

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

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

4   ENGROSSED SENATE  
5   BILL NO. 239

                                  By: Pemberton of the Senate

  and

  Hasenbeck and **Hardin**  
  **(David)** of the House

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10           An Act relating to charter schools; amending 70 O.S.  
11           2011, Section 3-132, as last amended by Section 29,  
12           Chapter 42, O.S.L. 2017 (70 O.S. Supp. 2020, Section  
13           3-132), which relates to charter school sponsorship;  
14           clarifying criteria for the State Board of Education  
15           to sponsor certain charter school; requiring the  
16           State Department of Education to make certain  
17           determination and recommendation prior to the State  
18           Board of Education sponsoring a charter school;  
19           directing the Board to provide certain opportunity to  
20           be heard prior to sponsoring a charter school;  
21           requiring demonstration of certain support to come  
22           from within certain geographical boundaries;  
23           requiring an applicant to adhere to certain  
24           requirements; updating statutory reference; amending  
          70 O.S. 2011, Section 3-134, as amended by Section 2,  
          Chapter 170, O.S.L. 2015 (70 O.S. Supp. 2020, Section  
          3-134), which relates to charter school applications;  
          providing appeal process procedures and requirements  
          for certain charter school sponsorship appeals;  
          providing an effective date; and declaring an  
          emergency.

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

1 SECTION 1. AMENDATORY 70 O.S. 2011, Section 3-132, as  
2 last amended by Section 29, Chapter 42, O.S.L. 2017 (70 O.S. Supp.  
3 2020, Section 3-132), is amended to read as follows:

4 Section 3-132. A. The Oklahoma Charter Schools Act shall apply  
5 only to charter schools formed and operated under the provisions of  
6 the ~~act~~ Oklahoma Charter Schools Act. Charter schools shall be  
7 sponsored only as follows:

8 1. By any school district located in ~~the State of Oklahoma~~ this  
9 state, provided such charter school shall only be located within the  
10 geographical boundaries of the sponsoring district and subject to  
11 the restrictions of Section 3-145.6 of this title;

12 2. By a technology center school district if the charter school  
13 is located in a school district served by the technology center  
14 school district in which all or part of the school district is  
15 located in a county having more than five hundred thousand (500,000)  
16 population according to the latest Federal Decennial Census;

17 3. By a technology center school district if the charter school  
18 is located in a school district served by the technology center  
19 school district and the school district has a school site that has  
20 been identified as in need of improvement by the State Board of  
21 Education pursuant to the Elementary and Secondary Education Act of  
22 1965, as amended or reauthorized;

23 4. By an accredited comprehensive or regional institution that  
24 is a member of The Oklahoma State System of Higher Education or a

1 community college if the charter school is located in a school  
2 district in which all or part of the school district is located in a  
3 county having more than five hundred thousand (500,000) population  
4 according to the latest Federal Decennial Census;

5 5. By a comprehensive or regional institution that is a member  
6 of The Oklahoma State System of Higher Education if the charter  
7 school is located in a school district that has a school site that  
8 has been identified as in need of improvement by the State Board of  
9 Education pursuant to the Elementary and Secondary Education Act of  
10 1965, as amended or reauthorized. In addition, the institution  
11 shall have a teacher education program accredited by the Oklahoma  
12 Commission for Teacher Preparation and have a branch campus or  
13 constituent agency physically located within the school district in  
14 which the charter school is located in the State of Oklahoma;

15 6. By a federally recognized Indian tribe, operating a high  
16 school under the authority of the Bureau of Indian Affairs as of  
17 November 1, 2010, if the charter school is for the purpose of  
18 demonstrating native language immersion instruction, and is located  
19 within its former reservation or treaty area boundaries. For  
20 purposes of this paragraph, native language immersion instruction  
21 shall require that educational instruction and other activities  
22 conducted at the school site are primarily conducted in the native  
23 language;

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1           7. By the State Board of Education when the applicant of the  
2 charter school is the Office of Juvenile Affairs or the applicant  
3 has a contract with the Office of Juvenile Affairs to provide a  
4 fixed rate level E, D, or D+ group home service and the charter  
5 school is for the purpose of providing education services to youth  
6 in the custody or supervision of the state. Not more than two  
7 charter schools shall be sponsored by the Board as provided for in  
8 this paragraph during the period of time beginning July 1, 2010,  
9 through July 1, 2016;

