

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3643

By: Dills and **Hardin (David)** of  
the House

and

**Pemberton** of the Senate

8  
9  
10                                   COMMITTEE SUBSTITUTE

11           An Act relating to schools; amending 70 O.S. 2021,  
12           Section 3-145.3, which relates to duties of the  
13           Statewide Virtual Charter School Board; requiring  
14           compliance with the Oklahoma Charter Schools Act;  
15           modifying limitation on fee for administrative  
16           expenses and support; deleting duplicative language;  
17           subjecting virtual charter schools to the same  
18           compliance requirements as charter schools; updating  
19           statutory language; establishing certain requirements  
20           for virtual charter school governing boards;  
21           prescribing duties for certain personnel; requiring  
22           State Department of Education and sponsor to publish  
23           certain contracts on their websites; subjecting  
24           certain board members to instruction and continuing  
            education requirements; prohibiting certain conflicts  
            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

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

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

24 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

1 contracts which minimally meet the procedures set forth in the  
2 Oklahoma Charter Schools Act;

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

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

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

1 has been approved and sponsored by the Board or any virtual charter  
2 school for which the Board has assumed sponsorship of as provided  
3 for in Section 3-145.5 of this title shall be considered a statewide  
4 virtual charter school and, except as provided in subsection H of  
5 this section, the geographic boundaries of each statewide virtual  
6 charter school shall be the borders of the state.

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

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

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

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

1 complete twelve (12) hours of instruction pursuant to Section 5-110  
2 of this title.

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

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

23 2. The State Department of Education shall notify the  
24 Legislature and Governor if it determines that the information

1 technology infrastructure necessary to process the transfer of  
2 students to a virtual charter school is inadequate and one (1)  
3 additional school year is needed for implementation.

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

1 transfer for consecutive years of enrollment. Any student enrolled  
2 in a statewide virtual charter school the year prior to the  
3 implementation of this section shall not be required to submit a  
4 transfer in order to remain enrolled.

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

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

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

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

- 22 a. a temporary on-base billeting facility,
- 23 b. a purchased or leased home or apartment, or

24



1 c. federal government or public-private venture off-base  
2 military housing.

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

5 5. For purposes of this subsection:

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

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

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

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

1 from the statewide virtual charter school applicant. The State  
2 Board of Education may reverse the decision of the Statewide Virtual  
3 Charter School Board or may remand the matter back to the Statewide  
4 Virtual Charter School Board for further proceeding as directed.

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

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

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

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

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

24

1 4. Appoint an encumbrance clerk as provided in Section 5-119 of  
2 Title 70 of the Oklahoma Statutes and a treasurer as provided in  
3 Section 5-114 of Title 70 of the Oklahoma Statutes. Upon  
4 appointment, the encumbrance clerk and treasurer shall attend and  
5 complete at least eight (8) hours of instruction offered by an  
6 auditor approved by the State Auditor and Inspector. Each year, the  
7 encumbrance clerk and treasurer shall complete at least three (3)  
8 hours of continuing education offered by an auditor approved by the  
9 State Auditor and Inspector; and

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

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

18 1. Be subject to the instruction and continuing education  
19 requirements as provided in subsection F of Section 3-145.3 of Title  
20 70 of the Oklahoma Statutes;

21 2. Be subject to the same conflict of interest requirements as  
22 a member of a local school board including, but not limited to,  
23 Sections 5-113 and 5-124 of Title 70 of the Oklahoma Statutes. No  
24 member shall receive pecuniary gain, incidentally or otherwise, from

1 the earnings of the educational management organization, charter  
2 management organization, or school; and

3 3. Not be appointed or selected by any person affiliated with  
4 the educational management organization or charter management  
5 organization.

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

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

1 charter school governing board or charter school sponsor, the  
2 educational management organization or charter management  
3 organization shall provide invoices and financial documentation to  
4 the requesting entity proving the educational management  
5 organization or charter management organization is following the  
6 terms of the contract and is in compliance with the law.

7       2. Any state funds which are designated as student funds are  
8 appropriated for the benefit of the student, including  
9 extracurricular and educational activity funds, and shall remain  
10 public funds maintained in public accounts subject to audit,  
11 transparency, oversight and financial reporting and expended in  
12 accordance with purchasing requirements provided in Section 5-135 of  
13 Title 70 of the Oklahoma Statutes. Students shall receive a grade  
14 for participation in extracurricular or educational activities as  
15 described in this subsection.

16       3. Any property purchased with public funds pursuant to this  
17 section may be assigned to employees or students of the charter  
18 school for charter school employment, extracurricular, or  
19 educational purposes, but shall remain public property of the  
20 charter school.

21       B. In the third year of the charter school contract term, an  
22 auditor selected from a list of auditors approved and maintained by  
23 the State Auditor and Inspector shall conduct an operating agreement  
24 review of each charter school which contracts with an educational

1 management organization or charter management organization to verify  
2 the charter school and the educational management organization or  
3 charter management organization are following the terms of the  
4 contract and complying with state law and Internal Revenue Service  
5 requirements. The auditor may request additional documentation from  
6 the charter school, educational management organization, or charter  
7 management organization to address any question or potential  
8 discrepancy. The charter school sponsor shall pay for the expenses  
9 related to the review, oversee the review, and provide a full report  
10 of the review to the governing boards of the charter school and the  
11 charter school sponsor.

