



1 Treasurer; establishing the Education Savings Account  
2 Administrative Fund; stating use of monies in the  
3 fund; exempting monies from certain laws; allowing  
4 the Department to request certain increases;  
5 establishing the Treasurer's Education Savings  
6 Account Administrative Fund; stating use of monies in  
7 the fund; exempting monies from certain laws;  
8 allowing the Treasurer to request certain increases;  
9 directing the Department to maintain a list of  
10 certain tests; prohibiting certain schools and  
11 providers from sharing, refunding or rebating certain  
12 money to parents or students; prohibiting parents  
13 from receiving certain money from a school or  
14 provider; providing for closure of an account;  
15 providing for the amount of funds to be prorated  
16 under certain circumstances; establishing duties of  
17 the Department; stating that money is not taxable  
18 income; requiring the Treasurer to make quarterly  
19 deposits into accounts; authorizing the Treasurer to  
20 contract for management of accounts; requiring the  
21 Department to make random audits of accounts;  
22 directing the Board to establish a notification  
23 process for violations; providing process for  
24 suspending an eligible student from the Program for  
certain reasons; allowing a parent to appeal  
suspension decisions; directing the Department to  
refer certain cases to the Attorney General; limiting  
regulatory authority of the state and school  
districts; directing the State Board of Education to  
set aside certain amount of money from State Aid  
appropriations; providing for adding back certain  
amount of money to State Aid funds; directing the  
Board to promulgate certain rules; specifying certain  
rules; limiting authority of state agencies over  
nonpublic schools and certain students; providing for  
status of certain providers; limiting liability of  
certain entities; providing for a study and report by  
an independent research organization; requiring the  
reporting and sharing of data to comply with certain  
act; prohibiting the disaggregation of certain data;  
requiring Department to publish report on the  
website; providing for codification; providing an  
effective date; and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 28-101 of Title 70, unless there  
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Oklahoma  
5 Education Savings Account Act".

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

9 A. There is hereby created the Education Savings Account  
10 Program.

11 B. The purpose of the Oklahoma Education Savings Account Act is  
12 to provide additional educational options to parents for the  
13 education of students in this state, by creating education accounts  
14 for individual students empowering parents to make educational  
15 decisions for their children.

16 C. Education savings accounts shall be established for  
17 individual students beginning with the 2016-2017 school year.

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

21 As used in the Oklahoma Education Savings Account Act:

22 1. "Account" means an education savings account established for  
23 an eligible student pursuant to this act;

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

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

2 4. "Eligible postsecondary institution" means an accredited  
3 public or private postsecondary institution;

4 5. "Eligible private school" means any school recognized by the  
5 Oklahoma Private School Accreditation Commission or that meets the  
6 accreditation requirements set by the State Board of Education or  
7 other nationally recognized accreditation association that has  
8 notified the Department of its intention to accept students who are  
9 in the Program and comply with the antidiscrimination provisions of  
10 42 U.S.C., Section 2000d;

11 6. "Eligible student" means a person who is a resident of  
12 Oklahoma and is eligible to attend a public school in Oklahoma and  
13 either:

14 a. is a member of a household where the total annual  
15 income is equal to or less than two times the amount  
16 required to qualify for the federal free or reduced-  
17 price lunch program and who:

18 (1) is currently eligible to attend prekindergarten  
19 or kindergarten,

20 (2) is enrolled in a public school where the student  
21 is being counted for funding purposes or was  
22 enrolled and counted for funding purposes during  
23 the most recently concluded school year if the  
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1 public school is not yet enrolling students for  
2 the next school year, or

3 (3) is a new resident of this state,

4 b. is a member of a household where the total annual  
5 income is greater than two times the amount required  
6 to qualify for the federal free or reduced-priced  
7 lunch program and who:

8 (1) is currently eligible to attend prekindergarten  
9 or kindergarten,

10 (2) is enrolled in a public school where the student  
11 is being counted for funding purposes or was  
12 enrolled and counted for funding purposes during  
13 the most recently concluded school year if the  
14 public school is not yet enrolling students for  
15 the next school year, or