10           8. By a federally recognized Indian tribe only when the charter  
11 school is located within the former reservation or treaty area  
12 boundaries of the tribe on property held in trust by the Bureau of  
13 Indian Affairs of the United States Department of the Interior for  
14 the benefit of the tribe; or

15           9. By the State Board of Education ~~when the~~ after an applicant  
16 has first been denied a charter by the local school district in  
17 which it seeks to operate and has appealed the decision pursuant to  
18 subsection E of Section 3-134 of this title. In counties with fewer  
19 than five hundred thousand (500,000) population, according to the  
20 latest Federal Decennial Census, the State Board of Education shall  
21 not sponsor more than five charter schools per year each year for  
22 the first five (5) years after ~~the effective date of this act~~ August  
23 21, 2015, with not more than one charter school sponsored in a  
24 single school district per year. The Board shall not sponsor a

1 charter school unless the State Department of Education has made a  
2 determination and recommendation that the Board has the capacity,  
3 both in financial and personnel resources, to sponsor a charter  
4 school and the capacity to adhere to the contractual requirements  
5 and follow the sponsor contract guidelines outlined in Section 3-135  
6 of this title. In order to authorize a charter school under this  
7 section, the State Board of Education shall first provide an  
8 opportunity to be heard to the applicant and the school district  
9 board of education as provided for in subsection E of Section 3-134  
10 of this title and find evidence of all of the following:

- 11 a. a thorough and high-quality charter school application  
12 from the applicant based on the authorizing standards  
13 in subsection B of Section 3-134 of this title,
- 14 b. a clear demonstration of community support ~~for~~ by  
15 members of the community within the geographical  
16 boundaries of the proposed charter school, and
- 17 c. the grounds and basis of objection by the school  
18 district for denying the operation of the charter are  
19 not supported by the greater weight of evidence and  
20 the strength of the application, and
- 21 d. that the applicant did comply with every applicable  
22 application requirement set forth in subsection B of  
23 Section 3-134 of this title.

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1 B. An eligible non-school-district sponsor shall give priority  
2 to opening charter schools that serve at-risk student populations or  
3 students from low-performing traditional public schools.

4 C. An eligible non-school-district sponsor shall give priority  
5 to applicants that have demonstrated a record of operating at least  
6 one school or similar program that demonstrates academic success and  
7 organizational viability and serves student populations similar to  
8 those the proposed charter school seeks to serve. In assessing the  
9 potential for quality replication of a charter school, a sponsor  
10 shall consider the following factors before approving a new site or  
11 school:

12 1. Evidence of a strong and reliable record of academic success  
13 based primarily on student performance data, as well as other viable  
14 indicators, including financial and operational success;

15 2. A sound, detailed, and well-supported growth plan;

16 3. Evidence of the ability to transfer successful practices to  
17 a potentially different context that includes reproducing critical  
18 cultural, organizational and instructional characteristics;

19 4. Any management organization involved in a potential  
20 replication is fully vetted, and the academic, financial and  
21 operational records of the schools it operates are found to be  
22 satisfactory;

1           5. Evidence the program seeking to be replicated has the  
2 capacity to do so successfully without diminishing or putting at  
3 risk its current operations; and

4           6. A financial structure that ensures that funds attributable  
5 to each charter school within a network and required by law to be  
6 utilized by a school remain with and are used to benefit that  
7 school.

8           D. For purposes of the Oklahoma Charter Schools Act, "charter  
9 school" means a public school established by contract with a board  
10 of education of a school district, an area vocational-technical  
11 school district, a higher education institution, a federally  
12 recognized Indian tribe, or the State Board of Education pursuant to  
13 the Oklahoma Charter Schools Act to provide learning that will  
14 improve student achievement and as defined in the Elementary and  
15 Secondary Education Act of 1965, 20 U.S.C. 8065.

16           E. 1. For the purposes of the Oklahoma Charter Schools Act,  
17 "conversion school" means a school created by converting all or any  
18 part of a traditional public school in order to access any or all  
19 flexibilities afforded to a charter school.

