

**SENATE CHAMBER**  
**STATE OF OKLAHOMA**

DISPOSITION

☐ FLOOR AMENDMENT

No. \_\_\_\_\_

\_\_\_\_\_

☐ COMMITTEE AMENDMENT

\_\_\_\_\_  
(Date)

Mr./Madame President:

I move to amend Senate Bill No. 609, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

\_\_\_\_\_  
Senator Jolley

Jolley-EB-FS-Req#3069  
3/7/2016 5:37 PM

(Floor Amendments Only)    Date and Time Filed: \_\_\_\_\_

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

FLOOR SUBSTITUTE  
FOR

SENATE BILL NO. 609

By: Jolley, Loveless,  
Stanislowski, Yen, Holt,  
Brown and Dahm of the  
Senate

and

Nelson of the House

FLOOR SUBSTITUTE

[ schools - Oklahoma Education Empowerment  
Scholarship Act - Oklahoma Education Empowerment  
Scholarship Program - directing remaining State Aid  
calculated amount to be used for certain purposes -  
Oklahoma Education Empowerment Scholarship Savings  
Revolving Fund - codification - effective date ]

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 28-101 of Title 70, unless there  
is created a duplication in numbering, reads as follows:

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

SECTION 2. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 28-102 of Title 70, unless there  
is created a duplication in numbering, reads as follows:

1       A. There is hereby created the Oklahoma Education Empowerment  
2 Scholarship Act.

3       B. The purpose of the Oklahoma Education Empowerment  
4 Scholarship Act is to provide additional quality educational options  
5 to parents for the education of students in this state by creating  
6 the Oklahoma Education Empowerment Scholarship Program for  
7 individual students, empowering parents to make educational  
8 decisions for their children.

9       C. Education empowerment scholarship accounts shall be  
10 established for individual eligible students beginning with the  
11 2017-2018 school year.

12       SECTION 3.       NEW LAW       A new section of law to be codified  
13 in the Oklahoma Statutes as Section 28-103 of Title 70, unless there  
14 is created a duplication in numbering, reads as follows:

15       As used in the Oklahoma Education Empowerment Scholarship Act:

16       1. "Account" means an education empowerment scholarship account  
17 established for an eligible student pursuant to this act;

18       2. "Board" means the State Board of Education;

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

20       4. "Eligible postsecondary institution" means an accredited  
21 Oklahoma public or private postsecondary institution;

22       5. "Eligible private school" means any school recognized by the  
23 Oklahoma Private School Accreditation Commission or that meets the  
24 accreditation requirements set by the State Board of Education;

1        6. "Eligible student" means a public school student who is a  
2 resident of Oklahoma and has attended an Oklahoma public school for  
3 at least one hundred (100) days of the current or previous school  
4 year, who is not being provided an education by other means and:

- 5            a. is enrolled in a public school where the student is  
6                being counted for funding purposes or was enrolled and  
7                counted for funding purposes during the most recently  
8                concluded school year if the public school is not yet  
9                enrolling students for the next school year,
- 10          b. is currently participating in the Oklahoma Education  
11                Empowerment Scholarship Program,
- 12          c. is participating in or was participating in the  
13                Lindsey Nicole Henry Scholarships for Students with  
14                Disabilities Program during the current or a previous  
15                school year. A student shall not be eligible to  
16                participate in both the Oklahoma Education Empowerment  
17                Scholarship Program and the Lindsey Nicole Henry  
18                Scholarships for Students with Disabilities Program  
19                concurrently, or
- 20          d. is a child in the household of a member of the United  
21                States Armed Forces transferred from out of state or  
22                from a foreign country pursuant to a permanent change-  
23                of-station order of the parent;

1        7. "Parent" means a resident of the state who is a parent,  
2 legal guardian or other person with the authority to act on behalf  
3 of an eligible student;

4        8. "Program" means the Oklahoma Education Empowerment  
5 Scholarship Program;

6        9. "Resident school district" means the public school district  
7 in which the student resides as defined in Section 1-113 of Title 70  
8 of the Oklahoma Statutes; and

9        10. "Treasurer" means the Office of the State Treasurer.