16 (3) is a new resident of this state, or

17 c. meets any of the following:

18 (1) is participating in or was participating in the  
19 Lindsey Nicole Henry Scholarships for Students  
20 with Disabilities Program during the current or a  
21 previous school year. A student shall not be  
22 eligible to participate in both the Education  
23 Savings Account Program and the Lindsey Nicole  
24

1 Henry Scholarships for Students with Disabilities  
2 Program concurrently, or

3 (2) is a child in the household of a member of the  
4 United States Armed Forces transferred from out  
5 of state or from a foreign country pursuant to a  
6 permanent change-of-station order of the parent;

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

10 8. "Program" means the Education Savings Account Program;

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

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

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

18 A. To enroll an eligible student in the Education Savings  
19 Account Program, the parent of the eligible student shall sign an  
20 agreement to do all the following:

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

3 2. Notify the State Board of Education of the date the eligible  
4 student withdraws from the public school to participate in the  
5 Program, the date the eligible student stops participating in the  
6 Program and the date the eligible student enrolls or reenrolls in a  
7 public school or graduates;

8 3. Not enroll the eligible student in a public school or  
9 charter school full-time without first notifying the Board of the  
10 decision to discontinue participation in the Program;

11 4. Sign a document releasing the resident school district from  
12 all obligation to educate the eligible student;

13 5. Use the money deposited in the education savings account  
14 established for the eligible student only for the following expenses  
15 of the student:

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

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

- 1 c. educational therapies or services for the eligible  
2 student from a licensed or accredited practitioner or  
3 provider, including licensed or accredited  
4 paraprofessionals or educational aides. The State  
5 Board of Education shall promulgate rules defining  
6 which therapies and services are eligible under the  
7 Program and setting the required qualifications for  
8 paraprofessionals and aides,
- 9 d. tutoring services. The Board shall promulgate rules  
10 setting the required qualifications for tutors.  
11 Tutors shall be required to notify the Board of their  
12 intention to provide tutoring services to students in  
13 the Program,
- 14 e. services provided by a public school, including  
15 individual classes and extracurricular programs,
- 16 f. fees for a nationally standardized norm-referenced  
17 achievement test, advanced placement examinations or  
18 any exams related to college or university admissions,
- 19 g. contributions to a Coverdell Savings Account  
20 established pursuant to 26 U.S.C., Section 530 for the  
21 benefit of the eligible student, except that money  
22 used for elementary or secondary education expenses  
23 shall be for expenses otherwise allowed by this act,  
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- 1           h. fees for management of the account by firms or  
2           institutions selected by the Treasurer, and  
3           i. insurance or surety bond payments as required by the  
4           Board; and

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

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

17          B. A parent shall renew the account of an eligible student on  
18 an annual basis by submitting a renewal request to the Department.  
19 The renewal request shall also include documentation showing the  
20 results of the student on a nationally standardized norm-referenced  
21 achievement test taken during that school year.

22          C. A signed agreement under this section shall be deemed school  
23 attendance and shall constitute compliance with the compulsory  
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1 attendance law as set forth in Section 10-105 of Title 70 of the  
2 Oklahoma Statutes.

3 D. The parent of an eligible student shall submit a request to  
4 participate in the Education Savings Account Program no later than  
5 December 1 of the school year during which an account is requested,  
6 in order to receive funding for the same school year. If a request  
7 is made after December 1 the account will not begin receiving funds  
8 until the following school year.

9 E. Students may continue in the Program once they are  
10 determined to be eligible pursuant to this act until they graduate,  
11 return to public school or it has been found by the Board that the  
12 agreement required in this section has been violated.

