

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 58th Legislature (2021)

4   COMMITTEE SUBSTITUTE  
5   FOR  
6   HOUSE BILL NO. 2755

By: **Echols** of the House

and

**David** of the Senate

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11                               COMMITTEE SUBSTITUTE

12           An Act relating to schools; amending 70 O.S. 2011,  
13           Section 15-101, which relates to school bonds;  
14           requiring school districts to give charter schools  
15           the opportunity to submit capital projects for bond  
16           proposals; directing charter schools and school  
17           districts to collaborate for certain purpose;  
18           declaring certain capital project properties shall be  
19           owned by the school district; providing the charter  
20           school shall maintain possession and control of the  
21           property under certain circumstances; directing  
22           school districts to assume property under certain  
23           circumstances; defining terms; amending 70 O.S. 2011,  
24           Sections 3-136, as amended by Section 1, Chapter 277,  
              O.S.L. 2014 and 3-142, as last amended by Section 1,  
              Chapter 122, O.S.L. 2020 (70 O.S. Supp. 2020,  
              Sections 3-136 and 3-142), which relate to the  
              Oklahoma Charter Schools Act; modifying charter  
              school authority to issue bonds; and providing an  
              effective date.

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

2 SECTION 1. AMENDATORY 70 O.S. 2011, Section 15-101, is  
3 amended to read as follows:

4 Section 15-101. A. Whenever it shall become necessary for the  
5 board of education of any school district to raise sufficient funds  
6 for the purchase of a school site or sites, or to erect or purchase  
7 and equip a suitable school building or buildings, either or both,  
8 or for the purpose of making repairs to an existing school building  
9 or buildings, or for the purchase of school furniture and fixtures,  
10 or for making improvements to any school site or sites, either or  
11 both, it shall be lawful for such board of education to borrow money  
12 for which it is hereby authorized and empowered to issue bonds  
13 bearing a rate of interest not exceeding seven percent (7%) per  
14 annum, payable semiannually, at such place as may be shown on the  
15 face of such bonds, which bonds shall be payable serially as  
16 otherwise provided by law in not more than twenty-five (25) years  
17 from date; and the board of education is hereby authorized and  
18 empowered to sell such bonds at not less than their par value;  
19 provided, before any bonds shall be issued, the board of education  
20 shall cause an election to be held in such district as herein  
21 provided; provided, further, bonds may be voted in one issue and at  
22 the same election for any or all of the purposes hereinbefore  
23 enumerated.

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1       B. Prior to causing an election on a bond proposal to be held,  
2 any school district that sponsors a charter school pursuant to  
3 paragraph 1 of subsection A of Section 3-132 of this title shall  
4 give its sponsored charter schools the opportunity to submit capital  
5 projects beneficial to the charter school for inclusion in the bond  
6 proposal. If a sponsored charter school submits capital projects  
7 for inclusion in the bond proposal, the board of education of the  
8 school district and the charter school shall collaborate to ensure  
9 that the value of the charter school's capital projects in the bond  
10 proposal is at least proportional, as a percentage of the value of  
11 the entire bond proposal, to the percentage of total students that  
12 are enrolled in the charter school.

13       C. Any property purchased as the result of a capital project  
14 submitted by a sponsored charter school shall be owned by the school  
15 district that issued the bonds. Except as otherwise provided in  
16 this subsection, the charter school submitting the capital project  
17 shall maintain possession and control of such property until  
18 termination of or failure to renew the charter school contract as  
19 provided in Section 3-137 of this title or the charter school fails  
20 to continue operations. Provided that, if a charter continues  
21 operation within the physical boundaries of the original school  
22 district sponsor under a new charter sponsored by an entity  
23 authorized pursuant to Section 3-132 of this title, the charter  
24 school may maintain possession and control of the property for use

1 in the operation of the charter school until termination of or  
2 failure to renew the subsequent charter school contract or the  
3 charter school fails to continue operations. Upon termination of or  
4 failure to renew the subsequent charter school contract or failure  
5 to continue operations, possession and control of all property  
6 purchased with bond proceeds shall be assumed by the school district  
7 that owns the property.