10       SECTION 4.       NEW LAW       A new section of law to be codified  
11 in the Oklahoma Statutes as Section 28-104 of Title 70, unless there  
12 is created a duplication in numbering, reads as follows:

13       A. The Office of the State Treasurer shall determine a period  
14 of each year during which it will accept applications for the  
15 Oklahoma Education Empowerment Scholarship Program for the following  
16 school fiscal year, provided that for the first year of  
17 implementation, the deadline shall be no later than May 1, 2017.  
18 The Office of the State Treasurer shall provide the State Department  
19 of Education the names of qualified students who shall receive  
20 education empowerment scholarship cards each fiscal year.

21       B. To enroll an eligible student in the Oklahoma Education  
22 Empowerment Scholarship Program, the parent of the eligible student  
23 shall sign an agreement to do all the following:

1        1. Provide an education for the eligible student in at least  
2 the subjects of English language arts, mathematics, social studies  
3 and science or provide eligible students with special needs an  
4 organized appropriate educational program with measurable annual  
5 goals;

6        2. Notify the Treasurer of the date the eligible student  
7 withdraws from the public school to participate in the Program, the  
8 date the eligible student stops participating in the Program and the  
9 date the eligible student enrolls or reenrolls in a public school or  
10 graduates;

11       3. Not enroll the eligible student in a public school or  
12 charter school full time without first notifying the Treasurer of  
13 the decision to discontinue participation in the Program;

14       4. Sign a document releasing the resident school district from  
15 all obligations to educate the eligible student;

16       5. Use the money deposited in the account established for the  
17 eligible student only for the following expenses of the student:

18           a. tuition and fees to an eligible private school,  
19           virtual school or virtual coursework provider or  
20           eligible postsecondary institution,

21           b. purchasing, renting or subscribing to a service that  
22           provides textbooks, other learning materials or  
23           programs or curriculum for a complete course of study  
24           for a particular content area or grade level,

1 including any supplementary materials recommended by  
2 the curriculum,

3 c. educational therapies or services for the eligible  
4 student from a licensed or accredited practitioner or  
5 provider, including licensed or accredited  
6 paraprofessionals or educational aides. The Board  
7 shall promulgate rules defining which therapies and  
8 services are eligible under the Program and setting  
9 the required qualifications for paraprofessionals and  
10 aides,

11 d. tutoring services. The Board shall promulgate rules  
12 setting the required qualifications for tutors.  
13 Tutors shall be required to notify the Board of their  
14 intention to provide tutoring services to students in  
15 the Program,

16 e. services provided by a public school, including  
17 individual classes and extracurricular programs,

18 f. fees for a nationally standardized norm-referenced  
19 achievement test, advanced placement examinations or  
20 any exams related to college or university admissions,

21 g. contributions to a Coverdell Savings Account  
22 established pursuant to 26 U.S.C., Section 530 for the  
23 benefit of the eligible student, except that money  
24

- used for elementary or secondary education expenses
- shall be for expenses otherwise allowed by this act,
- h. fees for management of the account by firms or
- institutions selected by the Treasurer, and
- i. insurance or surety bond payments as required by the
- Treasurer; and

6. Not use monies deposited in the account of an eligible student for any of the following:

- a. purchasing computer hardware, electronic equipment, assistive technological devices or educational equipment or instruments. Nothing shall prohibit the renting of such items,
- b. regular or routine transportation of the student. Regular and routine transportation shall not include transporting the student for education-related field trips and other extracurricular activities, and
- c. consumable educational supplies, including but not limited to paper, pens or markers.

C. Agreements shall be executed on forms provided by the Treasurer, who shall verify compliance with the agreements.

D. A parent shall renew the account of an eligible student on an annual basis by submitting a renewal request to the Treasurer. The renewal request for grades one (1) through twelve (12) shall also include documentation showing the results of the student on a



1 nationally standardized norm-referenced achievement test taken  
2 during that school year.