20           2. Prior to the board of education of a school district  
21 converting all or any part of a traditional public school to a  
22 conversion school, the board shall prepare a conversion plan. The  
23 conversion plan shall include documentation that demonstrates and  
24 complies with paragraphs 1, 2, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17,

1 19, 20, 21, 22, 23, 24, 34 and 35 of subsection B of Section 3-134  
2 of this title. The conversion plan and all documents shall be in  
3 writing and shall be available to the public pursuant to the  
4 requirements of the Oklahoma Open Records Act. All votes by the  
5 board of education of a school district to approve a conversion plan  
6 shall be held in an open public session. If the board of education  
7 of a school district votes to approve a conversion plan, the board  
8 shall notify the State Board of Education within sixty (60) days  
9 after the vote. The notification shall include a copy of the  
10 minutes for the board meeting at which the conversion plan was  
11 approved.

12 3. A conversion school shall comply with all the same  
13 accountability measures as are required of a charter school as  
14 defined in subsection D of this section. The provisions of Sections  
15 3-140 and 3-142 of this title shall not apply to a conversion  
16 school. Conversion schools shall comply with the same laws and  
17 State Board of Education rules relating to student enrollment which  
18 apply to traditional public schools. Conversion schools shall be  
19 funded by the board of education of the school district as a school  
20 site within the school district and funding shall not be affected by  
21 the conversion of the school.

22 4. The board of education of a school district may vote to  
23 revert a conversion school back to a traditional public school at  
24



1 any time; provided, the change shall only occur during a break  
2 between school years.

3 5. Unless otherwise provided for in this subsection, a  
4 conversion school shall retain the characteristics of a traditional  
5 public school.

6 F. A charter school may consist of a new school site, new  
7 school sites or all or any portion of an existing school site. An  
8 entire school district may not become a charter school site.

9 SECTION 2. AMENDATORY 70 O.S. 2011, Section 3-134, as  
10 amended by Section 2, Chapter 170, O.S.L. 2015 (70 O.S. Supp. 2020,  
11 Section 3-134), is amended to read as follows:

12 Section 3-134. A. For written applications filed after January  
13 1, 2008, prior to submission of the application to a proposed  
14 sponsor seeking to establish a charter school, the applicant shall  
15 be required to complete training which shall not exceed ten (10)  
16 hours provided by the State Department of Education on the process  
17 and requirements for establishing a charter school. The Department  
18 shall develop and implement the training by January 1, 2008. The  
19 Department may provide the training in any format and manner that  
20 the Department determines to be efficient and effective including,  
21 but not limited to, web-based training.

22 B. Except as otherwise provided for in Section 3-137 of this  
23 title, an applicant seeking to establish a charter school shall  
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1 submit a written application to the proposed sponsor as prescribed  
2 in subsection E of this section. The application shall include:

3 1. A mission statement for the charter school;

4 2. A description including, but not limited to, background  
5 information of the organizational structure and the governing body  
6 of the charter school;

7 3. A financial plan for the first five (5) years of operation  
8 of the charter school and a description of the treasurer or other  
9 officers or persons who shall have primary responsibility for the  
10 finances of the charter school. Such person shall have demonstrated  
11 experience in school finance or the equivalent thereof;

12 4. A description of the hiring policy of the charter school;

13 5. The name of the applicant or applicants and requested  
14 sponsor;

15 6. A description of the facility and location of the charter  
16 school;

17 7. A description of the grades being served;

18 8. An outline of criteria designed to measure the effectiveness  
19 of the charter school;

20 9. A demonstration of support for the charter school from  
21 residents of the school district which may include but is not  
22 limited to a survey of the school district residents or a petition  
23 signed by residents of the school district;

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1 10. Documentation that the applicants completed charter school  
2 training as set forth in subsection A of this section;

3 11. A description of the minimum and maximum enrollment planned  
4 per year for each term of the charter contract;

5 12. The proposed calendar for the charter school and sample  
6 daily schedule;

7 13. Unless otherwise authorized by law or regulation, a  
8 description of the academic program aligned with state standards;

9 14. A description of the instructional design of the charter  
10 school, including the type of learning environment, class size and  
11 structure, curriculum overview and teaching methods;

12 15. The plan for using internal and external assessments to  
13 measure and report student progress on the performance framework  
14 developed by the applicant in accordance with subsection C of  
15 Section 3-135 of this title;

16 16. The plans for identifying and successfully serving students  
17 with disabilities, students who are English language learners and  
18 students who are academically behind;