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

15 1. Have an agreement in writing with the charter school which  
16 clearly states the goods or services being provided by the provider  
17 or entity pursuant to the contract and the costs thereof and that  
18 such goods, services, and employees of the provider or entity comply  
19 with federal and state laws; and

20 2. Have on file with the State Department of Education a  
21 current Oklahoma criminal history record check from the Oklahoma  
22 State Bureau of Investigation or equivalent criminal history record  
23 check from another state as well as a national criminal history  
24 record check as defined in Section 150.9 of Title 74 of the Oklahoma

1 Statutes for every owner and employee of the provider or entity who  
2 will have contact with students pursuant to the contract. Upon  
3 receipt of the Oklahoma criminal history record check or equivalent  
4 criminal history record check from another state, the provider or  
5 entity may begin extracurricular or educational activities until  
6 receipt of the national criminal history record check. The provider  
7 or entity shall be responsible for the cost of the criminal history  
8 record checks. Results of the checks shall be included as a  
9 requirement of the contract and reported to the governing board of  
10 the charter school.

11 D. An educational management organization or charter management  
12 organization shall not:

13 1. Manage or control the governing board of a charter school,  
14 including, but not limited to, setting meeting agendas, adopting  
15 charter school policies, or making budget decisions on behalf of the  
16 charter school;

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

21 3. Employ legal counsel who also represents the charter school  
22 or charter school governing board which has an agreement with the  
23 educational management organization or charter management  
24 organization; and

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

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

7 Section 5-200. A. As used in this ~~section,~~ "educational title:

8 1. "Educational management organization" means a for-profit or  
9 ~~nonprofit~~ organization that receives public funds to provide  
10 administration and management services for a charter school,  
11 statewide virtual charter school, or traditional public school; and

12 2. "Charter management organization" means a nonprofit  
13 organization that receives public funds to provide administration  
14 and management services for a charter school, statewide virtual  
15 charter school, or traditional public school.

16 B. A charter school that contracts with an educational  
17 management organization or charter management organization shall use  
18 the Oklahoma Cost Accounting System (OCAS) to report the total  
19 amount paid to an educational management organization or charter  
20 management organization pursuant to the terms of the contract as  
21 well as actual itemized expenditure information for the goods or  
22 services provided by the management organization as defined by OCAS  
23 expenditure codes, including the total compensation package of the  
24



1 superintendent including the base salary, insurance, retirement and  
2 other fringe benefits.

3 C. ~~Any~~ Pursuant to Internal Revenue Service guidelines, any  
4 owner of an educational management organization or charter  
5 management organization shall be required to disclose to the  
6 governing board of the school in a public meeting any ownership  
7 position in any business that contracts or proposes to contract with  
8 the same public school that the educational management organization  
9 or charter management organization is managing.

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

13 E. Whenever any person shall enter into a contract with any  
14 school district or public charter school in the state to teach in  
15 such school district or public charter school the contract shall be  
16 binding on the teacher and on the board of education until the  
17 teacher legally has been discharged from the teaching position or  
18 released by the board of education from the contract. Except as  
19 provided in Section 5-106A of ~~Title 70 of the Oklahoma Statutes~~ this  
20 title, until such teacher has been thus discharged or released, the  
21 teacher shall not have authority to enter into a contract with any  
22 other board of education in Oklahoma for the same time covered by  
23 the original contract. If upon written complaint by the board of  
24 education in a district any teacher is reported to have failed to

1 obey the terms of the contract previously made and to have entered  
2 into a contract with another board of education, including a public  
3 charter school board of education, without having been released from  
4 the former contract except as provided in Section 5-106A of ~~Title 70~~  
5 ~~of the Oklahoma Statutes~~ this title, the teacher, upon being found  
6 to be employed full-time for another public school, including a  
7 public charter school in the state, at a hearing held before the  
8 State Board of Education, shall have such teacher's certificate  
9 suspended for the remainder of the term for which the contract was  
10 made.

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

13 Section 18-118. A. The State Auditor and Inspector shall  
14 approve auditors who shall audit the funds of the public school  
15 districts and the use made of the monies thereof, and shall make  
16 such other audits as may be required by the State Auditor and  
17 Inspector.

18 B. School districts and officers and employees thereof who  
19 divert any monies received by a district from the purpose for which  
20 the monies were apportioned to the district shall be jointly and  
21 severally liable for any such diversion.

22 C. If audits disclose that state monies have been illegally  
23 apportioned to, or illegally disbursed or expended by, a school  
24 district or any of its officers or employees or an educational

1 management organization or charter management organization as  
2 defined in Section 5-200 of this title or any of its owners or  
3 employees, the State Board of Education shall make demand that the  
4 monies be returned to the State Treasurer by ~~such~~ the school  
5 district or educational management organization or charter  
6 management organization. If the monies are illegally apportioned to  
7 or disbursed or expended by a school district or any of its officers  
8 or employees and the monies are not returned, the State Board of  
9 Education shall withhold the unreturned amount from subsequent  
10 allocations of state funds otherwise due the district.

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

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

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

20  
21 COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 02/16/2022  
22 - DO PASS, As Amended and Coauthored.

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