3 E. A signed agreement under this section shall be deemed school  
4 attendance and shall constitute compliance with the compulsory  
5 attendance law as set forth in Section 10-105 of Title 70 of the  
6 Oklahoma Statutes.

7 F. The parent of an eligible student shall submit a request to  
8 participate in the Program no later than December 1 of the school  
9 year during which an account is requested, in order to receive  
10 funding for the same school year. If a request is made after  
11 December 1, the account will not begin receiving funds until the  
12 following school year.

13 G. Students may continue in the Program once they are  
14 determined to be eligible pursuant to this act until they graduate,  
15 return to public school or it has been found by the Treasurer that  
16 the agreement required in this section has been violated.

17 H. The number of new students eligible to participate in the  
18 Program shall be limited to not more than one-half of one percent  
19 (0.5%) of the total number of students enrolled in public schools  
20 statewide each school year. The Treasurer shall verify with the  
21 Department the total number of students enrolled in public schools  
22 statewide by July 15 of each year to determine the number of  
23 eligible students for the Program for that school year. Applicants  
24 shall be granted on a first-come, first-serve basis. If more

1 students apply than what is available under the provisions of this  
2 subsection, the Treasurer shall utilize a waiting list for  
3 enrollment in the program.

4 1. Priority under the provisions of this subsection shall be  
5 given to eligible students who:

- 6 a. reside in a household whose annual household income is  
7 greater than the amount required to qualify for the  
8 federal free or reduced-price lunch program but is  
9 equal to or less than two times that amount,
- 10 b. have been identified as a student with a disability by  
11 a school district in accordance with the Individuals  
12 with Disabilities Education Act,
- 13 c. have been adopted through the Oklahoma Foster Care  
14 System, or
- 15 d. have been placed on the waiting list in previous years  
16 in the order of application.

17 2. Students enrolled in the Program the prior school year shall  
18 not be subject to the limitations set forth in this subsection.

19 3. The limitations set forth in this subsection shall sunset  
20 ten (10) years from the enactment date of this act.

21 SECTION 5. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 28-105 of Title 70, unless there  
23 is created a duplication in numbering, reads as follows:  
24

1       A. The annual amount to be deposited to the education  
2 empowerment scholarship account for the student shall be equal to  
3 eighty-five percent (85%) of the total State Aid factors multiplied  
4 by the Grade Level Weight and the Student Category Weights that  
5 would be generated by that student for the applicable school year.

6       B. The remaining fifteen percent (15%) of the total State Aid  
7 factors multiplied by the Grade Level Weight and the Student  
8 Category Weights that would be generated by that student for the  
9 applicable school year shall be distributed by the Department to the  
10 resident school district in which the qualified student would  
11 otherwise attend to be expended in a manner decided by the resident  
12 school district.

13       C. Additionally, nothing herein shall be construed to require  
14 the local ad valorem funding which is paid by the qualified  
15 student's parent and/or federal funding received for the benefit of  
16 the student to be utilized in the funding of the account and shall  
17 continue to be utilized by the local school district as provided by  
18 applicable law.

19       SECTION 6.       NEW LAW       A new section of law to be codified  
20 in the Oklahoma Statutes as Section 28-106 of Title 70, unless there  
21 is created a duplication in numbering, reads as follows:

22       A. Upon submission of the signed agreement by the parent as  
23 required pursuant to Section 4 of this act, the State Department of  
24 Education shall transfer the amount of funds calculated pursuant to

1 Section 5 of this act to the State Treasurer for deposit into the  
2 education empowerment scholarship account for each eligible student  
3 pursuant to a schedule established by the State Board of Education.  
4 The total calculated amount shall be transferred in equal  
5 allocations according to the schedule established by the Board for  
6 such transfers and deposits, but such transfers shall not be made  
7 less often than quarterly. Monies for deposit into the accounts  
8 shall be from the funds set aside by the Board as provided for in  
9 Section 11 of this act for purposes of the Oklahoma Education  
10 Empowerment Scholarship Program and as directed by the Oklahoma  
11 Education Empowerment Scholarship Act.