8 D. For purposes of this section:

9 1. "Capital project" shall mean purchasing a school site or  
10 sites, erecting or purchasing and equipping a suitable school  
11 building or buildings, making repairs to an existing school building  
12 or buildings, purchasing school furniture and fixtures, making  
13 improvements to any school site or sites, or purchasing school  
14 equipment including such equipment as enumerated in Sections 15-106  
15 and 15-106.1 of this title; and

16 2. "Total students" shall mean the sum of the number of  
17 students enrolled in traditional schools within the school district  
18 plus the number of students enrolled in charter schools sponsored by  
19 the school district.

20 SECTION 2. AMENDATORY 70 O.S. 2011, Section 3-136, as  
21 amended by Section 1, Chapter 277, O.S.L. 2014 (70 O.S. Supp. 2020,  
22 Section 3-136), is amended to read as follows:

23 Section 3-136. A. A charter school shall adopt a charter which  
24 will ensure compliance with the following:

1        1. A charter school shall comply with all federal regulations  
2 and state and local rules and statutes relating to health, safety,  
3 civil rights and insurance. By January 1, 2000, the State  
4 Department of Education shall prepare a list of relevant rules and  
5 statutes which a charter school must comply with as required by this  
6 paragraph and shall annually provide an update to the list;

7        2. A charter school shall be nonsectarian in its programs,  
8 admission policies, employment practices, and all other operations.  
9 A sponsor may not authorize a charter school or program that is  
10 affiliated with a nonpublic sectarian school or religious  
11 institution;

12        3. The charter school may provide a comprehensive program of  
13 instruction for a prekindergarten program, a kindergarten program or  
14 any grade between grades one and twelve. Instruction may be  
15 provided to all persons between the ages of four (4) and twenty-one  
16 (21) years. A charter school may offer a curriculum which  
17 emphasizes a specific learning philosophy or style or certain  
18 subject areas such as mathematics, science, fine arts, performance  
19 arts, or foreign language. The charter of a charter school which  
20 offers grades nine through twelve shall specifically address whether  
21 the charter school will comply with the graduation requirements  
22 established in Section 11-103.6 of this title. No charter school  
23 shall be chartered for the purpose of offering a curriculum for deaf  
24 or blind students that is the same or similar to the curriculum

1 being provided by or for educating deaf or blind students that are  
2 being served by the Oklahoma School for the Blind or the Oklahoma  
3 School for the Deaf;

4 4. A charter school shall participate in the testing as  
5 required by the Oklahoma School Testing Program Act and the  
6 reporting of test results as is required of a school district. A  
7 charter school shall also provide any necessary data to the Office  
8 of Accountability;

9 5. Except as provided for in the Oklahoma Charter Schools Act  
10 and its charter, a charter school shall be exempt from all statutes  
11 and rules relating to schools, boards of education, and school  
12 districts;

13 6. A charter school, to the extent possible, shall be subject  
14 to the same reporting requirements, financial audits, audit  
15 procedures, and audit requirements as a school district. The State  
16 Department of Education or State Auditor and Inspector may conduct  
17 financial, program, or compliance audits. A charter school shall  
18 use the Oklahoma Cost Accounting System to report financial  
19 transactions to the sponsoring school district;

20 7. A charter school shall comply with all federal and state  
21 laws relating to the education of children with disabilities in the  
22 same manner as a school district;

1        8. A charter school shall provide for a governing body for the  
2 school which shall be responsible for the policies and operational  
3 decisions of the charter school;

4        9. A charter school shall not be used as a method of generating  
5 revenue for students who are being home schooled and are not being  
6 educated at an organized charter school site;

7        10. A charter school may not charge tuition or fees;

8        11. A charter school shall provide instruction each year for at  
9 least the number of days required in Section 1-109 of this title;

10       12. A charter school shall comply with the student suspension  
11 requirements provided for in Section 24-101.3 of this title;

12       13. A charter school shall be considered a school district for  
13 purposes of tort liability under The Governmental Tort Claims Act;

14       14. Employees of a charter school may participate as members of  
15 the Teachers' Retirement System of Oklahoma in accordance with  
16 applicable statutes and rules if otherwise allowed pursuant to law;

17       15. A charter school may participate in all health and related  
18 insurance programs available to the employees of the sponsor of the  
19 charter school;

20       16. A charter school shall comply with the Oklahoma Open  
21 Meeting Act and the Oklahoma Open Records Act;