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

16 A. For a student who is determined to be an eligible student  
17 pursuant to subparagraph a of paragraph 6 of Section 3 of this act,  
18 the annual amount to be deposited to the education savings account  
19 for the student shall be as follows:

20 1. If the total household annual income is equal to or less  
21 than the amount required to qualify for the federal free or reduced-  
22 price lunch program, the amount granted to the account shall be  
23 equal to ninety percent (90%) of the total State Aid factors  
24 multiplied by the Grade Level Weight and the Student Category

1 Weights that would be generated by that student for the applicable  
2 school year; and

3 2. If the total household annual income is greater than the  
4 amount required to qualify for the federal free or reduced-price  
5 lunch program but is equal to or less than two times that amount,  
6 the amount granted to the account shall be equal to sixty percent  
7 (60%) of the total State Aid factors multiplied by the Grade Level  
8 Weight and the Student Category Weights that would be generated by  
9 that student for the applicable school year.

10 B. For a student who is determined to be an eligible student  
11 pursuant to subparagraph b of paragraph 6 of Section 3 of this act,  
12 the amount granted to the education savings account for the student  
13 shall be equal to thirty percent (30%) of the total State Aid  
14 factors multiplied by the Grade Level Weight and the Student  
15 Category Weights that would be generated by that student for the  
16 applicable school year.

17 C. For a student who is determined to be an eligible student  
18 pursuant to subparagraph c of paragraph 6 of Section 3 of this act,  
19 the annual amount granted to the education savings account for the  
20 student shall be equal to ninety percent (90%) of the total State  
21 Aid factors multiplied by the Grade Level Weight and the Student  
22 Category Weights that would be generated by that student for the  
23 applicable school year.

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1 D. The State Board of Education shall promulgate rules  
2 establishing a process for initial verification of the household  
3 income of a student for purposes of this section. Household income  
4 verification shall not be required at anytime for students who  
5 qualify pursuant to subsection B of this section.

6 Upon the request of a student for a change in the amount granted  
7 to an account, the Board may conduct another verification of  
8 household income but shall not require the student to submit to any  
9 other eligibility verification that is not otherwise provided for in  
10 this act.

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

14 A. Upon submission of the signed agreement by the parent as  
15 required pursuant to Section 4 of this act, the State Department of  
16 Education shall transfer the amount of funds calculated pursuant to  
17 Section 5 of this act to the State Treasurer for deposit into the  
18 education savings account for each eligible student pursuant to a  
19 schedule established by the State Board of Education. The total  
20 calculated amount shall be transferred in equal allocations  
21 according to the schedule established by the Board for such  
22 transfers and deposits, but such transfers shall not be made less  
23 often than quarterly. Monies for deposit into the accounts shall be  
24 from the funds set aside by the Board as provided for in Section 11

1 of this act for purposes of the Education Savings Account Program  
2 and as directed by the Oklahoma Education Savings Account Act.

3 B. The Department may retain an amount equal to five percent  
4 (5%) of the total amount set aside for the Program for  
5 administrative services. The retained funds shall be deposited in  
6 the Education Savings Account Administrative Fund established in  
7 subsection C of this section. The Department shall transfer one  
8 percent (1%) of the total deposited into the Education Savings  
9 Account Administrative Fund to the Treasurer's Education Savings  
10 Account Administrative Fund established in subsection D of this  
11 section.

12 C. There is hereby established the Education Savings Account  
13 Administrative Fund. The fund shall consist of monies retained by  
14 the Department pursuant to subsection B of this section. The  
15 Department shall administer the fund. Monies in the fund shall be  
16 used by the Department for the costs in administering the Education  
17 Savings Account Program. Monies in the fund shall be exempt from  
18 the provisions of law relating to lapsing of appropriations. If the  
19 number of education savings accounts significantly increases after  
20 the fiscal year ending June 30, 2017, the Department may request the  
21 Legislature to increase the amount allowed to be retained as set  
22 forth in subsection B of this section to cover administrative costs  
23 for the additional accounts.

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1 D. There is hereby established the Treasurer's Education  
2 Savings Account Administrative Fund. The fund shall consist of  
3 monies transferred by the Department pursuant to subsection B of  
4 this section for use by the Treasurer. The Treasurer shall  
5 administer the fund. Monies in the fund shall be used by the  
6 Treasurer for the costs of administering education savings accounts.  
7 Monies in the fund shall be exempt from the provisions of law  
8 relating to lapsing of appropriations. If the number of education  
9 savings accounts significantly increases after the fiscal year  
10 ending June 30, 2017, the Treasurer may request the Legislature to  
11 increase the amount allowed to be retained as set forth in  
12 subsection B of this section to cover administrative costs for the  
13 additional accounts.