19 17. A description of cocurricular or extracurricular programs  
20 and how they will be funded and delivered;

21 18. Plans and time lines for student recruitment and  
22 enrollment, including lottery procedures;

23 19. The student discipline policies for the charter school,  
24 including those for special education students;

1           20. An organizational chart that clearly presents the  
2 organizational structure of the charter school, including lines of  
3 authority and reporting between the governing board, staff, any  
4 related bodies such as advisory bodies or parent and teacher  
5 councils and any external organizations that will play a role in  
6 managing the school;

7           21. A clear description of the roles and responsibilities for  
8 the governing board, the leadership and management team for the  
9 charter school and any other entities shown in the organizational  
10 chart;

11           22. The leadership and teacher employment policies for the  
12 charter school;

13           23. Proposed governing bylaws;

14           24. Explanations of any partnerships or contractual  
15 partnerships central to the operations or mission of the charter  
16 school;

17           25. The plans for providing transportation, food service and  
18 all other significant operational or ancillary services;

19           26. Opportunities and expectations for parental involvement;

20           27. A detailed school start-up plan that identifies tasks, time  
21 lines and responsible individuals;

22           28. A description of the financial plan and policies for the  
23 charter school, including financial controls and audit requirements;

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1 29. A description of the insurance coverage the charter school  
2 will obtain;

3 30. Start-up and five-year budgets with clearly stated  
4 assumptions;

5 31. Start-up and first-year cash-flow projections with clearly  
6 stated assumptions;

7 32. Evidence of anticipated fundraising contributions, if  
8 claimed in the application;

9 33. A sound facilities plan, including backup or contingency  
10 plans if appropriate;

11 34. A requirement that the charter school governing board meet  
12 at a minimum quarterly in the state and that for those charter  
13 schools outside of counties with a population of five hundred  
14 thousand (500,000) or more, that a majority of members are residents  
15 within the geographic boundary of the sponsoring entity; and

16 35. A requirement that the charter school follow the  
17 requirements of the Oklahoma Open Meeting Act and Oklahoma Open  
18 Records Act.

19 C. A board of education of a public school district, public  
20 body, public or private college or university, private person, or  
21 private organization may contract with a sponsor to establish a  
22 charter school. A private school shall not be eligible to contract  
23 for a charter school under the provisions of the Oklahoma Charter  
24 Schools Act.

1 D. The sponsor of a charter school is the board of education of  
2 a school district, the board of education of a technology center  
3 school district, a higher education institution, the State Board of  
4 Education, or a federally recognized Indian tribe which meets the  
5 criteria established in Section 3-132 of this title. Any board of  
6 education of a school district in the state may sponsor one or more  
7 charter schools. The physical location of a charter school  
8 sponsored by a board of education of a school district or a  
9 technology center school district shall be within the boundaries of  
10 the sponsoring school district. The physical location of a charter  
11 school sponsored by the State Board of Education when the applicant  
12 of the charter school is the Office of Juvenile Affairs shall be  
13 where an Office of Juvenile Affairs facility for youth is located.  
14 The physical location of a charter school otherwise sponsored by the  
15 State Board of Education pursuant to paragraph 8 of subsection A of  
16 Section 3-132 of this title shall be in the school district in which  
17 the application originated.

18 E. An applicant for a charter school may submit an application  
19 to a proposed sponsor which shall either accept or reject  
20 sponsorship of the charter school within ninety (90) days of receipt  
21 of the application. If the proposed sponsor rejects the  
22 application, it shall notify the applicant in writing of the reasons  
23 for the rejection. The applicant may submit a revised application  
24 for reconsideration to the proposed sponsor within thirty (30) days

1 after receiving notification of the rejection. The proposed sponsor  
2 shall accept or reject the revised application within thirty (30)  
3 days of its receipt. Should the sponsor reject the application on  
4 reconsideration, the applicant may appeal the decision to the State  
5 Board of Education with the revised application for review pursuant  
6 to paragraph & 9 of subsection A of Section 3-132 of this title.

