; providing method of application;
12 directing publication of application; requiring
13 procedures to approve applications within certain
14 time period; providing for contents of parent
15 agreement; providing certain construction; requiring
16 renewal of Oklahoma Empowerment Accounts on annual
17 basis; allowing closure of accounts under certain
18 circumstances; requiring notification within certain
19 time period of certain student re-enrolling in
20 certain school; providing for suspension of deposits
21 into account; providing for remittance of unused
22 funds; providing for calculation of State Aid amount;
23 requiring transfer of certain calculated amount on a
24 monthly basis; prohibiting certain provider from
25 sharing, refunding, or rebating an amount with a
26 parent or certain student; prohibiting personal
27 deposits into certain account; prohibiting certain
28 funds from being considered income; providing for
29 accrual of account funds; requiring certain agency to
30 maintain list of certain providers; requiring certain
31 agency to provide certain information to certain
32 parents; requiring notice to be provided to parents
33 of certain children; allowing certain agency to
34 contract with certain firm or organization; allowing
35 withholding of certain percentage of funds to
36 administer program; requiring the establishment of
37 certain payment system; requiring implementation of
38 certain system to share information about education
39 service providers; providing for partial payment to
40 an education service provider; authorizing certain
41 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.

21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

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
24

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,

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,
23
24
25

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;

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 1/20/2022 4:00:49 PM
25