22       17. The governing body of a charter school shall be subject to  
23 the same conflict of interest requirements as a member of a local  
24 school board; and

1        18. No later than September 1 each year, the governing board of  
2 each charter school formed pursuant to the Oklahoma Charter Schools  
3 Act shall prepare a statement of actual income and expenditures for  
4 the charter school for the fiscal year that ended on the preceding  
5 June 30, in a manner compliant with Section 5-135 of this title.  
6 The statement of expenditures shall include functional categories as  
7 defined in rules adopted by the State Board of Education to  
8 implement the Oklahoma Cost Accounting System pursuant to Section 5-  
9 145 of this title. Charter schools shall not be permitted to submit  
10 estimates of expenditures or prorated amounts to fulfill the  
11 requirements of this paragraph.

12        B. The charter of a charter school shall include a description  
13 of the personnel policies, personnel qualifications, and method of  
14 school governance, and the specific role and duties of the sponsor  
15 of the charter school.

16        C. The charter of a charter school may be amended at the  
17 request of the governing body of the charter school and upon the  
18 approval of the sponsor.

19        D. A charter school may enter into contracts and sue and be  
20 sued.

21        E. The governing body of a charter school may not levy taxes or  
22 issue bonds; provided, however, a charter school sponsored by the  
23 board of education of a school district may submit capital projects  
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1 for inclusion in the school district's bond proposal as provided in  
2 Section 15-101 of this title.

3 F. The charter of a charter school shall include a provision  
4 specifying the method or methods to be employed for disposing of  
5 real and personal property acquired by the charter school upon  
6 expiration or termination of the charter or failure of the charter  
7 school to continue operations. Except as otherwise provided, any  
8 real or personal property purchased with state or local funds shall  
9 be retained by the sponsoring school district. If a charter school  
10 that was previously sponsored by the board of education of a school  
11 district continues operation within the school district under a new  
12 charter sponsored by an entity authorized pursuant to Section 3-132  
13 of this title, the charter school may retain any personal property  
14 purchased with state or local funds for use in the operation of the  
15 charter school until termination of the new charter or failure of  
16 the charter school to continue operations.

17 SECTION 3. AMENDATORY 70 O.S. 2011, Section 3-142, as  
18 last amended by Section 1, Chapter 122, O.S.L. 2020 (70 O.S. Supp.  
19 2020, Section 3-142), is amended to read as follows:

20 Section 3-142. A. For purposes of funding, a charter school  
21 sponsored by a board of education of a school district shall be  
22 considered a site within the school district in which the charter  
23 school is located. The student membership of the charter school  
24 shall be considered separate from the student membership of the

1 district in which the charter school is located for the purpose of  
2 calculating weighted average daily membership pursuant to Section  
3 18-201.1 of this title and State Aid pursuant to Section 18-200.1 of  
4 this title. For charter schools sponsored by a board of education  
5 of a school district, the sum of the separate calculations for the  
6 charter school and the school district shall be used to determine  
7 the total State Aid allocation for the district in which the charter  
8 school is located. A charter school shall receive from the  
9 sponsoring school district, the State Aid allocation and any other  
10 state-appropriated revenue generated by its students for the  
11 applicable year, less up to three percent (3%) of the State Aid  
12 allocation, which may be retained by the school district as a fee  
13 for administrative services rendered. For charter schools sponsored  
14 by the board of education of a technology center school district, a  
15 higher education institution, the State Board of Education, or a  
16 federally recognized Indian tribe and for statewide virtual charter  
17 schools sponsored by the Statewide Virtual Charter School Board, the  
18 State Aid allocation for the charter school shall be distributed by  
19 the State Board of Education and not more than three percent (3%) of  
20 the State Aid allocation may be charged by the sponsor as a fee for  
21 administrative services rendered. The State Board of Education  
22 shall determine the policy and procedure for making payments to a  
23 charter school. The fee for administrative services as authorized  
24 in this subsection shall only be assessed on the State Aid

1 allocation amount and shall not be assessed on any other  
2 appropriated amounts. A sponsor of a charter school shall not  
3 retain any additional State Aid allocation or charge the charter  
4 school any additional fee above the amounts allowed by this  
5 subsection unless the additional fees are for additional services  
6 rendered. The charter school sponsor shall provide to the State  
7 Department of Education financial records documenting any state  
8 funds retained by the sponsor for administrative services rendered  
9 for the previous year.