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

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

22 A. An eligible private school or a provider of educational  
23 services receiving funds from an education savings account shall not  
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1 share with, or refund or rebate to, the parent or eligible student,  
2 in any manner, any of the funds from an education savings account.

3 B. Parents shall not receive or accept rebates, discounts or  
4 payments from an eligible private school or a provider of  
5 educational services using funds from an education savings account.

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

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

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

22 C. The State Department of Education shall:

23 1. Upon request provide to the parent of a student the  
24 calculated amount of funds the student would be eligible to receive

1 in an education savings account within ten (10) days after receiving  
2 the request or within ten (10) days after the total State Aid  
3 factors have been determined for the current fiscal year. Upon  
4 request of a parent prior to submission of an application, the  
5 Department shall provide to the parent an estimate of the  
6 approximate amount of funds the student may receive in an education  
7 savings account;

8 2. Not be responsible for any additional costs associated with  
9 the education of eligible students incurred by the parents;

10 3. Establish a toll-free telephone number and website that  
11 provides information about the Program to parents, private schools  
12 and providers;

13 4. Require an annual, notarized, sworn statement by parents  
14 participating in the Program certifying compliance with provisions  
15 of the Oklahoma Education Savings Account Act, which statement shall  
16 be retained by the Department; and

17 5. Cross-check the list of eligible students participating in  
18 the Program with the public school enrollments prior to each deposit  
19 to avoid duplication of funding.

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

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1 E. The Treasurer shall make deposits into education savings  
2 accounts upon verification by the Department that the student is  
3 still participating in the Program.

4 F. The Treasurer may contract with private financial management  
5 firms to manage education savings accounts with the supervision of  
6 the Treasurer.

7 G. The Department shall conduct or contract for random audits  
8 at least quarterly of education savings accounts to ensure  
9 compliance with provisions of this act.

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

13 A. The State Board of Education shall establish a process by  
14 which the public may notify the Board of any violation of the  
15 Oklahoma Education Savings Account Act.

16 B. The Board may suspend an eligible student from the Education  
17 Savings Account Program if the parent or the eligible student fails  
18 to comply with the provisions of this act or if the Board has reason  
19 to believe that the parent or eligible student failed to comply with  
20 the provisions of this act with intent to defraud. Upon the  
21 suspension of an eligible student from the Program, the Board shall:

22 1. Notify the Treasurer to suspend the account of the eligible  
23 student until a final determination is made by the Board;

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1           2. Notify the parent in writing that the account has been  
2 suspended and that no further transactions will be allowed. The  
3 notification shall specify the reason or reasons for the suspension  
4 and state that the parent or student has ten (10) days, not  
5 including weekends, to respond and take corrective action;

6           3. If the parent responds within the ten-day period, the Board  
7 shall review the information provided by the parent and make a  
8 decision to reinstate the student or to terminate participation of  
9 the student in the Program; and

10          4. If the parent or eligible student refuses or fails to  
11 contact the Board, to furnish any information or make any report  
12 that may be required for reinstatement within the ten-day period,  
13 the Board shall terminate participation of the student in the  
14 Program and any remaining funds shall be returned to the State Board  
15 of Education to be allocated to school districts through the State  
16 Aid funding formula.

17          C. A parent may appeal the decision made by the Board pursuant  
18 to subsection B of this section.

19          D. The Board shall refer cases of misuse of monies to the  
20 Attorney General for investigation when it obtains evidence that the  
21 parent or eligible student failed to comply with the provisions of  
22 this act with intent to defraud.

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

4 Acceptance by private schools of students participating in the  
5 Education Savings Account Program shall not expand the regulatory  
6 authority of the state or any school district to impose any  
7 additional regulation on private schools.