7 The State Board of Education shall hear the appeal no later than  
8 sixty (60) days from the date received by the Board. The State  
9 Board of Education, the applicant and the proposed sponsor when the  
10 sponsor is the board of education of a public school district shall  
11 adhere to the following appeal process procedures and requirements:

12 1. The applicant and proposed sponsor shall be permitted to be  
13 represented by an attorney at any hearing before the State Board of  
14 Education;

15 2. The applicant has thirty (30) days after denial of a revised  
16 application to file an appeal with the Board. The appeal shall be  
17 submitted to the chair of the Board in writing and shall state the  
18 basis for the appeal. The applicant shall provide the proposed  
19 sponsor a certified copy of the appeal and all accompanying  
20 documents submitted for the appeal within five (5) business days of  
21 submission to the Board;

22 3. The hearing shall be scheduled and heard within sixty (60)  
23 days of receipt of the appeal by the State Board of Education. All  
24 parties shall be permitted to be represented by an attorney;

1       4. The Board may grant a continuance of the hearing upon  
2 written notice of either party submitted at least five (5) days  
3 prior to the date set for the hearing. The hearing also may be  
4 reset upon written agreement of all parties; and

5       5. If the Board determines that the school district board of  
6 education should have accepted the applicant's proposal, then the  
7 Board may choose to sponsor the applicant, subject to the  
8 requirements set forth in paragraph 9 of subsection A of Section 3-  
9 132 of this title. The decision of the Board shall be final and  
10 nonappealable.

11       F. A board of education of a school district, board of  
12 education of a technology center school district, higher education  
13 institution, or federally recognized Indian tribe sponsor of a  
14 charter school shall notify the State Board of Education when it  
15 accepts sponsorship of a charter school. The notification shall  
16 include a copy of the charter of the charter school.

17       G. Applicants for charter schools proposed to be sponsored by  
18 an entity other than a school district pursuant to paragraph 1 of  
19 subsection A of Section 3-132 of this title may, upon rejection of  
20 the revised application, proceed to binding arbitration under the  
21 commercial rules of the American Arbitration Association with costs  
22 of the arbitration to be borne by the proposed sponsor. Applicants  
23 for charter schools proposed to be sponsored by school districts  
24 pursuant to paragraph 1 of subsection A of Section 3-132 of this



1 title may not proceed to binding arbitration but may be sponsored by  
2 the State Board of Education as provided in paragraph 8 of  
3 subsection A of Section 3-132 of this title.

4 H. If a board of education of a technology center school  
5 district, a higher education institution, the State Board of  
6 Education, or a federally recognized Indian tribe accepts  
7 sponsorship of a charter school, the administrative, fiscal and  
8 oversight responsibilities of the technology center school district,  
9 the higher education institution, or the federally recognized Indian  
10 tribe shall be listed in the contract. No responsibilities shall be  
11 delegated to a school district unless the local school district  
12 agrees to assume the responsibilities.

13 I. A sponsor of a public charter school shall have the  
14 following powers and duties:

15 1. Provide oversight of the operations of charter schools in  
16 the state through annual performance reviews of charter schools and  
17 reauthorization of charter schools for which it is a sponsor;

18 2. Solicit and evaluate charter applications;

19 3. Approve quality charter applications that meet identified  
20 educational needs and promote a diversity of educational choices;

21 4. Decline to approve weak or inadequate charter applications;

22 5. Negotiate and execute sound charter contracts with each  
23 approved public charter school;

1       6. Monitor, in accordance with charter contract terms, the  
2 performance and legal compliance of charter schools; and

3       7. Determine whether each charter contract merits renewal,  
4 nonrenewal or revocation.

5       J. Sponsors shall establish a procedure for accepting,  
6 approving and disapproving charter school applications in accordance  
7 with subsection E of this section.

8       K. Sponsors shall be required to develop and maintain  
9 chartering policies and practices consistent with recognized  
10 principles and standards for quality charter authorizing as  
11 established by the State Department of Education in all major areas  
12 of authorizing responsibility, including organizational capacity and  
13 infrastructure, soliciting and evaluating charter applications,  
14 performance contracting, ongoing charter school oversight and  
15 evaluation and charter renewal decision-making.

16       L. Sponsors acting in their official capacity shall be immune  
17 from civil and criminal liability with respect to all activities  
18 related to a charter school with which they contract.

19       SECTION 3. This act shall become effective July 1, 2021.

20       SECTION 4. It being immediately necessary for the preservation  
21 of the public peace, health or 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 03/31/2021  
5 - DO PASS, As Coauthored.

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