12 B. The Department shall deposit five percent (5%) of the total  
13 amount set aside for the Program for administrative services. The  
14 Department may retain an amount equal to two percent (2%) of the  
15 total amount set aside for the Program for administrative services.  
16 The retained funds shall be deposited in the Oklahoma Education  
17 Empowerment Scholarship Act Administrative Fund established in  
18 subsection C of this section. The Treasurer shall transfer the  
19 remaining monies, equaling three percent (3%) of the total amount  
20 set aside for administrative services to the Treasurer's Oklahoma  
21 Education Empowerment Scholarship Administrative Fund established in  
22 subsection D of this section.

23 C. There is hereby created in the State Treasury a revolving  
24 fund for the State Department of Education to be designated the

1 "Education Empowerment Scholarship Administrative Revolving Fund".  
2 The fund shall be a continuing fund, not subject to fiscal year  
3 limitations, and shall consist of all monies retained by the State  
4 Department of Education pursuant to subsection B of this section.  
5 All monies accruing to the credit of the fund are hereby  
6 appropriated and may be budgeted and expended by the State  
7 Department of Education for the purpose of administering the  
8 Program. Expenditures from the fund shall be made upon warrants  
9 issued by the State Treasurer against claims filed as prescribed by  
10 law with the Director of the Office of Management and Enterprise  
11 Services for approval and payment. If the number of accounts  
12 significantly increases after the fiscal year ending June 30, 2017,  
13 the Department may request that the Legislature increase the amount  
14 allowed to be retained as set forth in subsection B of this section  
15 to cover administrative costs for the additional accounts.

16 D. There is hereby created in the State Treasury a revolving  
17 fund for the Office of the State Treasurer to be designated the  
18 "Treasurer's Education Empowerment Scholarship Administrative  
19 Revolving Fund". The fund shall be a continuing fund, not subject  
20 to fiscal year limitations, and shall consist of all monies received  
21 by the Office of the State Treasurer transferred by the Department  
22 of Education pursuant to subsection B of this section. All monies  
23 accruing to the credit of the fund are hereby appropriated and may  
24 be budgeted and expended by the Office of the State Treasurer for

1 the purpose of administering the Program. Expenditures from the  
2 fund shall be made upon warrants issued by the State Treasurer  
3 against claims filed as prescribed by law with the Director of the  
4 Office of Management and Enterprise Services for approval and  
5 payment. If the number of participants significantly increases  
6 after the fiscal year ending June 30, 2017, the Treasurer may  
7 request that the Legislature increase the amount allowed to be  
8 retained as set forth in subsection B of this section to cover  
9 administrative costs for the additional accounts.

10 E. The Department shall maintain and publish a list of  
11 nationally norm-referenced tests identified for the purposes of  
12 satisfying the testing requirements of subsection B of Section 4 of  
13 this act. The tests shall meet industry standards of quality in  
14 accordance with rules promulgated by the State Board of Education.

15 SECTION 7. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 28-107 of Title 70, unless there  
17 is created a duplication in numbering, reads as follows:

18 A. An eligible private school or a provider of educational  
19 services receiving funds from an education empowerment scholarship  
20 account shall not share with, or refund or rebate to, the parent or  
21 eligible student, in any manner, any of the funds from an education  
22 savings account.

1 B. Parents shall not receive or accept rebates or payments from  
2 an eligible private school or a provider of educational services  
3 using funds from an account.

4 SECTION 8. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 28-108 of Title 70, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. Upon graduation from a postsecondary institution by an  
8 eligible student or after a period of four (4) consecutive years  
9 after high school graduation, if the eligible student is not  
10 enrolled in a postsecondary institution, the account of the student  
11 shall be closed and any remaining funds shall be returned to the  
12 State Board of Education to be allocated to school districts through  
13 the State Aid funding formula.

14 B. If an eligible student begins or ends participation in the  
15 Program after the start of a full school year, the amount of the  
16 funds deposited into an account for the student shall be prorated to  
17 reflect the actual amount of time the student participated in the  
18 Program during the current school year.