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

11 A. For the 2016-2017 school year, the State Board of Education  
12 shall set aside an amount of money from the total amount  
13 appropriated to the State Board of Education for State Aid purposes  
14 and any other revenue available for allocation for State Aid  
15 purposes to cover expected demand for education savings accounts  
16 during the 2016-2017 school year. At the beginning of each  
17 subsequent school year the Board shall set aside one hundred twenty  
18 percent (120%) of the total amount deposited into education savings  
19 accounts the previous school year and of the total amount for which  
20 applications were received but for which no funds were available, to  
21 allow for potential growth in participation.

22 B. Prior to the end of the fiscal year, the Board shall  
23 determine the amount of funding that was set aside during that  
24 fiscal year for deposit into education savings accounts but was not

1 needed and was not deposited into individual student education  
2 savings accounts and shall allocate that amount to school districts  
3 through the State Aid funding formula.

4 C. The Board shall promulgate rules necessary for the  
5 administration of the Education Savings Account Program, including:

6 1. Provisions for conducting or contracting for examinations of  
7 the use of education savings account monies by eligible students;

8 2. Provisions for conducting or contracting for random,  
9 quarterly and annual reviews or audits of education savings  
10 accounts;

11 3. Establishing or contracting for the establishment of an  
12 online anonymous fraud-reporting service;

13 4. Establishing a telephone number to receive anonymous fraud  
14 reporting; and

15 5. Requirements for a surety bond or insurance for education  
16 savings account holders.

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

20 A. The Oklahoma Education Savings Account Act shall not be  
21 construed to authorize or permit any state agency to exercise  
22 control or supervision over any nonpublic school or students being  
23 educated by other means. Students who are being provided an  
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1 education by other means shall not be eligible to participate in the  
2 Education Savings Account Program.

3 B. Educational service providers which accept payment from an  
4 education savings account shall not be considered agents of the  
5 state or federal government.

6 C. No liability shall arise on the part of the state, the State  
7 Treasurer, the State Board of Education, the State Department of  
8 Education or a school district based on participation in the Program  
9 by an eligible student.

10 SECTION 13. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 28-113 of Title 70, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. The State Board of Education may select an independent  
14 research organization, which may be a public or private entity or  
15 university, to conduct a study of and report on the academic gains  
16 of eligible students participating in the Education Savings Account  
17 Program. The Board shall provide the standardized test scores on  
18 the nationally norm-referenced tests of eligible students which have  
19 been submitted as required pursuant to Section 4 of this act to the  
20 independent research organization. Beginning in the third year of  
21 the Program the independent research organization shall annually  
22 report to the Board on the year-to-year learning gains of  
23 participating students on a statewide basis. The report shall also  
24 include, to the extent possible, a comparison of the learning gains

1 of participating students to the learning gains of public school  
2 students in the state with socioeconomic backgrounds similar to  
3 those participating students. To minimize costs and reduce time  
4 required for the analysis and evaluation by the independent research  
5 organization, the Department shall conduct analyses of matched  
6 students from public school assessment data and calculate control-  
7 group learning gains using an agreed-upon methodology outlined in  
8 the contract approved by the Board with the independent research  
9 organization.

10 B. The reporting and sharing of student learning-gain data as  
11 required by this section shall be made in accordance with the  
12 requirements of the Family Educational Rights and Privacy Act  
13 (FERPA) and shall be for the sole purpose of creating the annual  
14 report. All parties with access to the data shall preserve the  
15 confidentiality of the information as required by law.

16 C. The annual report made pursuant to this section shall not  
17 disaggregate data to a level that will identify individual students  
18 or providers, or disclose the academic level of individual students.

19 D. The annual report made pursuant to this section shall be  
20 published by the Department on its website.

21 SECTION 14. This act shall become effective July 1, 2016.

22 SECTION 15. It being immediately necessary for the preservation  
23 of the public peace, health and safety, an emergency is hereby  
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1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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4 COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 02/17/2016  
5 - DO PASS, As Coauthored.

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