10 B. 1. The weighted average daily membership for the first year  
11 of operation of a charter school shall be determined initially by  
12 multiplying the actual enrollment of students as of August 1 by  
13 1.333. The charter school shall receive revenue equal to that which  
14 would be generated by the estimated weighted average daily  
15 membership calculated pursuant to this paragraph. At midyear, the  
16 allocation for the charter school shall be adjusted using the first  
17 quarter weighted average daily membership for the charter school  
18 calculated pursuant to subsection A of this section.

19 2. For the purpose of calculating weighted average daily  
20 membership pursuant to Section 18-201.1 of this title and State Aid  
21 pursuant to Section 18-200.1 of this title, the weighted average  
22 daily membership for the first year of operation and each year  
23 thereafter of a full-time virtual charter school shall be determined  
24 by multiplying the actual enrollment of students as of August 1 by

1 1.333. The full-time virtual charter school shall receive revenue  
2 equal to that which would be generated by the estimated weighted  
3 average daily membership calculated pursuant to this paragraph. At  
4 midyear, the allocation for the full-time virtual charter school  
5 shall be adjusted using the first quarter weighted average daily  
6 membership for the virtual charter school calculated pursuant to  
7 subsection A of this section.

8 C. A charter school shall be eligible to receive any other aid,  
9 grants or revenues allowed to other schools. A charter school  
10 sponsored by the board of education of a technology center school  
11 district, a higher education institution, the State Board of  
12 Education, or a federally recognized Indian tribe shall be  
13 considered a local education agency for purposes of funding. A  
14 charter school sponsored by a board of education of a school  
15 district shall be considered a local education agency for purposes  
16 of federal funding.

17 D. A charter school, in addition to the money received from the  
18 state, may receive money from any other source. Any unexpended  
19 funds may be reserved and used for future purposes. The governing  
20 body of a charter school shall not levy taxes or issue bonds;  
21 provided, however, a charter school sponsored by the board of  
22 education of a school district may submit capital projects for  
23 inclusion in the school district's bond proposal as provided in  
24 Section 15-101 of this title. If otherwise allowed by law, the

1 governing body of a charter school may enter into private contracts  
2 for the purposes of borrowing money from lenders. If the governing  
3 body of the charter school borrows money, the charter school shall  
4 be solely responsible for repaying the debt, and the state or the  
5 sponsor shall not in any way be responsible or obligated to repay  
6 the debt.

7 E. Any charter school which chooses to lease property shall be  
8 eligible to receive current government lease rates.

9 F. Except as otherwise provided in this subsection, each  
10 charter school shall pay to the Charter School Closure Reimbursement  
11 Revolving Fund created in subsection G of this section an amount  
12 equal to Five Dollars (\$5.00) per student based on average daily  
13 membership, as defined by paragraph 2 of Section 18-107 of this  
14 title, during the first nine (9) weeks of the school year. Each  
15 charter school shall complete the payment every school year within  
16 thirty (30) days after the first nine (9) weeks of the school year.  
17 If the Charter School Closure Reimbursement Revolving Fund has a  
18 balance of One Million Dollars (\$1,000,000.00) or more on July 1, no  
19 payment shall be required the following school year.

20 G. There is hereby created in the State Treasury a revolving  
21 fund for the State Department of Education to be designated the  
22 "Charter School Closure Reimbursement Revolving Fund". The fund  
23 shall be a continuing fund, not subject to fiscal year limitations,  
24 and shall consist of all monies received by the State Department of

1 Education from charter schools as provided in subsection F of this  
2 section. All monies accruing to the credit of said fund are hereby  
3 appropriated and may be budgeted and expended by the State  
4 Department of Education for the purpose of reimbursing charter  
5 school sponsors for costs incurred due to the closure of a charter  
6 school. Expenditures from said fund shall be made upon warrants  
7 issued by the State Treasurer against claims filed as prescribed by  
8 law with the Director of the Office of Management and Enterprise  
9 Services for approval and payment. The State Department of  
10 Education may promulgate rules regarding sponsor eligibility for  
11 reimbursement.

12 SECTION 4. This act shall become effective November 1, 2021.

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14 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/01/2021 - DO PASS,  
15 As Amended and Coauthored.  
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