19 C. The State Department of Education shall:

20 1. Upon request, provide to the parent of a student the  
21 calculated amount of funds the student would be eligible to receive  
22 in an education savings account within ten (10) days after receiving  
23 the request or within ten (10) days after the total State Aid  
24 factors have been determined for the current fiscal year. Upon

1 request of a parent prior to submission of an application, the  
2 Department shall provide to the parent an estimate of the  
3 approximate amount of funds the student may receive in an account;  
4 and

5 2. Not be responsible for any additional costs associated with  
6 the education of eligible students incurred by the parents.

7 D. Monies received and used by the parent of an eligible  
8 student in compliance with the provisions of this act shall not  
9 constitute taxable income to the parent.

10 E. The Treasurer shall make deposits into the accounts upon  
11 verification by the Department that the student is still  
12 participating in the Program.

13 F. The Treasurer may contract with private financial management  
14 firms to manage the accounts with the supervision of the Treasurer.

15 SECTION 9. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 28-109 of Title 70, unless there  
17 is created a duplication in numbering, reads as follows:

18 A. The parent or legal guardian of an eligible student shall  
19 submit receipts for qualified expenditures to the Office of the  
20 State Treasurer upon request. All funds that are unused shall  
21 accrue to the following year to be provided for qualified expenses  
22 for that eligible student. Any funds remaining to the credit of an  
23 education empowerment scholarship account by July 31 following  
24 graduation of the student shall be transferred into an Oklahoma



1 College Savings Plan account created in the name of the eligible  
2 student to be used for qualified higher education expenses as  
3 defined by Section 3970.3 of Title 70 of the Oklahoma Statutes.

4 B. The parent of an Oklahoma Education Empowerment Scholarship  
5 Program participant who fails to comply with the requirements of the  
6 Program shall reimburse the Treasurer an amount equivalent to the  
7 funds deposited to the credit of an account. No interest or  
8 penalties shall be applicable to the reimbursement amount, subject  
9 to adherence to a repayment schedule established by the Treasurer.

10 SECTION 10. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 28-110 of Title 70, unless there  
12 is created a duplication in numbering, reads as follows:

13 Acceptance by private schools of students participating in the  
14 Oklahoma Education Empowerment Scholarship Program shall not expand  
15 the regulatory authority of the state or any school district to  
16 impose any additional regulation on private schools.

17 SECTION 11. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 28-111 of Title 70, unless there  
19 is created a duplication in numbering, reads as follows:

20 A. For the 2017-2018 school year, the State Board of Education  
21 shall set aside an amount of money from the total amount  
22 appropriated to the State Board of Education for State Aid purposes  
23 and any other revenue available for allocation for State Aid  
24 purposes to cover expected demand for education empowerment

1 scholarship accounts during the 2017-2018 school year. At the  
2 beginning of each subsequent school year, the Board shall set aside  
3 one hundred twenty percent (120%) of the total amount deposited into  
4 accounts during the previous school year and of the total amount for  
5 which applications were received but for which no funds were  
6 available, to allow for potential growth in participation.

7 B. At the conclusion of each fiscal year, the Treasurer shall  
8 determine the amount of funding that was set aside during that  
9 fiscal year for deposit into the accounts but was not deposited into  
10 individual student accounts and shall remit those funds to the State  
11 Department of Education, who shall allocate that amount to school  
12 districts through the State Aid funding formula.

13 SECTION 12. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 28-112 of Title 70, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. The Oklahoma Education Empowerment Scholarship Program shall  
17 not be construed to authorize or permit any state agency to exercise  
18 control or supervision over any nonpublic school or students being  
19 educated by other means. Students who are being provided an  
20 education by other means shall not be eligible to participate in the  
21 Program.

22 B. Educational service providers which accept payment from an  
23 education empowerment scholarship account shall not be considered  
24 agents of the state or federal government.

1 C. No liability shall arise on the part of the state, the  
2 Office of the State Treasurer, the State Board of Education, the  
3 State Department of Education or a school district based on  
4 participation in the Program by an eligible student.

5 SECTION 13. This act shall become effective November 1, 2016.

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